

1 HOUSE BILL 407

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Linda M. Trujillo and Daniel A. Ivey-Soto and
5 Roberto "Bobby" J. Gonzales and Phelps Anderson
6
7
8
9

10 AN ACT

11 RELATING TO ELECTIONS; AMENDING THE ELECTION CODE; PROVIDING
12 DEFINITIONS OF TERMS FOR THE ELECTION CODE; PROVIDING A
13 STANDARD DEFINITION FOR "QUALIFIED ELECTOR" FOR ALL ELECTIONS
14 HELD PURSUANT TO THE ELECTION CODE; CHANGING THE NAME OF
15 "PRECINCT BOARD" TO "ELECTION BOARD"; PROVIDING FOR ELECTION
16 BOARD APPOINTMENT AND TRAINING; PROVIDING FOR MESSENGER
17 COMPENSATION AND QUALIFICATIONS; CHANGING PROVISIONS GOVERNING
18 CHALLENGERS, WATCHERS AND COUNTY AND STATE CANVASS OBSERVERS;
19 AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT AND PROVISIONS
20 RELATED TO PRECINCTS; PROVIDING FOR VOTER CONVENIENCE CENTERS;
21 PROVIDING FOR REGISTRATION OF QUALIFIED RESIDENTS AND QUALIFIED
22 ELECTORS; PROVIDING PROVISIONS GOVERNING BOARDS OF
23 REGISTRATION; ALLOWING MUNICIPALITIES AND LOCAL GOVERNMENTS TO
24 ENTER INTO AGREEMENTS WITH THE SECRETARY OF STATE FOR ACCESS TO
25 THE VOTER REGISTRATION ELECTRONIC MANAGEMENT SYSTEM; CHANGING

.211327.3

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

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

1 PROCEDURES RELATING TO ABSENTEE VOTING AND OVERSEAS MILITARY
2 VOTING; CREATING A REGULAR LOCAL ELECTION MAILED BALLOT PILOT
3 PROGRAM; ENACTING THE RECALL ACT TO GOVERN RECALL ELECTIONS;
4 ENACTING THE NONPARTISAN JUDICIAL RETENTION ACT; SYNCHRONIZING
5 POLITICAL SUBDIVISION ELECTION PROCEDURES WITH THE PROVISIONS
6 OF THE LOCAL ELECTION ACT; REQUIRING THE SECRETARY OF STATE TO
7 ISSUE PROCLAMATIONS FOR CERTAIN ELECTIONS; CHANGING PROVISIONS
8 RELATED TO PRIMARY ELECTIONS AND NOMINATING PETITIONS; REMOVING
9 ANNUAL ASSESSMENTS ON LOCAL GOVERNMENTS FOR ADMINISTERING
10 REGULAR LOCAL ELECTIONS; REVISING WRITE-IN CANDIDATE
11 PROCEDURES; CREATING A MAILED BALLOT AND A PROVISIONAL BALLOT
12 REGISTER; ALLOWING A VOTER TO COMMUNICATE THE VOTER'S BALLOT
13 INFORMATION TO OTHERS; PROHIBITING A PERSON FROM SOLICITING A
14 VOTER TO REVEAL THE VOTER'S BALLOT INFORMATION; PRESCRIBING
15 PROCEDURES FOR THE HANDLING OF NON-TABULATED PAPER BALLOTS AND
16 CERTIFICATES OF RETURN AND THE CANVASSING OF RETURNS; CHANGING
17 AUTOMATIC RECOUNT PROVISIONS; REVISING PROCEDURES FOR FILLING
18 UNITED STATES REPRESENTATIVE VACANCIES; CHANGING PROVISIONS
19 REGARDING ANALYSIS AND PUBLICATION OF PROPOSED CONSTITUTIONAL
20 AMENDMENTS; CHANGING DEFINITIONS IN THE CAMPAIGN REPORTING ACT;
21 REVISING DEFINITIONS IN THE LOCAL ELECTION ACT; REVISING
22 MUNICIPAL OFFICER ELECTION PROCEDURES; REVISING SPECIAL
23 ELECTION PROCEDURES; CHANGING USE OF THE TERM "QUALIFIED
24 ELECTOR" IN CERTAIN STATUTES; MAKING LEGISLATIVE FINDINGS
25 CONCERNING THE PROVISIONS OF ARTICLE 9, SECTION 12 OF THE

.211327.3

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

1 CONSTITUTION OF NEW MEXICO AND ITS EFFECT ON THE VOTING RIGHTS
2 OF CERTAIN PROPERTY OWNERS; REMOVING THE RIGHT OF NONRESIDENT
3 MUNICIPAL ELECTORS TO VOTE IN MUNICIPAL BOND ELECTIONS;
4 CHANGING REQUIREMENTS FOR THE FORMATION OF AND ELECTIONS FOR
5 PUBLIC IMPROVEMENT DISTRICTS AND TAX INCREMENT DEVELOPMENT
6 DISTRICTS; REQUIRING A STANDARD FORM FOR A PUBLIC REGULATION
7 COMMISSION CANDIDATE QUALIFICATIONS AFFIDAVIT; AMENDING
8 CIRCUMSTANCES CAUSING A VACANCY IN LOCAL OFFICE; AWARDED
9 PUBLIC EMPLOYEES RETIREMENT SERVICE CREDIT TO OFFICERS WHOSE
10 TERMS ARE SHORTENED; CHANGING PROVISIONS IN THE FINANCIAL
11 DISCLOSURE ACT; PROVIDING FOR A DELAY IN MAILING OF PROPERTY
12 TAX BILLS FOR CERTAIN COUNTIES; CHANGING PROVISIONS RELATED TO
13 LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY ELECTIONS; MAKING
14 TECHNICAL AND CONFORMING CHANGES TO LAWS RELATED TO ELECTIONS;
15 AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE
16 NMSA 1978; DECLARING AN EMERGENCY.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 1-1-3.3 NMSA 1978 (being Laws 2011,
20 Chapter 137, Section 2) is amended to read:

21 "1-1-3.3. ELECTION-RELATED ORGANIZATION.--As used in the
22 Election Code, "election-related organization" means an
23 organization registered with the secretary of state that is
24 involved in election monitoring or voter turnout activities,
25 but does not include a qualified political party."

.211327.3

underscored material = new
[bracketed material] = delete

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

3 "1-1-4. QUALIFIED ELECTOR.--

4 A. As used in the Election Code and rules
5 promulgated by the secretary of state, "qualified elector"
6 means any resident of this state who is qualified to vote under
7 the provisions of the constitution of New Mexico and the
8 constitution of the United States and includes any qualified
9 resident.

10 B. As used in all other statutes and rules of New
11 Mexico, unless otherwise defined, "qualified elector" means a
12 "voter" as that term is defined in Section 1-1-5 NMSA 1978."

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

15 "1-1-5. VOTER.--As used in the Election Code, "voter"
16 means any qualified elector or federal qualified elector who is
17 registered to vote under the provisions of the Election Code."

18 SECTION 4. Section 1-1-5.2 NMSA 1978 (being Laws 2003,
19 Chapter 356, Section 9, as amended) is amended to read:

20 "1-1-5.2. DEFINITION OF A VOTE--~~[COUNTING OF]~~ MACHINE-
21 TABULATED--HAND-TALLIED [BALLOTS]--WRITE-IN.--

22 A. ~~[A vote on]~~ For a paper ballot ~~[used on an~~
23 ~~electronic vote tabulating system, optical scan vote tabulating~~
24 ~~system or high-speed central count vote tabulator consists of~~
25 a] that is machine-tabulated on a vote tabulation system

underscored material = new
[bracketed material] = delete

1 certified for use in this state, a vote shall be counted if
2 the:

3 (1) voter's selection of a candidate or answer
4 to a ballot question is indicated in the voting response area
5 of the paper ballot; and

6 (2) ballot is marked in accordance with the
7 instructions for that ballot type.

8 B. For a paper [~~ballots~~] ballot that [~~are~~] is hand-
9 tallied, a vote shall be counted if:

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

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

14 (3) there is a distinct marking, such as a
15 cross or check, within the voting response area for the
16 preferred candidate or answer to [~~the~~] a ballot question; or

17 (4) the presiding judge and election judges
18 [~~for the precinct~~] hand-tallying the ballot unanimously agree
19 that the voter's intent is clearly discernable.

20 C. For a paper ballot that is machine-tabulated or
21 hand-tallied and that contains a write-in vote, the write-in
22 vote shall be counted if the name is:

23 (1) the name of a declared write-in candidate
24 for that office and position and is on the proper line provided
25 for a write-in vote for that office and position; and

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) written as first and last name; first
2 name, middle name or initial and last name; one or two initials
3 and last name; or last name alone if there is no other declared
4 write-in candidate for the office or position that is the same
5 or so similar as to tend to confuse the candidates' identities;
6 provided that:

7 (a) when the presiding judge and
8 election judges reviewing the write-in vote unanimously agree
9 that the voter's intent is clearly discernable, an
10 abbreviation, misspelling or other minor variation in the form
11 of the name of a declared write-in candidate shall be accepted
12 as a valid vote; and

13 (b) as used in this subsection,
14 "write-in" and "written" do not include the imprinting of any
15 name by stamp or similar method or device or the use of a
16 stencil or a preprinted sticker or label."

17 SECTION 5. Section 1-1-11 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 10) is amended to read:

19 "1-1-11. PRECINCT.--As used in the Election Code,
20 "precinct" means a designated division of a county for election
21 and redistricting purposes [~~which is entitled to a polling~~
22 ~~place and a precinct board. For purposes of municipal or~~
23 ~~school district elections, a precinct may also be conterminous~~
24 ~~with the boundaries of the municipality or school district as~~
25 ~~the case may be]."~~

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 6. Section 1-1-12 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 11, as amended by Laws 2011, Chapter 131,
3 Section 1 and by Laws 2011, Chapter 137, Section 7) is amended
4 to read:

5 "1-1-12. CONSOLIDATED PRECINCT.--

6 A. As used in the Election Code, "consolidated
7 precinct" means a single precinct or the combination of two or
8 more precincts into one polling place for the purpose of
9 establishing a voter convenience center pursuant to the
10 provisions of Section 1-3-4 NMSA 1978.

11 B. When consolidated precincts are used to
12 establish a voter convenience center in [an] a statewide
13 election, references to "precincts" in the voting process shall
14 be applicable to consolidated precincts."

15 SECTION 7. Section 1-1-13 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 12, as amended) is amended to read:

17 "1-1-13. [~~PRECINCT~~] ELECTION BOARD.--As used in the
18 Election Code, "[~~precinct~~] election board" [~~or "poll workers"~~]
19 means the [~~appointed election officials~~] judges of election in
20 accordance with Article 7, Section 1 of the constitution of New
21 Mexico and the election clerks that are appointed pursuant to
22 Section 1-2-12 NMSA 1978 and serving [~~a single precinct, a~~
23 consolidated precinct, an absent voter precinct or an alternate
24 voting location] in a polling place or tallying ballots that
25 have been cast in a statewide or special election."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 8. Section 1-1-15 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 15, as amended) is amended to read:

3 "1-1-15. POSTING.--

4 A. As used in the Election Code, "posting" means
5 posting [~~for not less than seven days prior to an election or~~
6 ~~to an action to be taken~~] from the date a posting is required
7 until forty-five days after adjournment of the state or county
8 canvassing board or until forty-five days following any
9 recount, contest or other judicial inquiry, whichever is later.

10 B. A posting as described in Subsection A of this
11 section is satisfied by posting on the website and in a public
12 area in the office of:

13 (1) the secretary of state [~~and on the~~
14 ~~secretary of state's web site~~], when the secretary of state has
15 the duty to post; or

16 (2) the county clerk [~~and on the county's web~~
17 ~~site, if the county maintains a web site~~], when the county
18 clerk has the duty to post."

19 SECTION 9. Section 1-8-31 NMSA 1978 (being Laws 1973,
20 Chapter 228, Section 5, as amended) is recompiled in Chapter 1,
21 Article 1 NMSA 1978 and is amended to read:

22 "[~~NOMINATING PETITION~~] PETITIONS--NOMINATIONS--SIGNATURES
23 TO BE COUNTED.--

24 A. A person who signs a nominating petition shall
25 sign only one petition for the same office unless more than one

underscored material = new
[bracketed material] = delete

1 candidate is to be elected to that office, and in that case, a
2 person may sign not more than the number of nominating
3 petitions equal to the number of candidates to be elected to
4 the office.

5 B. A person who signs a nominating petition shall
6 indicate the person's registration address. If the person does
7 not have a standard street address, the person may provide the
8 mailing address as shown on the person's certificate of
9 registration.

10 C. A signature shall be counted on a nominating
11 petition unless there is evidence presented that the petition
12 does not provide the information required by the nominating
13 petition for each person signing or the person signing:

14 [~~(1)~~] ~~failed to provide information required by~~
15 ~~the nominating petition;~~

16 ~~(2)]~~ (1) is not a voter of the state,
17 district, county or area to be represented by the office for
18 which the person seeking the nomination is a candidate;

19 [~~(3)]~~ (2) has signed more than one petition
20 for the same office, except as provided in Subsection A of this
21 section, [~~or has signed one petition more than once~~] and if the
22 person has signed more than one petition for the same office,
23 none of the signatures from that person shall count toward the
24 total number of signatures required for any candidate for that
25 office;

.211327.3

underscored material = new
[bracketed material] = delete

1 (3) has signed one petition more than once, in
2 which case only one signature from that person shall count
3 toward the total number of signatures required for that
4 candidate for office;

5 (4) is not of the same political party as the
6 candidate named in the nominating petition as shown by the
7 signer's certificate of registration; or

8 (5) is not the person whose name appears on
9 the nominating petition.

10 ~~[D. The following information shall be listed in~~
11 ~~the appropriate space at the top of the nominating petition~~
12 ~~before the petition has been signed by any voter:~~

13 ~~(1) the party affiliation of voters signing~~
14 ~~the petition;~~

15 ~~(2) the candidate's name;~~

16 ~~(3) the office sought by the candidate; and~~

17 ~~(4) the district of the office sought, or, if~~
18 ~~the office sought is a judicial division office within a~~
19 ~~judicial district, the judicial division number.~~

20 ~~E. With or without a showing of fraud or reasonable~~
21 ~~opportunity for fraud, a nominating petition, including all~~
22 ~~signatures on the petition page, shall be invalid if any of the~~
23 ~~information required by Subsection D of this section is not~~
24 ~~listed on the petition before the petition is signed by a voter~~
25 ~~or if any of the required information is altered.~~

.211327.3

underscored material = new
[bracketed material] = delete

1 F-] D. The procedures set forth in this section
2 shall be used to validate signatures on any petition required
3 by the Election Code, except that Paragraph (4) of Subsection C
4 of this section shall not apply to petitions filed by
5 unaffiliated candidates or petitions filed by candidates of
6 minor political parties."

7 **SECTION 10.** A new section of Chapter 1, Article 1 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] BALLOT QUESTION.--As used in the Election
10 Code, "ballot question" means a question submitted to the
11 voters of the state or a local government on a ballot pursuant
12 to the provisions of the Election Code and does not include a
13 candidate nomination, election contest or nonpartisan judicial
14 retention election."

15 **SECTION 11.** A new section of Chapter 1, Article 1 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] COUNTY.--As used in the Election Code,
18 "county" means a county in this state, including a combined
19 city and county corporation, incorporated county, urban county
20 or single urban government."

21 **SECTION 12.** A new section of Chapter 1, Article 1 NMSA
22 1978 is enacted to read:

23 "[NEW MATERIAL] MUNICIPALITY.--As used in the Election
24 Code, "municipality" means an incorporated city, town or
25 village, whether incorporated under general act, special act,

underscored material = new
[bracketed material] = delete

1 special charter or territorial charter, but does not mean a
2 combined city and county corporation, an incorporated county or
3 a single urban government."

4 SECTION 13. A new section of Chapter 1, Article 1 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] PETITIONS--NOMINATIONS--REQUIREMENTS
7 BEFORE SIGNED BY VOTERS--INVALIDATED PETITIONS.--

8 A. The following information shall be listed in the
9 appropriate space at the top of a nominating petition before
10 the petition has been signed by a voter:

11 (1) the candidate's name as it appears on the
12 candidate's certificate of registration;

13 (2) the address where the candidate resides;

14 (3) the office sought by the candidate;

15 (4) if the office sought is a districted
16 office or a division within a judicial district or has been
17 assigned a position number for purposes of the election, the
18 district, division or position number of the office sought;

19 (5) if the office sought will be on the
20 general election ballot, the party affiliation of the candidate
21 or that the candidate is unaffiliated with any qualified
22 political party; and

23 (6) if the office sought will be nominated at
24 a political party primary, the party affiliation of voters
25 permitted to sign the petition.

.211327.3

underscored material = new
[bracketed material] = delete

1 B. With or without a showing of fraud or a
2 reasonable opportunity for fraud, a nominating petition page,
3 including all signatures on the petition page, shall be invalid
4 if any of the information required by Subsection A of this
5 section is not listed on the petition before the petition page
6 is signed by a voter or if any of the required information is
7 subsequently changed in any way."

8 SECTION 14. A new section of Chapter 1, Article 1 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] PROPER FILING OFFICER.--As used in the
11 Election Code, "proper filing officer" means, for the purposes
12 of filing:

13 A. reports required by the Campaign Reporting Act
14 and the School District Campaign Reporting Act, the secretary
15 of state;

16 B. declarations of candidacy and candidate
17 qualification documents by any candidate for statewide or
18 federal office, the secretary of state; and

19 C. declarations of candidacy and candidate
20 qualification documents by all other candidates, the county
21 clerk of the county in which the candidate resides."

22 SECTION 15. A new section of Chapter 1, Article 1 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] QUALIFIED RESIDENT.--As used in the
25 Election Code, "qualified resident" means an individual who is

.211327.3

underscored material = new
[bracketed material] = delete

1 under the age of eighteen and, except for the age requirement,
2 otherwise satisfies the state's voter eligibility requirements
3 as a qualified elector or a federal qualified elector."

4 SECTION 16. A new section of Chapter 1, Article 1 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] SPECIAL ELECTION.--As used in the Election
7 Code, "special election" means an election at which only ballot
8 questions are considered and that is held at a time other than
9 a statewide election."

10 SECTION 17. A new section of Chapter 1, Article 1 NMSA
11 1978 is enacted to read:

12 "[NEW MATERIAL] STATEWIDE ELECTION.--As used in the
13 Election Code, "statewide election" means:

- 14 A. a general election;
15 B. a political party primary;
16 C. a regular local election; or
17 D. with respect to the applicable counties and
18 precincts, an election called to fill a vacancy in the office
19 of United States representative."

20 SECTION 18. A new section of Chapter 1, Article 1 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] UNITED STATES.--As used in the Election
23 Code, "United States" means the several states and the District
24 of Columbia, but does not mean Puerto Rico, the United States
25 Virgin Islands or any territory or insular possession subject

.211327.3

underscored material = new
[bracketed material] = delete

1 to the jurisdiction of the United States."

2 SECTION 19. Section 1-2-6 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 28, as amended) is amended to read:

4 "1-2-6. [~~PRECINCT~~] ELECTION BOARD--APPOINTMENT [~~TERM~~].--

5 A. The county clerk on or before [~~fifty-five~~]
6 forty-two days next preceding [~~the primary~~] a statewide
7 election shall appoint the [~~precinct board for each precinct.~~

8 ~~B. The members of the precinct board shall be~~
9 ~~appointed for a term of two years.~~

10 ~~C. In the event of a vacancy in the office of~~
11 ~~precinct board member by reason of death, removal from the~~
12 ~~county, disqualification, refusal to serve, or excusal by the~~
13 ~~county clerk for sufficient cause, the county clerk shall~~
14 ~~appoint a qualified person to fill the vacancy for the~~
15 ~~unexpired term] necessary election boards for that election,~~
16 and before twenty-one days next preceding a special election
17 the county clerk shall appoint the necessary election boards
18 for that election. The appointment of the members of each
19 election board shall be in writing and delivered to the person
20 receiving the appointment.

21 B. The county clerk shall maintain in a public
22 place in the county clerk's office a list of the members of the
23 election board, the positions of the election board members and
24 the assignments of the election board members. The list shall
25 be made available at least forty days before a statewide

.211327.3

1 election and at least twenty days before a special election and
2 shall be updated regularly until forty-five days after
3 adjournment of the state or county canvassing board or until
4 forty-five days following any recount, contest or other
5 judicial inquiry, whichever is later."

6 SECTION 20. Section 1-2-7 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 29, as amended) is amended to read:

8 "1-2-7. [~~PRECINCT~~] ELECTION BOARD--QUALIFICATION OF
9 MEMBERS--QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION
10 OF MINORS.--

11 A. In order to qualify as a member of the
12 [~~precinct~~] election board, a person shall:

13 (1) be a voter of the county in which the
14 person is appointed to serve;

15 (2) be able to read and write;

16 (3) have the necessary capacity to carry out
17 [~~a precinct~~] an election board member's functions with
18 acceptable skill and dispatch; and

19 (4) execute the [~~precinct~~] election board
20 member's oath of office.

21 B. Before serving as a presiding judge of [~~a~~
22 ~~precinct~~] an election board, a person shall receive training in
23 the duties of that position and be certified for the position
24 by the county clerk.

25 C. No person shall be qualified for appointment or

.211327.3

underscored material = new
[bracketed material] = delete

1 service on [~~a precinct~~] an election board:

2 (1) who is a candidate to be voted for at the
3 election;

4 (2) who is a spouse, parent, child, brother or
5 sister of any candidate to be voted for at the election;

6 (3) who is married to a parent, child, brother
7 or sister of any candidate to be voted for at the election or
8 who is the parent of the spouse of any candidate to be voted
9 for at the election; or

10 (4) who is a sheriff, deputy sheriff, marshal,
11 deputy marshal or state or municipal police officer.

12 D. A county clerk may appoint not more than two
13 minors to serve on [~~a precinct~~] an election board under the
14 direct supervision of the presiding judge. A minor appointed
15 by the county clerk shall:

16 (1) meet the qualifications set forth in
17 Subsection A of this section, except the minor need not be
18 eligible to vote;

19 (2) be sixteen or seventeen years of age at
20 the time of the election in which the minor is serving as a
21 member of [~~a precinct~~] an election board;

22 (3) be a citizen at the time of the election
23 for which the minor will be serving as a member of [~~a precinct~~]
24 an election board;

25 (4) have the approval of the minor's parent or

underscored material = new
[bracketed material] = delete

1 legal guardian, unless the minor is emancipated;

2 (5) attend at least one school of instruction
3 in accordance with the provisions of Section 1-2-17 NMSA 1978;
4 and

5 (6) be appointed to [~~a precinct~~] an election
6 board in the county in which the minor's parent or legal
7 guardian resides, in accordance with the provisions of Section
8 1-2-11 NMSA 1978.

9 E. A minor appointed to [~~a precinct~~] an election
10 board shall not serve as the presiding judge or as an election
11 judge."

12 SECTION 21. Section 1-2-9 NMSA 1978 (being Laws 1975,
13 Chapter 255, Section 15, as amended) is amended to read:

14 "1-2-9. [~~PRECINCT~~] ELECTION BOARD--STANDBY LIST.--

15 A. Not less than twenty-one days prior to the date
16 for appointing members of [~~precinct~~] election boards, the
17 county clerk shall publish a notice once in a newspaper of
18 general circulation to the effect that [~~precinct~~] election
19 boards are to be appointed for the specified number of
20 precincts, stating the number of persons composing each board
21 and that applications for the standby list will be accepted at
22 the county clerk's office.

23 B. The county clerk shall then compile from the
24 individual applicants a standby list of [~~precinct~~] election
25 board members. The persons on the standby list shall have the

.211327.3

underscored material = new
[bracketed material] = delete

1 same qualifications and comply with the same requirements as
2 provided for [~~precinct~~] election board members."

3 SECTION 22. Section 1-2-11 NMSA 1978 (being Laws 1977,
4 Chapter 222, Section 5, as amended) is amended to read:

5 "1-2-11. [~~PRECINCT~~] ELECTION BOARD--ASSIGNMENT.--Wherever
6 possible, the county clerk shall assign persons appointed as
7 [~~precinct~~] election board members to serve in precincts wherein
8 they reside or in precincts located in the representative
9 district wherein they reside. In the event of a shortage or
10 absence of [~~precinct~~] election board members in certain
11 precincts, the county clerk may, in the best interest of the
12 election process, assign appointed [~~precinct~~] election board
13 members to serve on any [~~precinct~~] election board in the
14 county; provided that such appointed board members shall not
15 change the proportionate representation of each party on the
16 board."

17 SECTION 23. Section 1-2-12 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 32, as amended) is amended to read:

19 "1-2-12. [~~PRECINCT~~] ELECTION BOARD--[~~NUMBER FOR EACH~~
20 ~~PRECINCT~~] POSITIONS ON EACH BOARD.--

21 A. [~~For primary, general and special federal~~
22 ~~elections, the precinct~~] Each election board shall consist of:

- 23 (1) a presiding judge;
24 (2) two election judges; and
25 (3) [~~one~~] election [~~clerk~~] clerks who are

underscored material = new
[bracketed material] = delete

1 appointed to assist the presiding judge and election judges.

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

4 ~~(1)] shall appoint presiding judges and~~
5 ~~election judges so that [at least one election judge shall not~~
6 ~~be of the same political party, if any, as the presiding judge;~~
7 ~~and~~

8 ~~(2)] not more than two of the three judges~~
9 ~~belong to the same political party at the time of their~~
10 ~~appointment; provided that:~~

11 ~~(1) a judge of an election board shall not~~
12 ~~have changed party registration in the two years next preceding~~
13 ~~the judge's appointment in such a manner that the judge's prior~~
14 ~~party registration would make the judge ineligible to serve on~~
15 ~~the assigned election board; and~~

16 ~~(2) a judge of an election board shall not~~
17 ~~continue to serve on an election board if the judge changes~~
18 ~~party registration after the date of appointment in such a~~
19 ~~manner to make the judge ineligible to serve on the assigned~~
20 ~~election board.~~

21 C. The county clerk may appoint teams of presiding
22 judges and election judges for alternate voting locations,
23 absent voter precincts, [~~recount precinct boards~~] recounts and
24 [~~alternate voting locations~~] special elections; provided that
25 each team meets the requirements [~~pursuant to Paragraph (1) of~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~this subsection.~~

2 G. ~~For all other elections, the precinct board~~
3 ~~shall consist of:~~

4 (1) ~~a presiding judge;~~

5 (2) ~~one election judge; and~~

6 (3) ~~one election clerk] of Subsection B of~~
7 this section.

8 D. [If] The county clerk may appoint election
9 clerks to the election board as necessary to assist the
10 presiding judge and election judges if the county clerk
11 determines that additional election [clerks] board members are
12 needed. [the clerk may appoint such additional election clerks
13 as the clerk deems necessary]

14 E. County clerk employees may be [~~appointed to~~
15 ~~assist a precinct board]~~ assigned by the county clerk to
16 provide support to an election board or polling location."

17 SECTION 24. Section 1-2-14 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 34, as amended) is amended to read:

19 "1-2-14. [PRECINCT] ELECTION BOARDS--NOTICE OF
20 APPOINTMENT.--

21 A. Immediately after the appointment of the
22 [~~precinct]~~ election boards, the county clerk shall:

23 (1) make and certify a list of the names of
24 the appointees for each polling location [~~by precinct where~~
25 ~~applicable, post the list in a conspicuous and accessible place~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~in the county clerk's office and keep it posted for five days]~~
2 and send a copy of the list [~~upon request~~] to the county chair
3 of each political party participating in [~~the~~] a partisan
4 election and to the secretary of state; and

5 (2) notify each person appointed, request the
6 person's acceptance and keep a record of all notifications and
7 acceptances.

8 B. If any person appointed to [~~a precinct~~] an
9 election board fails to accept the appointment within two weeks
10 after the notice was sent or communicated, the county clerk
11 shall appoint another qualified person for the [~~precinct~~]
12 election board."

13 SECTION 25. Section 1-2-15 NMSA 1978 (being Laws 1991,
14 Chapter 105, Section 6) is amended to read:

15 "1-2-15. [~~PRECINCT~~] ELECTION BOARD--~~[VACANCY ON ELECTION~~
16 ~~DAY] VACANCIES.--~~

17 A. If for any cause a member of the [~~precinct board~~
18 ~~is not present on election day at the precinct for which he or~~
19 ~~she~~] election board fails to appear for the assigned duty to
20 which the member was appointed, the remaining board members
21 shall immediately notify the county clerk. [~~who shall fill the~~
22 ~~vacancy.~~

23 B. ~~If the board members are unable to contact the~~
24 ~~county clerk in a timely manner, the vacant position shall be~~
25 ~~filled as follows:~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~(1) if there is a vacancy in the position of~~
2 ~~presiding judge, the remaining board members shall elect one of~~
3 ~~the election judges to fill the vacancy;~~

4 ~~(2) if there is a vacancy in the position of~~
5 ~~election judge, the presiding judge shall appoint an election~~
6 ~~clerk of a different political party than that of the remaining~~
7 ~~election judge; however, if there is no election clerk of a~~
8 ~~different political party, the presiding judge shall appoint a~~
9 ~~voter of the precinct who is of a different political party~~
10 ~~than that of the remaining election judge; and~~

11 ~~(3) if the vacancy is in the position of~~
12 ~~election clerk, the presiding judge shall appoint any voter of~~
13 ~~the precinct to fill the vacancy, provided the voter is of a~~
14 ~~different political party than the remaining election clerk on~~
15 ~~a five-member board or of a different political party than that~~
16 ~~of the presiding judge on a four-member board.]~~

17 B. In the event of a vacancy in an election board
18 position by reason of death, removal from the county,
19 disqualification, refusal to serve, failure to appear for an
20 assigned duty or excusal by the county clerk for sufficient
21 cause, the county clerk may appoint a qualified person to fill
22 the vacancy.

23 C. No vacancy [~~on election day~~] shall prevent the
24 remaining board members from proceeding to open the polls [~~and~~
25 ~~conducting~~] or otherwise perform their duties for the election

.211327.3

underscored material = new
[bracketed material] = delete

1 in their assigned [~~precinct~~] location."

2 SECTION 26. Section 1-2-16 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 36, as amended) is amended to read:

4 "1-2-16. [~~PRECINCT~~] ELECTION BOARD--COMPENSATION.--

5 A. Members of [~~a precinct~~] an election board shall
6 be compensated for their services at the rate of not less than
7 the federal minimum hourly wage rate nor more than two hundred
8 dollars (\$200) for an election day.

9 B. Members of [~~a precinct~~] an election board
10 assigned to alternate voting or alternate mobile voting
11 locations or absent voter precincts may be compensated at an
12 hourly rate set by the county clerk.

13 C. Compensation shall be paid within thirty days
14 following the date of election.

15 D. For purposes of determining eligibility for
16 membership in the public employees retirement association and
17 pursuant to the provisions of Subsection B of Section 10-11-3
18 NMSA 1978, [~~precinct~~] election board members are designated as
19 seasonal employees."

20 SECTION 27. Section 1-2-17 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 37, as amended) is amended to read:

22 "1-2-17. [~~PRECINCT~~] ELECTION BOARD--SCHOOLS OF
23 INSTRUCTION.--

24 A. The county clerk shall cause to be held a public
25 school of instruction for all [~~presiding judges, precinct~~

underscored material = new
[bracketed material] = delete

1 ~~boards]~~ election board members and others who will be
2 officially concerned with the conduct of [~~elections~~] an
3 election.

4 B. The schools [~~for~~] of instruction provided for in
5 this section shall be [~~as follows~~].

6 ~~(1) one school not less than seven days before~~
7 ~~the primary election;~~

8 ~~(2) one school not less than seven days before~~
9 ~~the general election; and~~

10 ~~(3) one school not less than seven days before~~
11 ~~any other statewide]~~ held following an election board member's
12 appointment and before the member performs assigned duties in
13 an election.

14 C. All major details of the conduct of elections
15 shall be covered by the county clerk or the clerk's authorized
16 representative at such school, with special emphasis being
17 given to recent changes in the Election Code.

18 D. The school of instruction shall be open to any
19 interested person, and the county clerk shall post notice of
20 the school [~~shall be given to the public press~~] at least four
21 days before the school is to be held. Each member of [~~the~~
22 ~~precinct~~] an election board shall be notified at least seven
23 days prior to commencement of the school.

24 E. A person shall not serve as a [~~judge or~~] member
25 of [~~a precinct~~] an election board in any election unless that

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

1 person has attended at least one such school of instruction [~~in~~
2 ~~the calendar year of~~] for the election at which the person is
3 appointed to serve [~~or~~] and has been certified by the county
4 clerk with respect to the person's completion of the school of
5 instruction. This subsection shall not apply to filling of
6 vacancies on election day as provided in Subsection B of
7 Section 1-2-15 NMSA 1978."

8 SECTION 28. Section 1-2-18 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 38) is amended to read:

10 "1-2-18. [~~PRECINCT~~] ELECTION BOARD MEMBERS--
11 IDENTIFICATION BADGES.--At all times on election day while
12 performing their duties, members of the [~~precinct~~] election
13 board shall wear uniform identification badges. Such badges
14 shall be furnished by the county clerk. The secretary of state
15 shall prescribe the form and material of such identification
16 badges, which shall include the identification of the election
17 board member's name, title and political party."

18 SECTION 29. Section 1-2-20 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 39, as amended) is amended to read:

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

21 A. The county clerk may appoint messengers to
22 deliver ballot boxes, poll books, keys, election supplies and
23 other materials pertaining to the election. Messengers may
24 also be authorized to collect absentee ballots and removable
25 media storage devices from polling places and deliver them to

.211327.3

underscored material = new
[bracketed material] = delete

1 locations designated by the county clerk.

2 B. Messengers may be compensated at the same daily
3 or hourly rate as provided for election board members or at a
4 rate established by the county clerk. Messengers [~~shall~~] may
5 be paid mileage as provided in the Per Diem and Mileage Act
6 each way over the usually traveled route when the messenger
7 travels by private vehicle. The compensation and mileage shall
8 be paid within thirty days following the date of election [~~if~~
9 ~~funds are available for payment~~].

10 C. Messengers shall take an oath of office before
11 entering into service as a messenger. Messengers may be
12 appointed to serve solely in that capacity or may be election
13 board members or county employees also appointed to serve as
14 messengers."

15 SECTION 30. Section 1-2-21 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 40, as amended) is amended to read:

17 "1-2-21. CHALLENGERS--APPOINTMENT.--

18 A. The county chair of each political party
19 represented on the ballot in a partisan election may appoint in
20 writing challengers for each polling location. If more than
21 one challenger is appointed to a polling location, the
22 challengers shall be listed in ranking order.

23 B. If any county chair fails to make such
24 appointments or if there is no county chair, the [~~precinct~~]
25 state chair of the political party may in a partisan election

.211327.3

underscored material = new
[bracketed material] = delete

1 appoint in writing one challenger for [the] each polling
2 location [~~corresponding to the precinct.~~

3 ~~G. If any precinct chair fails to make such~~
4 ~~appointments, or if no person properly appointed is present at~~
5 ~~the polling place and offers to serve, the voters present~~
6 ~~belonging to that political party may appoint one challenger in~~
7 ~~writing] in the county."~~

8 SECTION 31. Section 1-2-25 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 44, as amended) is amended to read:

10 "1-2-25. CHALLENGERS, WATCHERS, COUNTY CANVASS
11 OBSERVERS--PERMITTED AND PROHIBITED ACTIVITIES.--

12 A. Challengers, watchers and county canvass
13 observers shall:

14 (1) not be permitted to perform any duty of [~~a~~
15 ~~precinct]~~ an election board member;

16 (2) not handle the ballots, signature rosters,
17 checklist of voters or voting machines or take any part in the
18 counting or tallying of the ballots or the county canvass;

19 (3) not be allowed to view a voter's full date
20 of birth or any portion of the voter's social security number;

21 (4) not interfere with the orderly conduct of
22 the election, the counting or tallying of the ballots or the
23 county canvass;

24 (5) be allowed in the room in which the voting
25 is being conducted at a polling location; provided that at any

.211327.3

underscored material = new
[bracketed material] = delete

1 given time, each political party, candidate or election-related
2 organization may have no more than one person present; and

3 (6) be allowed in the room in which the absent
4 voter [~~precinct~~] election board, the recount election board or
5 the election board for a special election conducts its business
6 or, in the case of county canvass observers, in which the
7 county canvass is conducted; provided that each political
8 party, candidate or election-related organization shall have no
9 more than:

10 (a) two persons present at any given
11 time in counties with more than ten thousand registered voters;

12 (b) four persons present at any given
13 time in counties with more than fifty thousand registered
14 voters; or

15 (c) fifteen persons present at any given
16 time in counties with more than [~~two~~] one hundred fifty
17 thousand registered voters.

18 B. Subject to permission granted by the county
19 clerk, additional challengers may be present in the room in
20 which the absent voter [~~precinct~~] election board, the recount
21 election board or the election board for a special election
22 conducts its business in a partisan election; provided that the
23 number of additional challengers allowed pursuant to this
24 subsection is identical for each political party participating
25 in the election."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 32. Section 1-2-27 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 46, as amended) is amended to read:

3 "1-2-27. WATCHERS--APPOINTMENT.--

4 A. An election-related organization may in a
5 statewide or special election appoint watchers in a county if
6 the organization provides a written notice to the secretary of
7 state at least [~~ten~~] seven days prior to serving as a watcher
8 during early voting, the election date or the ballot
9 qualification period for mailed ballots in a statewide or a
10 special election and specifies the names of the qualified
11 appointees. The secretary of state shall notify the county
12 clerk of the qualified appointees at least five days before the
13 election.

14 B. Any group of three candidates for elected office
15 in a statewide election may appoint watchers in a county if the
16 candidates provide a written notice to the secretary of state
17 at least [~~ten~~] seven days prior to serving as a watcher during
18 early voting, the election date or the ballot qualification
19 period for mailed ballots in a statewide or special election
20 and specify the names of the qualified appointees. The
21 secretary of state shall notify the county clerk of the
22 qualified appointees at least five days before the election."

23 SECTION 33. Section 1-2-31 NMSA 1978 (being Laws 2005,
24 Chapter 270, Section 15, as amended) is amended to read:

25 "1-2-31. COUNTY CANVASS OBSERVERS.--

.211327.3

underscored material = new
[bracketed material] = delete

1 A. The county chair of each political party
2 represented on ~~[the]~~ a partisan ballot may appoint in writing
3 county canvass observers. A candidate for elected office and
4 an election-related organization in a statewide or special
5 election may each appoint county canvass observers in a county
6 if the candidate or organization makes a written request to the
7 secretary of state ~~[at least ten days prior to the election~~
8 ~~date]~~ and specifies the names of the qualified appointees. The
9 secretary of state shall immediately notify the county clerk of
10 the qualified appointees ~~[at least five days before the~~
11 ~~election]~~.

12 B. County canvass observers shall be voters of a
13 precinct located in that county to which they are appointed.
14 No person shall be qualified for appointment or service as a
15 county canvass observer who is a sheriff, deputy sheriff,
16 marshal, deputy marshal or state or municipal police officer.

17 C. A county canvass observer or an election
18 observer, upon presentation of the observer's written
19 appointment, shall be permitted to be present at any time from
20 the time the county canvassing begins until the completion of
21 the canvass.

22 D. A county canvass observer or election observer
23 is strictly limited to observing and documenting the canvassing
24 process and shall not interrupt the canvassing process.

25 E. County canvass observers and election observers

.211327.3

underscored material = new
[bracketed material] = delete

1 shall not interfere with the orderly conduct of the canvass and
2 may be removed by the county clerk if the observer does not
3 comply with the law.

4 F. As used in this section, "county canvass" means
5 the process in the office of the county clerk of qualifying and
6 verifying paper ballots and counting and tallying votes for
7 each precinct beginning upon the closing of the polls and
8 ending with the certification and announcement of the results
9 by the county canvassing board."

10 SECTION 34. Section 1-2-32 NMSA 1978 (being Laws 2011,
11 Chapter 137, Section 11) is amended to read:

12 "1-2-32. STATE CANVASS OBSERVERS.--

13 A. The state chair of each political party
14 represented on ~~[the]~~ a partisan ballot may appoint in writing
15 state canvass observers. A candidate for elected office in a
16 statewide election and an election-related organization in a
17 statewide or special election may each appoint state canvass
18 observers if the candidate or organization makes a written
19 request to the secretary of state ~~[at least ten days prior to~~
20 ~~the election date]~~ and specifies the names of the qualified
21 appointees.

22 B. State canvass observers shall be voters of the
23 state. No person shall be qualified for appointment or service
24 as a state canvass observer who is a sheriff, deputy sheriff,
25 marshal, deputy marshal or state or municipal police officer.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. The state canvass observer or election observer,
2 upon presentation of the observer's written appointment, shall
3 be permitted to be present at any time from the time the state
4 canvassing begins until the completion of the canvass.

5 D. A state canvass observer or election observer is
6 strictly limited to observing and documenting the canvassing
7 process and shall not interrupt the canvassing process.

8 E. State canvass observers shall not interfere with
9 the orderly conduct of the canvass and may be removed by the
10 secretary of state if the observer does not comply with the
11 law.

12 F. As used in this section, "state canvass" means
13 the process ~~[of examining]~~ in the office of the secretary of
14 state or by such person as the state canvassing board may
15 appoint to examine election returns and certificates issued by
16 the county canvassing boards and ending with the certification
17 and announcement of the results by the state canvassing board."

18 SECTION 35. Section 1-3-1 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 50, as amended) is amended to read:

20 "1-3-1. NATURE OF A PRECINCT--MAPS.--

21 A. Each precinct as nearly as practicable shall be
22 composed of contiguous and compact areas having clearly
23 definable boundaries. All precinct boundaries shall comply
24 with the provisions of the Precinct Boundary Adjustment Act.

25 B. A precinct ~~[for general or primary election~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~purposes shall not have had more than eight]~~ shall be divided
2 or its boundaries adjusted if the precinct has had more than:

3 (1) seven hundred fifty votes cast ~~[in person~~
4 ~~in]~~ by voters of that precinct at ~~[the last preceding]~~ a
5 general election, based on the two most recent general
6 elections; or

7 (2) two thousand five hundred persons residing
8 within the boundaries of the precinct, based on the most recent
9 federal decennial census.

10 C. A precinct shall be combined with another
11 precinct or its boundaries adjusted if the precinct is in a
12 county with more than one thousand five hundred persons
13 residing within the boundaries of the county, based on the most
14 recent federal decennial census, and the precinct has had less
15 than:

16 (1) one hundred votes cast by voters of that
17 precinct at a general election, based on the two most recent
18 general elections; or

19 (2) five hundred persons residing within the
20 boundaries of the precinct, based on the most recent federal
21 decennial census.

22 D. A precinct shall not be combined with an
23 adjoining precinct as provided in Subsection C of this section
24 if the combination of the two precincts would:

25 (1) violate the maximum votes cast or

underscored material = new
[bracketed material] = delete

1 population requirements of Subsection B of this section; or
2 (2) cross any local, state or federal district
3 or districted boundary lines.

4 [~~G. Each county clerk~~] E. The secretary of state
5 shall provide and maintain a suitable map showing the current
6 geographical boundaries with designation of each precinct,
7 local government, representative district and senatorial
8 district in the county. The size and form of such maps shall
9 be prescribed by the secretary of state. A word description of
10 the geographical boundaries shall be attached to each map,
11 [~~Such~~] along with a description of the changes from the
12 previous map of the area. The map, with attached description,
13 is a public record.

14 [~~D. Each county clerk shall send a copy of each map~~
15 ~~with attached description to the secretary of state. These~~
16 ~~copies are also public records.]"~~

17 SECTION 36. Section 1-3-2 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 51, as amended) is amended to read:

19 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--~~[A.]~~
20 For the conduct of any statewide election during the period
21 beginning January 1 of the next succeeding even-numbered year
22 until December 31 of the odd-numbered year thereafter, in June
23 or July of each odd-numbered year, the board of county
24 commissioners shall by resolution:

25 [~~(1)~~] A. designate the polling place of each

.211327.3

underscored material = new
[bracketed material] = delete

1 precinct that shall provide individuals with physical mobility
2 limitations an unobstructed access to at least one voting
3 machine;

4 ~~[(2)]~~ B. consolidate any precincts ~~[for the next~~
5 ~~succeeding primary and general elections]~~ pursuant to Section
6 1-3-4 NMSA 1978;

7 ~~[(3)]~~ C. designate any mail ballot election
8 precincts ~~[for the next succeeding primary and general~~
9 ~~elections];~~

10 ~~(4) consolidate precincts for the regular~~
11 ~~local elections following the next succeeding general election~~
12 ~~as provided in Section 1-3-4 NMSA 1978;~~

13 ~~(5) designate any mail ballot election~~
14 ~~precincts for the regular local election following the next~~
15 ~~succeeding general election;~~

16 ~~(6) create additional precincts to meet the~~
17 ~~requirements of Section 1-3-1 NMSA 1978 or upon petition~~
18 ~~pursuant to Section 4-38-21 NMSA 1978] pursuant to Section~~
19 1-6-22.1 NMSA 1978; and

20 ~~[(7)]~~ D. create additional polling places in
21 existing precincts ~~[as necessary]~~ pursuant to Section 1-3-7.1
22 NMSA 1978 ~~[and~~

23 ~~(8) divide any precincts as necessary to meet~~
24 ~~legal and constitutional requirements for redistricting.~~

25 ~~B. Polling places, consolidated precincts and mail~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~ballot election precinct designations established in the~~
2 ~~resolution adopted pursuant to Subsection A of this section for~~
3 ~~primary and general elections shall be the same used for any~~
4 ~~special election for the office of United States representative~~
5 ~~held in the two succeeding calendar years following adoption of~~
6 ~~the resolution.~~

7 ~~G. The county clerk shall notify the secretary of~~
8 ~~state in writing of any proposed changes in precincts or the~~
9 ~~designation of polling places made by the board of county~~
10 ~~commissioners and shall furnish a copy of the map showing the~~
11 ~~current geographical boundaries, designation and word~~
12 ~~description of each new polling place and each new or changed~~
13 ~~precinct.~~

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

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~general election]."~~

2 SECTION 37. Section 1-3-4 NMSA 1978 (being Laws 1975,
3 Chapter 255, Section 30, as amended) is amended to read:

4 "1-3-4. CONSOLIDATION OF PRECINCTS--VOTER CONVENIENCE
5 CENTERS.--

6 A. [~~Precincts may be consolidated by~~] The board of
7 county commissioners [~~for the following elections:~~

- 8 (1) ~~primary and general elections; and~~
9 (2) ~~local elections~~] may permit voters in the
10 county to cast ballots in statewide elections at voter
11 convenience centers through the use of consolidated precincts
12 authorized pursuant to this section.

13 B. When precincts are consolidated [~~for a primary~~
14 ~~and general election or a regular local election~~] and voter
15 convenience centers are established for statewide elections:

- 16 (1) the resolution required by Section 1-3-2
17 NMSA 1978, in addition to the other matters required by law,
18 shall state therein which precincts have been consolidated and
19 the [~~designation of the polling place. In addition, when~~
20 ~~consolidating precincts~~] location of the voter convenience
21 center within that consolidated precinct;

22 [~~(1)~~] (2) any voter of the county shall be
23 allowed to vote [~~in any consolidated precinct polling location~~]
24 on a regular ballot at any voter convenience center in the
25 county;

.211327.3

underscored material = new
[bracketed material] = delete

1 [~~(2)~~] (3) each [~~consolidated precinct in a~~
2 ~~primary or general election~~] voter convenience center shall be
3 a consolidated precinct composed of no more than ten precincts;

4 [~~(3) each consolidated precinct in a local~~
5 ~~election shall be composed of no more than twenty precincts;~~]

6 (4) each [~~consolidated precinct~~] voter
7 convenience center shall comply with the provisions of Section
8 1-3-7 NMSA 1978;

9 (5) each [~~consolidated precinct polling~~
10 ~~location~~] voter convenience center shall have a broadband
11 internet connection and real-time access to the [~~statewide~~]
12 voter registration electronic management system;

13 (6) the county clerk may maintain any
14 [~~alternative~~] alternate voting locations or mobile alternate
15 voting locations previously used in the same election open for
16 voting on election day [~~for any voter in the county~~] as a voter
17 convenience center, in addition to the [~~polling location~~] voter
18 convenience center established [~~in~~] within each consolidated
19 precinct; provided that the locations otherwise meet the
20 requirements of a voter convenience center; and

21 (7) the board of county commissioners may
22 permit [~~rural~~] certain precincts to be exempted from operating
23 as a voter convenience center or being a part of a consolidated
24 precinct; provided that if the precinct is not designated as a
25 mail ballot election precinct pursuant to Section 1-6-22.1 NMSA

.211327.3

underscored material = new
[bracketed material] = delete

1 1978 and the polling place for ~~[the rural]~~ that precinct does
2 not have real-time access to the ~~[statewide]~~ voter registration
3 electronic management system, voters registered in a ~~[rural]~~
4 precinct as described in this paragraph are permitted to vote
5 ~~[in]~~ at any ~~[consolidated precinct polling location]~~ voter
6 convenience center on election day only by use of a provisional
7 paper ballot, which shall be counted after the county clerk
8 confirms that the voter did not also vote in the ~~[rural~~
9 ~~precinct]~~ same election on any other ballot.

10 C. Unless the county clerk receives a written
11 waiver from the secretary of state specifying the location and
12 specific provision being waived, each ~~[consolidated precinct~~
13 ~~polling location]~~ voter convenience center shall:

14 (1) have ballots available for voters from
15 every precinct ~~[that is able]~~ authorized to vote ~~[in the~~
16 ~~consolidated precinct]~~ at that voter convenience center;

17 (2) have at least one optical scan tabulator
18 programmed to read every ballot style able to be cast ~~[in the~~
19 ~~consolidated precinct]~~ at that voter convenience center;

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

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

25 (5) have sufficient check-in stations to

.211327.3

underscored material = new
[bracketed material] = delete

1 accommodate voters throughout the day as provided in Section
2 1-9-5 NMSA 1978;

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

6 (7) issue a ballot to voters who have provided
7 the required voter identification after the voter has signed a
8 signature roster or an electronic equivalent approved by the
9 voting system certification committee or after the voter has
10 subscribed an application to vote on a form approved by the
11 secretary of state; and

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

15 D. As a prerequisite to consolidation, the
16 authorizing resolution must find that consolidation will make
17 voting more convenient and accessible to voters of the
18 consolidated precinct and will not result in delays for voters
19 in the voting process and that the [~~consolidated precinct~~
20 ~~voting location~~] voter convenience center will be centrally
21 located within the consolidated precinct."

22 SECTION 38. Section 1-3-5 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 55, as amended) is amended to read:

24 "1-3-5. PRECINCTS--POWERS OF COUNTY COMMISSIONERS.--

25 A. The board of county commissioners shall by

.211327.3

underscored material = new
[bracketed material] = delete

1 resolution:

2 (1) create additional precincts to meet the
3 requirements of Section 1-3-1 NMSA 1978; and

4 (2) divide, abolish, combine or adjust the
5 boundaries of any precincts as necessary to meet legal and
6 constitutional requirements for redistricting.

7 B. Any necessary precinct boundary adjustments
8 shall be submitted to the secretary of state no later than the
9 first Monday in December of each odd-numbered year to become
10 effective January 1 next succeeding the approval of the
11 boundary adjustment. No precinct shall be created, divided,
12 abolished or [~~consolidated~~] combined or the boundaries [~~or~~
13 ~~polling place therein changed~~] adjusted less than four months
14 prior to [~~each~~] a statewide election, except by order of the
15 district court.

16 C. The county clerk shall notify the secretary of
17 state in writing of any proposed changes in precincts or the
18 designation of polling places made by the board of county
19 commissioners and shall furnish the current geographical
20 boundaries, designation and word description of each new
21 polling place and each new or changed precinct.

22 D. The secretary of state shall review all new or
23 changed precinct maps submitted pursuant to this section for
24 compliance under the Precinct Boundary Adjustment Act and
25 Section 1-3-1 NMSA 1978.

.211327.3

underscored material = new
[bracketed material] = delete

1 E. Precincts shall be designated solely by whole
2 numbers."

3 SECTION 39. Section 1-3-6 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 56, as amended) is amended to read:

5 "1-3-6. PRECINCTS--BOUNDARIES--PROTEST.--

6 A. Any twenty-five or more voters of a precinct
7 dissatisfied with the boundaries fixed for a precinct or
8 location of the polling place designated by the board of county
9 commissioners for that precinct may, within one hundred eighty
10 days from the date a change to the boundaries of a precinct was
11 approved in the case of a protest to the boundaries of a
12 precinct, or at any time not less than [fifty-five] one hundred
13 twenty days prior to any [general] statewide election, petition
14 the district court of that county, setting forth the facts and
15 reasons for their dissatisfaction and requesting that the board
16 of county commissioners be required by mandamus to change the
17 boundaries or polling place as set forth in the petition.

18 B. Upon filing of the petition, the court shall fix
19 a time and place for hearing, which time shall not be more than
20 twenty days from the date the petition was filed. Each member
21 of the board of county commissioners and the person whose name
22 appears first on the petition as a signer [~~thereof~~] shall
23 immediately be given notice by the court of the filing of the
24 petition and the date set for hearing.

25 C. On the date set for the hearing on the petition,

underscored material = new
[bracketed material] = delete

1 the court shall hear the evidence, decide the issues involved
2 and issue its order as the law and facts require."

3 SECTION 40. Section 1-3-7 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 57, as amended) is amended to read:

5 "1-3-7. POLLING PLACES.--

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

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

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

22 D. If, in a precinct that is not a mail ballot
23 election precinct or a consolidated precinct, there is no
24 public building or public school building available in the
25 precinct, and there is no other suitable place obtainable in

.211327.3

underscored material = new
[bracketed material] = delete

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

9 E. Upon application of the board of county
10 commissioners, the governing board of any school district shall
11 permit the use of any school building or a part thereof for
12 registration purposes and the conduct of any election; provided
13 that the building or the part used for the election complies
14 with the standards set out in the federal Voting Accessibility
15 for the Elderly and Handicapped Act. Application for use of a
16 school building or any part thereof for the conduct of a
17 statewide election shall be made by delivering to the
18 superintendent of the school district the resolution adopted
19 pursuant to Section 1-3-2 NMSA 1978.

20 F. [~~Public schools may be closed for elections at~~
21 ~~the discretion of local school boards.~~] On the day of any
22 statewide election for which application was made pursuant to
23 Subsection E of this section, the board of education of a
24 school district shall provide exclusive use of any school
25 building or the part thereof to be used in the conduct of the

.211327.3

underscored material = new
[bracketed material] = delete

1 election and shall provide sufficient parking for election
2 officials and to permit voters to exercise the elective
3 franchise."

4 SECTION 41. Section 1-3-12 NMSA 1978 (being Laws 1984
5 (1st S.S.), Chapter 3, Section 4, as amended) is amended to
6 read:

7 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

8 A. Before each federal decennial census, every
9 precinct shall comply with the requirements of Section 1-3-1
10 NMSA 1978, and if necessary its boundary shall be adjusted to
11 coincide with a feature or a boundary that is:

12 (1) shown on the standard base maps developed
13 pursuant to Subsection B of this section;

14 (2) a designated census block boundary on the
15 proposed federal PL 94-171 [~~2010~~] 2020 census block maps; or

16 (3) approved by the secretary of state and the
17 United States bureau of the census.

18 B. Prior to commencement of the federal decennial
19 census, the secretary of state shall have prepared and shall
20 furnish to each county clerk standard base maps of the county.
21 The standard base map for urban and nonurban areas of the
22 county shall, as nearly as practical, show:

23 (1) all state and federal highways;

24 (2) all numbered and named county roads that
25 have been certified to the department of transportation;

.211327.3

underscored material = new
[bracketed material] = delete

1 (3) all military installation boundaries and
2 federal and state prison boundaries;

3 (4) all major railroad lines;

4 (5) federal, state and county political
5 boundaries, municipal boundaries and school district
6 boundaries;

7 (6) all streets within urban areas; and

8 (7) other major terrain features, such as
9 flowing rivers and streams, arroyos, [~~power lines~~] power lines,
10 pipelines, roads, trails and ridgelines and other acceptable
11 census block boundaries.

12 C. The board of county commissioners [~~and the~~
13 ~~county clerks~~], upon receipt of the standard base maps from the
14 secretary of state and upon the recommendation of the county
15 clerk, shall:

16 (1) adjust all precinct boundaries to coincide
17 with numbered or named street boundaries or suitable visible
18 terrain features shown on the standard base map; provided that
19 the precincts shall be composed of contiguous and compact
20 areas, and state, county, municipal, school district and other
21 special district or political boundary lines shall serve as
22 precinct boundaries whenever possible; and

23 (2) upon the completion of the precinct
24 boundary adjustments as required in this section, indicate on
25 the standard base maps the boundaries for both urban and

.211327.3

underscored material = new
[bracketed material] = delete

1 nonurban precincts and, together with a written description of
2 the precincts, shall send an electronic copy [~~in a format~~
3 ~~approved by the secretary of state or four copies of the~~
4 ~~precinct maps~~] to the secretary of state for approval.

5 D. The precincts shown upon the standard base maps
6 submitted pursuant to the provisions of this section and as
7 revised and approved by the secretary of state pursuant to the
8 Precinct Boundary Adjustment Act shall become the official
9 precincts of each county for the [~~2011~~] 2021 redistricting.
10 For the [~~2012~~] 2022 and subsequent [~~primary and general~~]
11 statewide elections, changes in precincts shall be made in
12 accordance with the provisions of Chapter 1, Article 3 NMSA
13 1978.

14 E. In the same calendar year in which the state
15 receives the results of a federal decennial census, the state
16 legislature shall redistrict federal representative districts,
17 each chamber of the legislature, public regulation commission
18 districts, public education commission districts and any other
19 state districts requiring redistricting.

20 [~~E.~~] F. In the calendar year following the receipt
21 of the results of a federal decennial census, each local public
22 body subject to districting shall create or redraw districts
23 for the local public body. A local public body, when creating
24 or redrawing districts, shall not split a precinct into two or
25 more districts for any elected office unless necessary to

.211327.3

underscored material = new
[bracketed material] = delete

1 comply with federal law or to preserve communities of interest.

2 [F. ~~Precincts shall be designated solely by whole~~
3 ~~numbers.~~]"

4 SECTION 42. Section 1-3-13 NMSA 1978 (being Laws 1983,
5 Chapter 223, Section 4, as amended) is amended to read:

6 "1-3-13. SECRETARY OF STATE POWERS AND DUTIES.--

7 A. Prior to commencement of the federal decennial
8 census, the secretary of state shall review all county precinct
9 maps submitted pursuant to Section 1-3-12 NMSA 1978 for
10 compliance with the provisions of the Precinct Boundary
11 Adjustment Act and Section 1-3-1 NMSA 1978. Those county
12 precinct maps determined not to be in compliance with the
13 precinct boundary criteria set forth in Subsection A of Section
14 1-13-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected
15 and returned to the appropriate county clerk with a written
16 statement setting forth those instances in which the map does
17 not comply. The county clerk and the board of county
18 commissioners shall make the required adjustments [~~and resubmit~~
19 ~~one copy of the corrected county precinct map~~] within thirty
20 days after receiving notice of noncompliance.

21 B. [~~Prior to January 1, 2012~~] Following receipt of
22 the results of a federal decennial census and no later than
23 June 30 of the same year, if any precinct boundary adjustments
24 are necessary to meet the legal and constitutional requirements
25 of redistricting, including the requirements of Section 1-3-1

.211327.3

underscored material = new
[bracketed material] = delete

1 NMSA 1978, the secretary of state shall adjust the boundaries
2 of the precincts only to the extent necessary to achieve
3 compliance and notify ~~[any]~~ the county of those boundary
4 adjustments ~~[that are necessary in that county. Upon review~~
5 ~~and certification of the adjusted precinct boundaries, the~~
6 ~~county shall submit the certified precinct changes to the~~
7 ~~secretary of state for final approval of the precincts for the~~
8 ~~2012 primary and general elections]."~~

9 SECTION 43. Section 1-3-18 NMSA 1978 (being Laws 1989,
10 Chapter 199, Section 1, as amended) is amended to read:

11 "1-3-18. POLLING PLACES--BUILDING REQUIREMENTS--
12 INSPECTION.--

13 ~~[A. No building used as a polling place for the~~
14 ~~conduct of an election in any class A county shall house:~~

15 ~~(1) more than four precinct polling places in~~
16 ~~the conduct of any single election; and~~

17 ~~(2) more than two precinct polling places in~~
18 ~~any single room.~~

19 ~~B. The restrictions set forth in Subsection A of~~
20 ~~this section may be waived with the approval of the director of~~
21 ~~the bureau of elections and do not apply to precincts that are~~
22 ~~consolidated pursuant to the provisions of Section 1-3-4 NMSA~~
23 ~~1978.~~

24 ~~G.]~~ A. The location of each ~~[precinct]~~ polling
25 place within ~~[the]~~ a building shall be clearly designated by

.211327.3

underscored material = new
[bracketed material] = delete

1 appropriate signs, displayed prominently and clearly [~~displayed~~
2 ~~at a height no less than six feet from the floor~~]. Signs for
3 each [~~precinct~~] polling place shall also be clearly displayed
4 outside the building where polling takes place.

5 ~~[D.]~~ B. Not less than thirty days prior to [~~any~~]
6 each election at which [~~the~~] a building is intended for use as
7 [~~a~~] an alternate voting location, a mobile alternate voting
8 location or an election day polling place, the county clerk or
9 the clerk's designated representative shall physically inspect
10 each such facility to determine its suitability for [~~precinct~~
11 ~~polling places~~] use as a polling place and its capability of
12 handling heavy voter traffic in the most expeditious manner
13 with a maximum efficiency and minimum discomfort of the voter.
14 [~~In the event the building is found to meet these standards,~~
15 ~~the county clerk shall certify for the record its~~
16 ~~acceptability.~~] The county clerk shall maintain a log of the
17 day and time each facility was physically inspected, whether
18 the inspection was performed by the county clerk, and if the
19 inspection was not performed by the county clerk, the name of
20 the person designated by the county clerk to perform the
21 inspection.

22 ~~[E.]~~ C. Each polling place shall be furnished and
23 have available equipment necessary to assist voters in reading
24 the ballot."

25 **SECTION 44.** Section 1-3-19 NMSA 1978 (being Laws 2013,

.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 189, Section 1 and Laws 2015, Chapter 145, Section 12)
2 is amended to read:

3 "1-3-19. ELECTION-DAY POLLING PLACES--ADEQUATE
4 RESOURCES.--

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

13 B. Each election-day polling place shall:

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

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

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

21 (1) a separate [~~precinct~~] election board and
22 signature roster for the precinct;

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

25 (3) sufficient spaces for at least five voters

.211327.3

underscored material = new
[bracketed material] = delete

1 to simultaneously and privately mark their ballots, with at
2 least one of those spaces wheelchair-accessible, for the
3 precinct."

4 SECTION 45. Section 1-4-2 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 60, as amended) is amended to read:

6 "1-4-2. ~~[QUALIFICATION FOR]~~ REGISTRATION OF QUALIFIED
7 RESIDENTS--RIGHT TO VOTE IN PRIMARY.--

8 A. Any qualified resident of New Mexico ~~[who will~~
9 ~~be a qualified elector at the date of the next ensuing general~~
10 ~~election]~~ shall be permitted within the provisions of the
11 Election Code to ~~[register and become a voter]~~ submit a voter
12 registration certificate in paper form, through the online
13 voter registration portal provided by the secretary of state,
14 electronically when conducting an in-person transaction at the
15 motor vehicle division of the taxation and revenue department
16 or as otherwise prescribed by the secretary of state. The
17 certificate shall be processed by the county clerk in the same
18 manner as for a qualified elector, but the qualified resident
19 shall not become a voter nor be considered a voter except as
20 provided by this section.

21 B. If a ~~[person who is seventeen years old will be~~
22 ~~a qualified elector on the day of the general election and~~
23 ~~registers to vote in accordance with the provisions of~~
24 ~~Subsection A of this section, for the purposes of the primary~~
25 ~~election, that person shall be considered to be a voter and may~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~vote in the primary election immediately preceding that general~~
2 ~~election]~~ qualified resident submits a voter registration
3 certificate in accordance with the provisions of Subsection A
4 of this section and pursuant to the requirements of Section
5 1-4-8 NMSA 1978, the qualified resident shall:

6 (1) become a voter upon the qualified
7 resident's eighteenth birthday;

8 (2) be considered a voter for the purpose of
9 participation in a statewide or special election where the
10 qualified resident will turn eighteen on or before the day of
11 the statewide or special election; or

12 (3) be considered a voter for the purpose of
13 participation in a political party primary election where the
14 qualified resident will turn eighteen on or before the day of
15 the general election immediately succeeding the primary
16 election.

17 C. Any resident of New Mexico who may be a
18 qualified elector upon the resident's eighteenth birthday, who
19 obtains a license, permit or identification card from the motor
20 vehicle division of the taxation and revenue department and who
21 has not submitted a voter registration certificate pursuant to
22 Subsection A of this section shall be sent a notification by
23 the secretary of state advising the resident of the
24 requirements and opportunity to register to vote and a uniform
25 resource locator for a web page where the resident may submit a

.211327.3

underscored material = new
[bracketed material] = delete

1 voter registration certificate online. When applicable, a
2 notification shall be sent to a resident described in this
3 subsection within the sixty days following the resident's
4 seventeenth birthday, when the resident obtained a license,
5 permit or identification card from the motor vehicle division
6 prior to the resident's seventeenth birthday and within thirty
7 days prior to the resident's eighteenth birthday."

8 SECTION 46. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
9 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
10 as amended) is amended to read:

11 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

19 C. [~~Except as provided in Subsection D of this~~
20 ~~section~~] A qualified elector who wishes to register to vote
21 shall fill out completely and sign the certificate of
22 registration. The qualified elector may seek the assistance of
23 any person in completing the certificate of registration.

24 D. A qualified elector who has filed for an order
25 of protection pursuant to the provisions of the Family Violence

.211327.3

underscored material = new
[bracketed material] = delete

1 Protection Act and who presents a copy of that order from a
2 state or tribal court to the registration officer shall ~~[not be~~
3 ~~required to provide physical residence address information on~~
4 ~~the certificate of registration]~~ be referred to the
5 confidential address program administered by the secretary of
6 state pursuant to the Confidential Substitute Address Act.

7 E. Completed certificates of registration may be
8 mailed or presented in person by the registrant or any other
9 person to the secretary of state, ~~[or presented in person by~~
10 ~~the registrant or any other person]~~ to the county clerk of the
11 county in which the registrant resides or to any other county
12 clerk in this state.

13 F. If the registrant wishes to vote in the next
14 election, the completed and signed certificate of registration
15 shall be delivered or mailed and postmarked ~~[at least twenty-~~
16 ~~eight days before the election]~~ within the time frame provided
17 in Subsection A of Section 1-4-8 NMSA 1978.

18 G. Within one business day after receipt of a
19 certificate of registration, the secretary of state shall send
20 the certificate to the county clerk in the county where the
21 qualified elector resides. Within one business day after
22 receipt of a certificate of registration of another county, a
23 county clerk shall send the certificate of registration to the
24 county clerk in the county where the qualified elector resides.

25 H. Only when the certificate of registration is

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

1 properly filled out, signed by the qualified elector and
2 accepted for filing by the county clerk as evidenced by the
3 county clerk's signature or stamp and the date of acceptance
4 thereon shall it constitute an official public record of the
5 registration of the qualified elector. A qualified elector
6 complies with a voter registration deadline established in the
7 Election Code when a properly filled-out voter registration
8 certificate has been received by a county clerk or the
9 secretary of state, regardless of the date the certificate is
10 processed.

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

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

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

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~the next general election;~~

2 ~~(3)~~ (2) the statement "If you checked 'no'
3 [~~in response to either of these questions~~], do not complete
4 this form.";

5 ~~(4)~~ (3) a statement informing the applicant
6 that:

7 (a) if the form is submitted by mail by
8 the applicant and the applicant is registering for the first
9 time in New Mexico, the applicant must submit with the form a
10 copy of: 1) a [~~current and valid~~] photo identification issued
11 by a government or educational institution; or 2) a current
12 utility bill, bank statement, government check, paycheck,
13 student identification card or other government document,
14 including identification issued by an Indian nation, tribe or
15 pueblo, that shows the name and current address of the
16 applicant; and

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

20 ~~(5)~~ (4) a statement requiring the applicant
21 to swear or affirm that the information supplied by the
22 applicant is true."

23 SECTION 47. Section 1-4-5.4 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 125, as amended) is amended to read:

25 "1-4-5.4. REGISTRATION--FORM.--

.211327.3

underscored material = new
[bracketed material] = delete

1 A. The secretary of state shall prescribe the paper
2 form and [~~assure~~] ensure that the certificate of registration
3 to be used in any county is compatible with the data processing
4 systems. The secretary of state shall also prescribe the form
5 produced by an online or electronic voter registration
6 transaction.

7 B. The certificate of registration form shall
8 require the following elements of information concerning the
9 applicant for registration: name, gender, residence,
10 municipality, post office, county of former registration,
11 [~~social security number~~] date of birth, political party
12 affiliation, zip code, telephone number at the applicant's
13 option and statement of qualification for voting. The paper
14 form shall contain a space for the qualified elector to provide
15 a driver's license or state identification number issued by the
16 motor vehicle division of the taxation and revenue department
17 or the last four digits of the qualified elector's social
18 security number, while the form resulting from an online or
19 electronic voter registration transaction shall contain the
20 qualified elector's full social security number.

21 C. Provision shall be made for the usual signature
22 or mark of the applicant, for the signature of the county clerk
23 and for the dates of such signatures.

24 D. The certificate form may be multipurpose by
25 providing for an indication of whether the certificate of

underscored material = new
[bracketed material] = delete

1 registration is for a new registration, a change in the
2 existing registration or a cancellation of an existing
3 registration. Provision shall be made on any multipurpose form
4 for entry of any existing registered information for which a
5 change may be requested.

6 E. The certificate of registration forms shall be
7 serially numbered and shall be furnished promptly and in
8 adequate supply by the secretary of state upon application from
9 the county clerk.

10 F. The secretary of state shall maintain on the
11 secretary's website a Privacy Act notice in conformance with
12 the federal Privacy Act of 1974."

13 SECTION 48. Section 1-4-8 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 66, as amended) is amended to read:

15 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
16 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For
17 qualified electors seeking to register to vote or update an
18 existing voter registration in the state, the following
19 provisions shall apply:

20 A. to participate in an election, the deadline to
21 register to vote or update an existing voter registration is
22 twenty-eight days prior to that election;

23 [~~A.~~] B. the county clerk shall receive certificates
24 of registration at all times during normal working hours,
25 except that the clerk shall [~~close registration at the end of~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~the twenty-eighth day immediately preceding any election at~~
2 ~~which the registration books are to be furnished to the~~
3 ~~precinct board;~~

4 ~~B. registration shall be reopened on the Monday~~
5 ~~following the election;~~

6 ~~C. for purposes of a municipal or school election,~~
7 ~~the registration period for those precincts within the~~
8 ~~municipality or school district is closed at the end of the~~
9 ~~twenty-eighth day immediately preceding the municipal or school~~
10 ~~election and is opened again on the Monday following the~~
11 ~~election;~~

12 ~~D. during the period when registration is closed,~~
13 ~~the county clerk shall receive certificates of registration and~~
14 ~~other documents pertaining thereto but shall not file any~~
15 ~~certificate of registration in the registration book until the~~
16 ~~Monday following the election, at which time a voter~~
17 ~~information document shall be mailed to the registrant at the~~
18 ~~address shown on the certificate of registration] not process~~
19 ~~any certificate of registration subscribed and sworn beginning~~
20 ~~the first business day after the deadline to register to vote~~
21 ~~or update an existing voter registration before an election if~~
22 ~~the residential address on the certificate of registration~~
23 ~~indicates that the registration is for a:~~

24 ~~(1) statewide election, within the county; or~~

25 ~~(2) special election, within any precinct in~~

underscored material = new
[bracketed material] = delete

1 the county in which votes may be cast in the special election;

2 C. between the deadline to register to vote or
3 update an existing voter registration through the day of the
4 election, the county clerk shall process all:

5 (1) new voter registrations that meet the
6 requirements of this section;

7 (2) updates to existing voter registrations in
8 this state that meet the requirements of this section; provided
9 that an update to an existing registration in this state shall
10 not be processed if the voter has requested or been sent a
11 ballot in the election, unless the voter executes an affidavit
12 stating that the voter has not and will not vote the ballot
13 that was issued and the ballot register does not show that a
14 ballot from the voter has been cast in the election; and

15 (3) pending cancellations of existing voter
16 registrations in this state through the day of the election;
17 provided that a cancellation of an existing voter registration
18 shall not be processed if the voter has requested or been sent
19 a ballot in the election;

20 D. certificates of registration and cancellations
21 of existing voter registrations not processed pursuant to
22 Subsection B or C of this section shall be processed beginning
23 thirty-five days after an election, at which time a voter
24 information document shall be mailed to the registrant at the
25 address shown on the certificate of registration; provided that

.211327.3

underscored material = new
[bracketed material] = delete

1 if there is a subsequent election scheduled at which a
2 qualified elector or voter would be eligible to vote if the
3 certificate of registration were processed on an earlier date,
4 the certificate of registration for that qualified elector or
5 voter shall be processed by the county clerk on a day and in a
6 manner to ensure the ability of the qualified elector or voter
7 to vote in the subsequent election;

8 E. when the [~~twenty-eighth day prior to any~~]
9 deadline to register to vote or update an existing voter
10 registration prior to an election referred to in this section
11 is a Saturday, Sunday or [~~legal~~] state holiday, registration
12 certificates shall be [~~closed at the end of~~] accepted through
13 the next succeeding [~~regular~~] business day for the office of
14 the county clerk; and

15 F. the county clerk shall accept for filing and
16 process any certificate of registration that is subscribed and
17 dated on or before [~~the twenty-eighth day preceding~~] the
18 deadline to register to vote or update an existing voter
19 registration prior to an election and:

20 (1) received by the county clerk by the end of
21 the last regular business day of the week for the office of the
22 county clerk [~~on the Friday~~] immediately following the [~~close~~
23 ~~of registration~~] deadline to register to vote or update an
24 existing voter registration prior to an election;

25 (2) mailed and postmarked [~~not less than~~

underscored material = new
[bracketed material] = delete

1 ~~twenty-eight days~~ on or before the day of the deadline to
2 register to vote or update an existing voter registration prior
3 to any election referred to in this section; or

4 (3) accepted at a state agency designated
5 pursuant to Section 1-4-5.2 NMSA 1978."

6 SECTION 49. Section 1-4-11 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 67, as amended) is amended to read:

8 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
9 CERTIFICATES.--

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

24 B. ~~[If the qualified elector is already registered~~
25 ~~in the county as shown by the qualified elector's original~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~certificate of registration currently on file in the county~~
2 ~~registration records, the county clerk shall not accept the new~~
3 ~~certificate of registration unless it is filed pursuant to~~
4 ~~Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978.]~~ If the
5 applicant's certificate of registration is rejected for any
6 reason, the county clerk shall stamp or write the word
7 "rejected" on the new certificate of registration and hand or
8 mail it, if possible, to the applicant with an explanation of
9 why the new certificate of registration was rejected and what
10 remedial action, if any, the applicant must take to bring the
11 registration up to date or into compliance with the Election
12 Code.

13 C. The county clerk shall reject any certificate of
14 registration that does not contain the qualified elector's
15 name, address [~~social security number~~] and date of birth, along
16 with a signature or usual mark. If the qualified elector is a
17 new voter, the county clerk shall reject any certificate of
18 registration that does not contain the qualified elector's
19 driver's license or state identification number issued by the
20 motor vehicle division of the taxation and revenue department,
21 social security number or last four digits of the qualified
22 elector's social security number. The county clerk shall
23 reject any certificate of registration in which the question
24 regarding citizenship is not answered or is answered in the
25 negative.

.211327.3

underscored material = new
[bracketed material] = delete

1 D. A social security number is required to finish
2 processing a new voter registration in this state. If the
3 certificate of registration does not contain a social security
4 number, the county clerk shall ascertain the qualified
5 elector's social security number from the qualified elector's
6 previous certificate of registration, from the motor vehicle
7 division of the taxation and revenue department or from the
8 secretary of state. If the county clerk cannot ascertain the
9 qualified elector's social security number, the county clerk
10 shall indicate this on the qualified elector's certificate of
11 registration and shall make the appropriate notation in the
12 voter file, indicating that the voter may only vote on a
13 provisional ballot if the social security number has not been
14 ascertained. The provisional ballot shall be counted once the
15 voter's social security number is ascertained.

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

24 **SECTION 50.** Section 1-4-16 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 72, as amended by Laws 1993, Chapter 314,

.211327.3

underscored material = new
[bracketed material] = delete

1 Section 15 and also by Laws 1993, Chapter 316, Section 15) is
2 amended to read:

3 "1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT
4 BE MADE.--

5 A. No designation of party affiliation shall be
6 made or changed on an existing certificate of registration at
7 any time during which registration is closed.

8 B. Every person appearing as a candidate on the
9 primary or general election ballot shall be a candidate only
10 under the name and party affiliation designation appearing on
11 [~~his~~] the person's existing certificate of registration on file
12 in the county clerk's office on the date of the [~~governor's~~]
13 secretary of state's general election proclamation [~~of a~~
14 ~~primary election~~]."

15 SECTION 51. Section 1-4-22 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 78, as amended) is amended to read:

17 "1-4-22. CANCELLATION OF REGISTRATION--PETITION TO
18 DISTRICT COURT.--

19 A. At any time not less than [~~ninety~~] one hundred
20 twenty days prior to and following a [~~primary or general~~]
21 statewide election, the secretary of state may file and present
22 to the district court a verified petition alleging, on
23 information and belief, that certain persons registered, named
24 in the petition, are not qualified electors in the precincts
25 named in the petition. The petition shall contain a brief

.211327.3

underscored material = new
[bracketed material] = delete

1 statement of the facts upon which such allegation is made.

2 B. Upon filing and presentation of the petition,
3 the court shall by order fix a day for hearing thereon, which
4 date shall be not less than fourteen days nor more than twenty-
5 one days after such order. The court shall direct the county
6 clerk to use the address on the certificates of registration to
7 forthwith notify the persons named in the petition whose
8 registration is sought to be canceled of the date and purpose
9 of the hearing and that each person should contact the county
10 clerk no later than the close of business the day before the
11 hearing or be present at the hearing if the person desires to
12 oppose the cancellation.

13 C. If, after hearing, the court finds that the
14 registration of any of the persons named in the petition should
15 be canceled, it shall by order direct the county clerk to
16 cancel the registrations.

17 D. Within thirty days following a hearing held
18 pursuant to this section, the secretary of state shall report
19 the results of the hearing to the United States election
20 assistance commission and to the voting section of the civil
21 rights division of the United States department of justice.
22 The report required by this subsection shall be posted on the
23 secretary of state's website for one year following the
24 hearing."

25 SECTION 52. Section 1-4-28 NMSA 1978 (being Laws 1975,

.211327.3

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

1 Chapter 255, Section 46, as amended) is amended to read:

2 "1-4-28. CANCELLATION OF REGISTRATION--CHANGE OF
3 RESIDENCE--NOTICE.--

4 A. The secretary of state, county clerks and boards
5 of registration, in compliance with the federal National Voter
6 Registration Act of 1993, shall remove from the official list
7 of eligible voters the names of voters who are ineligible to
8 vote due to change of residence.

9 B. The secretary of state shall conduct a general
10 program that identifies voters who may no longer reside at
11 their address of registration. This program shall use
12 information supplied by the United States postal service
13 national change of address service. This program may also
14 include, among other practices, identification of voters whose
15 official election-related mail is returned and periodic
16 mailings to voters to verify continued residency at their
17 address of registration, provided such practices are uniform,
18 nondiscriminatory and in compliance with the federal Voting
19 Rights Act of 1965.

20 C. Between ninety and one hundred twenty days
21 before the next general election, the secretary of state shall
22 send to each voter who it appears has changed address from the
23 voter's precinct of registration a notice, sent by forwardable
24 mail, that shall include a postage prepaid and pre-addressed
25 return card. The notice shall state that:

.211327.3

underscored material = new
[bracketed material] = delete

1 (1) if the voter did not change residency, the
2 voter should return the card no later than twenty-eight days
3 before the next general election;

4 (2) if the voter does not return the card, the
5 voter may be provided an opportunity to update the voter's
6 registration address before the voter casts a ballot in any
7 election during the period beginning on the date of the notice
8 and ending on the day after the second general election that
9 occurs after the date of the notice;

10 (3) if the voter does not vote in any election
11 during the period beginning on the date of that notice and
12 ending on the day after the second general election that occurs
13 after the date of the notice, the voter's registration may be
14 canceled; and

15 (4) if the voter has changed residence within
16 the same county, the voter should complete the place on the
17 return card for the voter to indicate the address of the new
18 residence and a request to have the voter's registration moved
19 to that address in the same county [~~and~~

20 ~~(5) if the voter has changed residence outside~~
21 ~~of the county, the voter should follow the information provided~~
22 ~~concerning how the voter can continue to be eligible to vote].~~

23 D. If the voter returned the card indicating a new
24 address and the address is:

25 (1) in the same county, the county clerk shall

.211327.3

underscored material = new
[bracketed material] = delete

1 correct the official list of eligible voters in accordance with
2 the change of residence information obtained on the [~~prepaid~~
3 ~~and pre-addressed~~] return card [~~to a new address in the same~~
4 ~~county, and such names shall not be removed from the list of~~
5 ~~eligible voters for reason of change of residence~~]; or

6 (2) in another county, the county clerk shall
7 forward the return card to the appropriate county clerk, who
8 shall process the change of residence as a new registration in
9 the county.

10 E. No later than the fifteenth day of March
11 following a general election, the board of registration shall
12 review the list of eligible voters. The board of registration
13 shall direct the county clerk to cancel the registration of any
14 voter who has been sent notice in conformance with this section
15 and who:

16 (1) has failed to respond to the notice sent
17 in conformance with this section and has not voted or appeared
18 to vote in any election during the period beginning on the date
19 of the notice and ending on the day after the second general
20 election that occurs after the date of the notice; or

21 (2) has confirmed in writing that the voter
22 has changed residence to a place outside the [~~county~~] state."

23 SECTION 53. Section 1-4-34 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 90, as amended) is amended to read:

25 "1-4-34. BOARD OF REGISTRATION--BOARD OF COUNTY

.211327.3

underscored material = new
[bracketed material] = delete

1 COMMISSIONERS--APPOINTMENT.--

2 A. The board of county commissioners shall, at its
3 first regular scheduled meeting in ~~[February]~~ June of each
4 odd-numbered year, appoint ~~[three]~~ five voters who shall
5 constitute the board of registration for the county; provided
6 that a class B county as defined in Section 4-44-1 NMSA 1978
7 shall appoint three voters who shall constitute the board of
8 registration for the county.

9 B. ~~[No]~~ Members of the board of registration shall
10 not during their service be county employees, elected officials
11 or candidates for public office, and not more than two ~~[of the~~
12 ~~three persons appointed to]~~ members of the board of
13 registration shall be members of the same ~~[major]~~ political
14 party at the time of their appointment; ~~[provided that if a~~
15 ~~major party has no registered, qualified elector who is able to~~
16 ~~fill the position, a registered, qualified elector from another~~
17 ~~major party may be chosen by the county clerk.~~

18 ~~G. In addition, the board of county commissioners~~
19 ~~shall appoint two alternates who shall not belong to the same~~
20 ~~political party at the time of their appointment.~~

21 ~~D. In making all appointments to the board of~~
22 ~~registration or as alternates to the board of registration from~~
23 ~~the lists of the county chairmen, the board of county~~
24 ~~commissioners shall give preference to the names in the order~~
25 ~~indicated by the numbers on the list] provided that:~~

.211327.3

underscored material = new
[bracketed material] = delete

1 (1) a member of the board of registration
2 shall not have changed party registration in the two years next
3 preceding the member's appointment in such a manner that the
4 member's prior party registration would make the member
5 ineligible to serve on the board of registration; and

6 (2) a member of the board of registration
7 shall not continue to serve on the board of registration if the
8 member changes party registration after the date of appointment
9 in such a manner to make the member ineligible to serve on the
10 board of registration.

11 C. In the event that a position on the board of
12 registration becomes vacant for any of the reasons described in
13 Section 10-3-1 NMSA 1978, the board of county commissioners
14 shall appoint a replacement who shall qualify pursuant to
15 Subsection B of this section and serve until the expiration of
16 the original term."

17 SECTION 54. Section 1-4-35 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 91) is amended to read:

19 "1-4-35. BOARD OF REGISTRATION--SECRETARY.--The county
20 clerk or ~~[his]~~ the county clerk's authorized deputy shall be
21 secretary to the board of registration ~~[and shall serve without~~
22 ~~additional compensation]."~~

23 SECTION 55. Section 1-4-37 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 93) is amended to read:

25 "1-4-37. BOARD OF REGISTRATION--TERM--QUALIFICATION.--

underscored material = new
[bracketed material] = delete

1 A. The term of office of members of the board of
2 registration is from July 1 of an odd-numbered year until June
3 30 of the next succeeding odd-numbered year. Members of the
4 board of registration shall hold office until their successors
5 are appointed and qualified.

6 B. Members of the board of registration shall
7 qualify by taking and filing in the office of the county clerk
8 the oath required of county officials."

9 SECTION 56. Section 1-4-38 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 94, as amended) is amended to read:

11 "1-4-38. BOARD OF REGISTRATION--~~[PLACE OF]~~ MEETINGS.--
12 ~~[The board of registration shall meet at the office of the~~
13 ~~county clerk.]~~

14 A. All meetings of the board of registration shall
15 be open meetings held in accordance with the Open Meetings Act.

16 B. All reports and other records of the board of
17 registration shall be open to public inspection pursuant to the
18 Inspection of Public Records Act.

19 C. A person's month and day of birth, and any part
20 of a person's driver's license number or other identifier
21 assigned by the motor vehicle division of the taxation and
22 revenue department, state or federal tax identification number
23 or social security number shall not be disclosed in any meeting
24 or in any record of the board of registration made available to
25 the public. This subsection does not preclude disclosure of a

.211327.3

underscored material = new
[bracketed material] = delete

1 person's unique identifier as defined in Section 1-1-23 NMSA
2 1978.

3 D. Members of the board of registration are
4 entitled to receive per diem and mileage as provided in the Per
5 Diem and Mileage Act, to be paid out of the election funds
6 appropriated to the county clerk from the county general fund."

7 SECTION 57. Section 1-5-30 NMSA 1978 (being Laws 1989,
8 Chapter 298, Section 1, as amended) is amended to read:

9 "1-5-30. SECRETARY OF STATE--~~[ESTABLISHMENT OF STATEWIDE~~
10 ~~COMPUTERIZED]~~ VOTER REGISTRATION ELECTRONIC MANAGEMENT
11 SYSTEM.--

12 A. The secretary of state shall develop, implement,
13 establish and supervise a [~~statewide computerized~~] voter
14 registration electronic management system that complies with
15 the federal Help America Vote Act of 2002 to facilitate voter
16 registration and to provide a central database containing voter
17 registration information for New Mexico.

18 B. The [~~statewide computerized~~] voter registration
19 electronic management system shall:

20 (1) provide for the establishment and
21 maintenance of a central database for all voter registration
22 information;

23 (2) permit the offices of all county clerks to
24 add, modify and delete county information from the system to
25 provide for accurate and up-to-date records;

.211327.3

underscored material = new
[bracketed material] = delete

1 (3) permit the offices of the county clerks
2 and the bureau of elections to have access to the central
3 database for review and search capabilities;

4 (4) provide security and protection for all
5 information in the central database and monitor the central
6 database to ensure the prevention of unauthorized entry;

7 (5) provide procedures for the electronic
8 receipt of voter registration application and update
9 information, including digitized and electronic signatures,
10 photographs and other data provided by the motor vehicle
11 division of the taxation and revenue department or the federal
12 social security administration;

13 (6) provide procedures for entering data into
14 the central database; and

15 (7) provide a centralized system for each
16 county to enter the precinct to which a voter should be
17 assigned for voting purposes.

18 C. Based on written agreements with the secretary
19 of state, the secretary of state shall provide access to the
20 voter registration electronic management system to
21 municipalities and other local governments based upon statutory
22 responsibilities for administration of elections or to
23 administer procedures related to elections that do not conflict
24 with the provisions of the Election Code. The agreements shall
25 include the scope of access, required initial and continuing

.211327.3

underscored material = new
[bracketed material] = delete

1 training, job titles for persons with login credentials and
2 security requirements associated with accessing the voter
3 registration electronic management system."

4 SECTION 58. A new Section 1-6-1.1 NMSA 1978 is enacted to
5 read:

6 "1-6-1.1. [NEW MATERIAL] DEFINITIONS.--As used in the
7 Absent Voter Act:

8 A. "absentee" means the ability of a voter to
9 receive, fill out and return a ballot at a place and time other
10 than a polling location on the day of the election;

11 B. "early voting location" means the office of the
12 county clerk, an alternate voting location or a mobile
13 alternate voting location;

14 C. "mailed ballot" means a ballot that is sent to a
15 voter pursuant to the provisions of the Election Code and does
16 not include a ballot that is provided to a voter in person at
17 an early voting location; and

18 D. "registered ballot" means a ballot that has been
19 filled out by the voter and whose votes have been recorded and
20 retained by an electronic voting system before the day of the
21 election pursuant to the provisions of the Election Code."

22 SECTION 59. Section 1-6-3 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 129, as amended) is amended to read:

24 "1-6-3. RIGHT TO VOTE [BY] ABSENTEE [BALLOT].--A voter
25 may vote [by] absentee [ballot for all candidates and on all

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~questions appearing on the ballot as if the voter were able to~~
2 ~~cast the ballot in person]~~ in all candidate contests and on all
3 ballot questions as if the voter had appeared on the day of the
4 election to vote in person at a polling location."

5 SECTION 60. Section 1-6-4 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 130, as amended) is amended to read:

7 "1-6-4. [~~ABSENTEE~~] MAILED BALLOT APPLICATION.--

8 A. In a statewide election, application by a voter
9 for [~~an absentee~~] a mailed ballot shall be made only on a paper
10 form or its [~~electronic~~] online equivalent [~~as prescribed by~~
11 ~~the secretary of state~~]. The form shall identify the applicant
12 and contain information to establish the applicant's
13 qualification for issuance of [~~an absentee~~] a mailed ballot
14 under the Absent Voter Act; provided that only on the
15 application form for a [~~general~~] primary election ballot there
16 shall be [~~no~~] a box, space or place provided for designation of
17 the voter's political party affiliation.

18 B. Each application on a paper form for [~~an~~
19 ~~absentee~~] a mailed ballot shall be signed by the applicant and
20 shall require the applicant's printed name, registration
21 address and year of birth to be supplied by the applicant,
22 which shall constitute the required form of identification.
23 [~~except for~~] When submitted by the voter, the county clerk
24 shall accept an application for a mailed ballot pursuant to
25 this subsection regardless of whether the application for a

.211327.3

underscored material = new
[bracketed material] = delete

1 mailed ballot is delivered to the county clerk on paper or by
2 electronic means. When submitted by a third party, the county
3 clerk shall not accept an application for a mailed ballot
4 pursuant to this subsection if the application for a mailed
5 ballot is delivered by electronic means.

6 C. The secretary of state shall allow a voter to
7 submit an online application for a mailed ballot through a
8 website authorized by the secretary of state; provided that the
9 voter shall have a current or expired New Mexico driver's
10 license or state identification card issued by the motor
11 vehicle division of the taxation and revenue department. An
12 online request for a mailed ballot shall contain all of the
13 information that is required for a paper form. The voter shall
14 also provide the person's full New Mexico driver's license
15 number or state identification card number.

16 D. When a voter requests a mailed ballot pursuant
17 to this section, the voter shall mark the box associated with
18 the following statement, which shall be included as part of the
19 online mailed ballot request form:

20 "By clicking the boxes below, I swear or affirm all of the
21 following:

22 [] I am the person whose name and identifying
23 information is provided on this form and I desire to request a
24 mailed ballot to vote in the state of New Mexico; and

25 [] All of the information that I have provided on

underscored material = new
[bracketed material] = delete

1 this form is true and correct as of the date I am submitting
2 this form.".

3 E. Online applications for mailed ballots shall
4 retain the dates of submission by the qualified elector and of
5 acceptance by the county clerk. For purposes of deadlines
6 contained in the Election Code, the time and date of the
7 submission by the voter shall be considered the time and date
8 when the application for a mailed ballot is received by the
9 county clerk.

10 F. New registrants who [have] registered for the
11 first time in this state by mail and at that time did not
12 provide acceptable documentary identification as required by
13 federal law shall be informed of the need to comply with
14 federal identification requirements when returning the
15 requested ballot. The secretary of state shall issue rules to
16 exempt voters from submitting identification only as required
17 by federal law and shall review and, if necessary, update these
18 rules no later than March 15 of even-numbered years.

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

underscored material = new
[bracketed material] = delete

1 SECTION 61. Section 1-6-4.3 NMSA 1978 (being Laws 2005,
2 Chapter 270, Section 41, as amended) is amended to read:

3 "1-6-4.3. THIRD PARTY AGENTS COLLECTING [~~ABSENTEE BALLOT~~]
4 APPLICATIONS FOR MAILED BALLOTS.--

5 A. A person or organization that is not part of a
6 government agency and that collects [~~absentee ballot~~]
7 applications for mailed ballots shall submit the applications
8 to the appropriate office for filing within forty-eight hours
9 of their completion or the next business day if the appropriate
10 office is closed for that forty-eight-hour period.

11 B. A person who collects [~~absentee ballot~~]
12 applications for mailed ballots and fails to submit a voter's
13 completed [~~absentee ballot~~] application is guilty of a petty
14 misdemeanor.

15 C. A person who intentionally alters another
16 voter's completed [~~absentee ballot~~] application for a mailed
17 ballot is guilty of a fourth degree felony."

18 SECTION 62. Section 1-6-5 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 131, as amended) is amended to read:

20 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

21 A. The county clerk shall mark each completed
22 [~~absentee ballot~~] application for a mailed ballot with the date
23 and time of receipt in the clerk's office and enter the
24 required information in the [~~absentee~~] ballot register. The
25 county clerk shall then determine if the applicant is a voter

.211327.3

underscored material = new
[bracketed material] = delete

1 and if the voter is a uniformed-service voter or an overseas
2 voter. If the applicant is a uniformed-service voter or
3 overseas voter, the application shall be processed pursuant to
4 the Uniform Military and Overseas Voters Act.

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

10 [~~G. The county clerk shall notify in writing each~~
11 ~~applicant of the fact of acceptance or rejection of the~~
12 ~~application and, if rejected, shall explain why the application~~
13 ~~was rejected~~] and notify the applicant in writing with an
14 explanation why the application was rejected.

15 [~~D.~~] C. When required by federal law, if the
16 applicant has on file with the county a valid certificate of
17 registration that indicates that the applicant is a voter who
18 is a new registrant in the state and who registered by mail
19 without submitting the required [~~voter~~] documentary
20 identification, the county clerk shall notify the voter that
21 the voter must submit with the [~~absentee~~] mailed ballot [~~the~~
22 ~~required physical~~] a form of documentary identification from
23 the list in Paragraph (3) of Subsection I of Section 1-4-5.1
24 NMSA 1978. The county clerk shall note on the [~~absentee~~]
25 ballot register and signature roster that the applicant's

.211327.3

underscored material = new
[bracketed material] = delete

1 [absentee] mailed ballot must be returned with the required
2 voter identification.

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

13 E. Upon ~~[delivery of an absentee ballot to a voter~~
14 ~~in the county clerk's office or]~~ the mailing of ~~[an absentee]~~ a
15 mailed ballot to an applicant who is a voter, an appropriate
16 designation shall be made on the signature line of the
17 signature roster next to the name of the voter. ~~[who has been~~
18 ~~provided or mailed an absentee ballot.]~~

19 ~~F.~~ ~~Absentee ballots may be marked in person at the~~
20 ~~county clerk's office during the regular hours and days of~~
21 ~~business beginning on the twenty-eighth day preceding the~~
22 ~~election and from 10:00 a.m. to 6:00 p.m. on the Saturday~~
23 ~~immediately prior to the date of the election. The act of~~
24 ~~marking the absentee ballot in the office of the county clerk~~
25 ~~shall be a convenience to the voter in the delivery of the~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~absentee ballot and does not make the office of the county~~
2 ~~clerk a polling place subject to the requirements of a polling~~
3 ~~place in the Election Code. If the county clerk establishes an~~
4 ~~additional alternate voting location near the clerk's office,~~
5 ~~absentee ballots may be marked in person at that location~~
6 ~~during the regular hours and days of business beginning on the~~
7 ~~twenty-eighth day preceding the election and during the hours~~
8 ~~for voting at alternate voting locations commencing on the~~
9 ~~third Saturday prior to the election through the Saturday~~
10 ~~immediately prior to the election. The additional alternate~~
11 ~~voting location shall be operated by the county clerk and the~~
12 ~~county clerk's staff.~~

13 ~~G. When marking an absentee ballot in person at the~~
14 ~~county clerk's office, the voter shall provide the required~~
15 ~~voter identification to the county clerk or the clerk's~~
16 ~~authorized representative. If the voter does not provide the~~
17 ~~required voter identification, the voter shall be allowed to~~
18 ~~vote on a provisional ballot. If the voter provides the~~
19 ~~required voter identification, the voter, after subscribing an~~
20 ~~application for an absentee ballot, shall be allowed to vote by~~
21 ~~inserting the ballot into an optical scan tabulator certified~~
22 ~~for in-person absentee voting at the county clerk's office.~~
23 ~~The county clerk or the clerk's authorized representative shall~~
24 ~~make an appropriate designation indicating that the voter has~~
25 ~~voted absentee. In marking the absentee ballot, the voter may~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~be assisted pursuant to the provisions of Section 1-12-15 NMSA~~
2 ~~1978.~~

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

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

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

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

17 ~~L. It is unlawful to electioneer in the county~~
18 ~~clerk's office or in any alternate voting location.]~~

19 F. A mailed ballot shall not be delivered by the
20 county clerk to any person other than the applicant for the
21 ballot. Mailed ballots shall be sent to applicants beginning
22 twenty-eight days before the election. For each application
23 for a mailed ballot received twenty-three or more days before
24 the election, the county clerk shall send either the ballot or
25 a notice of rejection to the applicant as soon as practicable;

.211327.3

underscored material = new
[bracketed material] = delete

1 provided that the ballot or a notice of rejection is sent not
2 later than twenty-two days before the election. For each
3 application for a mailed ballot received within twenty-two days
4 of election day, the county clerk shall send either the mailed
5 ballot or a notice of rejection to the applicant within twenty-
6 four hours after receipt of the voter's application for a
7 mailed ballot. A mailed ballot shall be requested not later
8 than the Thursday immediately prior to the date of the election
9 and shall be sent to the voter not later than the Friday
10 immediately prior to the date of the election."

11 SECTION 63. Section 1-6-5.6 NMSA 1978 (being Laws 2003,
12 Chapter 357, Section 6, as amended) is amended to read:

13 "1-6-5.6. EARLY VOTING--ALTERNATE VOTING LOCATIONS--
14 PROCEDURES.--The county clerk shall:

15 A. ensure that voters have adequate access to
16 [~~alternate voting locations for~~] early voting in the county,
17 taking into consideration population density and travel time to
18 the location of voting;

19 B. ensure that early voters are not allowed to vote
20 in person on election day;

21 C. ensure that adequate interpreters are available
22 at alternate voting locations in those precincts having a
23 majority of qualified electors who are part of a recognized
24 language minority; and

25 D. based on rules adopted by the secretary of

.211327.3

underscored material = new
[bracketed material] = delete

1 state, allow for mobile alternate voting locations [~~in rural~~
2 ~~areas of the state~~] that may be set up temporarily in specified
3 precincts of the county during the period when early voting is
4 allowed at alternate voting locations."

5 SECTION 64. Section 1-6-5.7 NMSA 1978 (being Laws 2005,
6 Chapter 270, Section 40, as amended) is amended to read:

7 "1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING
8 PROCEDURES--COUNTY CLERK'S OFFICE--ALTERNATE VOTING
9 LOCATIONS.--

10 [~~A. Commencing on the third Saturday prior to an~~
11 ~~election and ending on the Saturday immediately preceding the~~
12 ~~election, an early voter may vote in person on a voting system~~
13 ~~at an alternate voting location established by the county~~
14 ~~clerk.~~

15 ~~B.]~~ A. Commencing on the twenty-eighth day
16 preceding the election during the regular hours and days of
17 business at the county clerk's office and from 10:00 a.m. to
18 6:00 p.m. on the Saturday immediately prior to the date of the
19 election, early voting shall be conducted in each office of the
20 county clerk; [and at such alternate voting locations as may be
21 established by the county clerk] provided that:

22 (1) when marking a ballot in person at the
23 county clerk's office, the voter shall provide the required
24 voter identification to the county clerk or the clerk's
25 authorized representative. If the voter does not provide the

.211327.3

underscored material = new
[bracketed material] = delete

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

11 (2) the act of marking the ballot in the
12 office of the county clerk shall be a convenience to the voter
13 in the delivery of the ballot and does not make the office of
14 the county clerk a polling place subject to the requirements of
15 a polling place in the Election Code; and

16 (3) if the county clerk establishes an
17 additional alternate voting location near the clerk's office,
18 ballots may be marked in person at that location during the
19 regular hours and days of business beginning on the
20 twenty-eighth day preceding the election and during the hours
21 for voting at alternate voting locations commencing on the
22 third Saturday prior to the election through the Saturday
23 immediately prior to the election. The additional alternate
24 voting location may be operated by the county clerk and the
25 county clerk's staff.

.211327.3

underscored material = new
[bracketed material] = delete

1 B. Commencing on the third Saturday prior to a
2 statewide election and ending on the Saturday immediately prior
3 to the date of the election, an early voter may vote in person
4 on a voting system at alternate voting locations that may be
5 established by the county clerk; provided that:

6 (1) the county clerk shall establish:
7 ~~(1)~~ (a) in counties with more than ten
8 thousand voters, not fewer than one alternate voting location;

9 ~~(2)~~ (b) in counties with more than
10 fifty thousand voters, not fewer than four alternate voting
11 locations; and

12 ~~(3)~~ (c) in counties with more than
13 ~~two~~ one hundred fifty thousand voters, not fewer than fifteen
14 alternate voting locations; and

15 ~~(6)~~ (2) not later than ninety days before
16 each ~~[primary and general]~~ statewide election, the county clerk
17 shall ~~[publicly fix]~~ post the location and hours of operation
18 for ~~[alternate]~~ early voting locations in the county, which
19 shall open no earlier than 7:00 a.m. and shall close no later
20 than 9:00 p.m. Within ninety days of a ~~[primary or general]~~
21 statewide election, a county clerk may not modify the location
22 or hours of operation of ~~[alternate]~~ early voting locations
23 except with the written approval of the secretary of state
24 ~~[Alternate]~~ and upon posting the approved changes. Early
25 voting locations shall be open each day of early voting for at

underscored material = new
[bracketed material] = delete

1 least eight consecutive hours. Alternate voting locations may
2 be closed Sundays and Mondays during the early voting period.

3 ~~[D.]~~ C. Each ~~[alternate]~~ early voting location
4 shall comply with the following provisions, unless the county
5 clerk receives a written waiver from the secretary of state
6 specifying the location and specific provision being waived:

- 7 (1) have ballots available for voters from
8 every precinct in the county;
- 9 (2) have at least one optical scan tabulator
10 programmed to read every ballot style in the county;
- 11 (3) have at least one voting system available
12 to assist disabled voters to cast and record their votes;
- 13 (4) have a broadband internet connection;
- 14 (5) have sufficient spaces for at least five
15 voters to simultaneously and privately mark their ballots, with
16 at least one of those spaces wheelchair-accessible;
- 17 (6) have a secure area for storage of pre-
18 printed ballots or for storage of a paper ballot stock and a
19 system designed to print ballots at a polling location; and
- 20 (7) be in a location that is accessible and
21 compliant with the requirements of the federal Americans with
22 Disabilities Act of 1990.

23 ~~[E.]~~ D. When voting ~~[early]~~ at an early voting
24 location, the voter shall provide the required voter
25 identification to the election board, county clerk or the

underscored material = new
[bracketed material] = delete

1 clerk's authorized representative. If the voter does not
2 provide the required voter identification, the voter shall be
3 allowed to vote on a provisional ballot. If the voter provides
4 the required voter identification, the voter shall be allowed
5 to vote after subscribing an application to vote on a form
6 approved by the secretary of state or its electronic equivalent
7 approved by the voting system certification committee. The
8 county clerk or the clerk's authorized representative shall
9 make an appropriate designation on the signature roster or
10 register next to the voter's name indicating that the voter has
11 voted early."

12 SECTION 65. Section 1-6-5.8 NMSA 1978 (being Laws 2009,
13 Chapter 251, Section 2) is amended to read:

14 "1-6-5.8. EARLY VOTING--NATIVE AMERICAN EARLY VOTING
15 LOCATIONS.--A county clerk shall provide at least one alternate
16 [~~early~~] voting or mobile alternate voting location on Indian
17 nation, tribal or pueblo land when requested by the Indian
18 nation, tribe or pueblo in the county; provided that:

19 A. the Indian nation, tribe or pueblo submits a
20 written request to the county clerk no later than the first
21 Monday in November of each odd-numbered year;

22 B. the alternate [~~early~~] voting or mobile alternate
23 voting location may operate for less than the full early voting
24 period, to be decided upon between the Indian nation, tribe or
25 pueblo and the county clerk;

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[G. the county clerk may limit voting to precincts~~
2 ~~on and near the Indian nation, tribe or pueblo;]~~

3 C. any voter of the county shall have access to and
4 be permitted to vote at the alternate voting or mobile
5 alternate voting location;

6 D. the location of the alternate [early] voting or
7 mobile alternate voting location on Indian nation, tribal or
8 pueblo land conforms to the requirements for alternate [early]
9 voting locations, except as specified in this section;

10 E. the county clerk provides federally mandated
11 language translators at the alternate [early] voting or mobile
12 alternate voting locations;

13 F. the Indian nation, tribe or pueblo provides the
14 facility and services for the alternate [early] voting or
15 mobile alternate voting location; and

16 G. the costs of voting equipment and personnel for
17 the alternate [early] voting or mobile alternate voting
18 locations on Indian nation, tribal or pueblo land pursuant to
19 this section are reimbursed to the county by the secretary of
20 state."

21 SECTION 66. Section 1-6-6 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 132, as amended) is amended to read:

23 "1-6-6. [ABSENTEE] BALLOT REGISTER.--

24 A. For each statewide election, the county clerk
25 shall keep an "absentee ballot register", in which the county

.211327.3

underscoring material = new
[bracketed material] = delete

1 clerk shall enter:

2 (1) the name and address of each absentee
3 ballot applicant;

4 (2) the date and time of receipt of the
5 application;

6 (3) whether the application was accepted or
7 rejected;

8 (4) the date of issue of an absentee ballot
9 [~~in the county clerk's office or at an alternate~~] at an early
10 voting location or the mailing of an absentee ballot to the
11 applicant;

12 (5) the applicant's precinct;

13 (6) whether the applicant is a voter and
14 whether the voter is a uniformed-service voter or an overseas
15 voter;

16 (7) whether the voter is required to submit
17 documentary identification pursuant to Section 1-6-5 NMSA 1978;
18 and

19 (8) the date and time the completed [~~absentee~~]
20 mailed ballot was received from the [~~applicant~~] voter by the
21 county clerk or the absent voter [~~voted~~] registered a ballot
22 early in person in the county clerk's office or at an alternate
23 location.

24 [~~B. Absentee ballots shall be sent to applicants~~
25 ~~beginning twenty-eight days before the election. For each~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~application for an absentee ballot received twenty-three or~~
2 ~~more days before the election, the county clerk shall send~~
3 ~~either the ballot or a notice of rejection to the applicant as~~
4 ~~soon as practicable, provided it is sent not later than twenty-~~
5 ~~two days before the election. Within twenty-two days of~~
6 ~~election day, the county clerk shall send either the ballot or~~
7 ~~a notice of rejection to the applicant within twenty-four hours~~
8 ~~after receipt of the voter's application for an absentee~~
9 ~~ballot.]~~

10 B. For each special election, the county clerk
11 shall keep a "mailed ballot register", in which the county
12 clerk shall enter:

13 (1) the name and address of each voter to whom
14 a mailed ballot was sent;

15 (2) the date of mailing of a mailed ballot to
16 the voter;

17 (3) the applicant's precinct;

18 (4) whether the voter is a uniformed-service
19 voter or an overseas voter;

20 (5) whether the voter is required to submit a
21 documentary identification pursuant to Section 1-6-5 NMSA 1978;

22 and

23 (6) the date and time the completed mailed
24 ballot was received from the voter by the county clerk.

25 C. ~~[The absentee]~~ Each ballot register is a public

.211327.3

underscored material = new
[bracketed material] = delete

1 record open to public inspection in the county clerk's office
2 during regular office hours. The county clerk shall have an
3 updated [~~absentee~~] ballot register available for public
4 inspection Monday through Friday during regular office hours.

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

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

21 F. If the county clerk has available the technology
22 to do so, at the request of a candidate or chair of a political
23 party of the county, the county clerk shall electronically
24 transmit to the candidate or chair via the internet the
25 information, when updated, on the absentee ballot register

.211327.3

underscored material = new
[bracketed material] = delete

1 indicating voters who have requested absentee ballots, returned
2 their absentee ballots or voted early in person."

3 SECTION 67. Section 1-6-8 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 134, as amended) is amended to read:

5 "1-6-8. [~~ABSENTEE~~] MAILED BALLOT ENVELOPES.--

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

8 (1) official inner envelopes for use in
9 sealing the completed [~~absentee~~] mailed ballot;

10 (2) official mailing envelopes for use in
11 returning the official inner envelope to the county clerk,
12 which shall be postage-paid; provided that only the official
13 mailing envelope for absentee ballots in a [~~general election~~]
14 political party primary shall contain [~~no~~] a designation of
15 party affiliation;

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

19 (4) official transmittal envelopes for use by
20 the county clerk in [~~mailing absentee~~] sending mailed ballot
21 materials.

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

.211327.3

underscored material = new
[bracketed material] = delete

1 inner envelopes shall be printed in black.

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

10 [~~D.~~] The official mailing envelope shall contain a
11 space for the voter to record the voter's name, registration
12 address and year of birth. The envelope shall have a security
13 flap to cover this information."

14 SECTION 68. Section 1-6-9 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 135, as amended) is amended to read:

16 "1-6-9. MAILED BALLOTS--MANNER OF VOTING--[~~ALTERNATE~~]
17 DELIVERY METHODS.--[~~Except as provided in Section 1-6-5 or~~
18 ~~Section 1-6-5.7 NMSA 1978, a person voting pursuant to the~~
19 ~~Absent Voter Act~~]

20 A. When voting a mailed ballot, the voter shall
21 secretly mark the [~~absentee~~] mailed ballot in the manner
22 provided in the Election Code for marking paper ballots, place
23 it in the official inner envelope and securely seal the
24 envelope. The voter shall then place the official inner
25 envelope inside the official mailing envelope and securely seal

.211327.3

underscored material = new
[bracketed material] = delete

1 the envelope. The voter shall then complete the form on the
2 reverse of the official mailing envelope, which shall include a
3 statement by the voter under penalty of perjury that the facts
4 stated in the form are true and the voter's name, registration
5 address and year of birth. [~~Voters shall either deliver or~~
6 ~~mail the official mailing envelope to the county clerk of their~~
7 ~~county of residence.~~] The voter or another person authorized by
8 law shall then return the official mailing envelope containing
9 the voted ballot to the county clerk of the voter's county of
10 residence. Returned by a person other than the voter, the
11 official mailing envelope shall contain the signature, printed
12 name and relationship to the voter of the person returning the
13 ballot.

14 B. The official mailing envelope may be returned by
15 mail using the United States postal service. The secretary of
16 state shall implement a free-access tracking system for each
17 voter to be able to see the status of the voter's mailed ballot
18 while en route to the voter as well as when returned to the
19 county clerk.

20 C. The official mailing envelope may be returned
21 using a commercial delivery service; provided that unless the
22 secretary of state has approved the use of a specific
23 commercial delivery service, the voter shall be responsible for
24 the costs of delivery by means of such service.

25 D. The official mailing envelope may be returned in

.211327.3

underscored material = new
[bracketed material] = delete

1 person to the office of the county clerk or to an alternate
2 voting location, mobile alternate voting location or election
3 day voting location.

4 E. The official mailing envelope may be returned by
5 depositing the official mailing envelope in a secured container
6 made available pursuant to this subsection to receive voted
7 mailed ballots for that election; provided that:

8 (1) secured containers shall be available at
9 the office of the county clerk for any statewide or special
10 election in which voters of any precinct of the county may cast
11 ballots. In addition, secured containers may be located at
12 county facilities; provided that the location of the containers
13 and the days and times the containers will be available to
14 receive ballots are posted by the county clerk at least
15 forty-two days before the election;

16 (2) secured containers shall be available at
17 municipal offices and at such municipal facilities as
18 determined by a municipal clerk and approved by the county
19 clerk in any statewide or special election in which voters may
20 cast a ballot within the boundaries of any precinct located in
21 a municipality with more than thirty thousand voters; provided
22 that the locations and hours of availability at the facilities
23 are posted by the county clerk at least forty-two days before
24 the election;

25 (3) secured containers may be made available

.211327.3

underscored material = new
[bracketed material] = delete

1 at municipal offices and at such municipal facilities as
2 determined by a municipal clerk and approved by the county
3 clerk in any statewide or special election in which voters may
4 cast a ballot within the boundaries of any precinct located in
5 a municipality with fewer than thirty thousand voters; provided
6 that the locations and hours of availability at the facilities
7 are posted by the county clerk at least forty-two days before
8 the election; and provided further that the municipality has
9 been approved by the secretary of state to make available
10 secured containers for the deposit of voted ballots in a
11 statewide or special election;

12 (4) secured containers may be made available
13 at the main administrative offices and at such other facilities
14 as determined by a local government and approved by the county
15 clerk in any statewide or special election in which voters may
16 cast a ballot within the boundaries of any precinct located
17 within the local government; provided that the locations and
18 hours of availability at the facilities are posted by the
19 county clerk at least forty-two days before the election; and
20 provided further that the local government has been approved by
21 the secretary of state to make available secured containers for
22 the deposit of voted ballots in a statewide or special
23 election;

24 (5) the secretary of state shall prescribe by
25 rule specifications for secured containers where voters may

.211327.3

underscored material = new
[bracketed material] = delete

1 deposit voted ballots pursuant to this subsection. If the
2 secretary of state becomes aware that a county, municipality or
3 other approved local government is not following the
4 specifications promulgated by the secretary of state, the
5 secretary of state may take action as is deemed appropriate to
6 protect the ballots in that election and the sanctity of the
7 voting process. Such action may include issuing an order
8 requiring a county, municipality or local government to
9 establish compliance with the specifications prior to available
10 making secured containers for the deposit of voted ballots in a
11 special or statewide election; and

12 (6) the location of a secured container is
13 considered a polling place for purposes of electioneering too
14 close to the polling place in violation of Section 1-20-16 NMSA
15 1978."

16 SECTION 69. Section 1-6-10 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 136, as amended) is amended to read:

18 "1-6-10. RECEIPT OF ~~[ABSENTEE]~~ MAILED BALLOTS BY CLERK.--

19 A. The county clerk shall mark on each completed
20 official mailing envelope the date and time of receipt in the
21 clerk's office, record this information in the absentee or
22 mailed ballot register and safely keep the official mailing
23 envelope unopened in a locked and number-sealed ballot box
24 until it is delivered to the ~~[absent voter precinct]~~ proper
25 election board, counted in the county canvass or [until it is]

.211327.3

underscored material = new
[bracketed material] = delete

1 canceled and destroyed in accordance with law.

2 B. In a statewide election, if the unopened
3 official mailing envelope is received by the county clerk from
4 an election board before the absent voter election board has
5 adjourned, the unopened official mailing envelope shall be
6 logged and transmitted to the absent voter election board to be
7 tallied immediately. If the unopened official mailing envelope
8 is received by the county clerk from an election board after
9 the absent voter election board has adjourned, the unopened
10 official mailing envelope shall be logged and transmitted to be
11 tallied and included in the canvass report of that county for
12 the appropriate precinct.

13 ~~[B.]~~ C. Completed official mailing envelopes shall
14 be accepted until 7:00 p.m. on election day.

15 D. Any completed official mailing envelope received
16 after that time shall not be ~~[delivered to the absent voter~~
17 ~~precinct board]~~ qualified or opened but shall be preserved by
18 the county clerk ~~[until the time for election contests has~~
19 ~~expired. In the absence of a restraining order after~~
20 ~~expiration of the time for election contests, the county clerk~~
21 ~~shall destroy all late official mailing envelopes without~~
22 ~~opening or permitting the contents to be examined, cast,~~
23 ~~counted or canvassed. Before their destruction]~~ for the
24 applicable retention period provided in Section 1-12-69 NMSA
25 1978. The county clerk shall [count] report the [numbers]

.211327.3

underscored material = new
[bracketed material] = delete

1 number of late ballots from voters, uniformed-service voters
2 and overseas voters and report the number from each category to
3 date on the final absentee ballot report and as part of the
4 county canvass report. If additional late ballots are
5 received, the county clerk shall update the number of late
6 ballots from each category to the secretary of state.

7 ~~[G. No later than 5:00 p.m. on the Monday~~
8 ~~immediately preceding the date of election, the county clerk~~
9 ~~shall record the numbers of unused ballots and shall publicly~~
10 ~~destroy in the county clerk's office all such unused ballots or~~
11 ~~prepare the unused ballots for delivery to precinct boards.~~
12 ~~The county clerk shall execute a certificate of destruction,~~
13 ~~which shall include the numbers on the ballots destroyed. A~~
14 ~~copy of the certificate of destruction shall be sent to the~~
15 ~~secretary of state.]"~~

16 SECTION 70. Section 1-6-10.1 NMSA 1978 (being Laws 2003,
17 Chapter 357, Section 5, as amended) is amended to read:

18 "1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--

19 A. A voter, caregiver to that voter or member of
20 that voter's immediate family may deliver that voter's absentee
21 ballot to the county clerk in person or by mail; provided that
22 the voter has subscribed the ~~[outer]~~ official mailing envelope
23 of the absentee ballot.

24 B. As used in this section, "immediate family"
25 means the spouse, children, parents or siblings of a voter."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 71. Section 1-6-14 NMSA 1978 (being Laws 1971,
2 Chapter 317, Section 11, as amended) is amended to read:

3 "1-6-14. HANDLING ~~[ABSENTEE]~~ MAILED BALLOTS ~~[BY ABSENT~~
4 ~~VOTER PRECINCT BOARDS]~~.--

5 A. At any time after mailed ballots have been sent
6 to voters and until the fifth day before the election, the
7 county clerk may convene an election board to meet during the
8 normal business hours of the office of the county clerk to
9 qualify the mailed ballots that are returned. Before opening
10 an official mailing envelope, the presiding judge and the
11 election judges shall determine that the required information
12 has been completed on the reverse side of the official mailing
13 envelope.

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

24 C. A lawfully appointed challenger may view the
25 official mailing envelope and may challenge the ballot of any

underscored material = new
[bracketed material] = delete

1 [absent] mailed ballot voter for the following reasons:

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

5 (2) the official mailing envelope does not
6 contain a signature; or

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

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

19 E. If the official mailing envelope has been
20 properly subscribed and the voter has not been challenged,

21 [~~(1)~~] the judges or election clerks shall enter
22 the [absent] voter's name and residence address as shown on the
23 official mailing envelope [~~in the signature rosters~~] and shall
24 [~~mark the notation "AB"~~] make the appropriate notation opposite
25 the voter's name in the "Notations" column of the [~~signature~~

underscored material = new
[bracketed material] = delete

1 ~~rosters or~~] register. [~~and~~

2 ~~(2)~~] F. For any election in which fewer than ten
3 thousand mailed ballots were sent to the voters of a county,
4 only between 8:00 a.m. and 10:00 p.m. on the five days
5 preceding the election [~~day, including Saturday and Sunday~~],
6 and beginning at 7:00 a.m. on election day, under the personal
7 supervision of the presiding election judge, shall the election
8 judges open the official mailing envelope and the official
9 inner envelope and insert the enclosed ballot into an
10 electronic voting machine to be registered and retained until
11 votes are counted and canvassed following the closing of the
12 polls on election night.

13 G. For any election in which ten thousand or more
14 mailed ballots were sent to the voters of a county, only during
15 the regular business hours of the office of the county clerk
16 during the two weeks preceding the election, between 8:00 a.m.
17 and 10:00 p.m. on the four days preceding the election and
18 beginning at 7:00 a.m. on election day, under the personal
19 supervision of the presiding election judge, shall the election
20 judges open the official mailing envelope and the official
21 inner envelope and insert the enclosed ballot into an
22 electronic voting machine to be registered and retained until
23 votes are counted and canvassed following the closing of the
24 polls on election night.

25 ~~[F-]~~ H. It is unlawful for a person to disclose the

underscored material = new
[bracketed material] = delete

1 results of a count and tally or the registration on a voting
2 machine of [~~absentee~~] mailed ballots prior to the later of the
3 closing of the polls or the deadline for receiving mailed
4 ballots pursuant to Section 1-6-10 NMSA 1978.

5 [G. ~~Absentee~~] I. Mailed ballots shall be counted
6 and tallied, where possible, on an electronic voting machine as
7 provided in the Election Code.

8 [~~H. Absent voter precinct polls shall close in~~
9 ~~accordance with Section 1-6-23 NMSA 1978, and the results of~~
10 ~~the election shall be certified as prescribed by the secretary~~
11 ~~of state.~~

12 [~~I. If an absentee ballot does not contain the~~
13 ~~identification required pursuant to Subsection D of Section~~
14 ~~1-6-5 NMSA 1978]~~

15 J. If a mailed ballot is rejected for any reason,
16 it shall be handled in the same manner as a disqualified
17 provisional paper ballot in accordance with the Election Code."

18 SECTION 72. Section 1-6-16 (being Laws 1969, Chapter 240,
19 Section 141, as amended) is repealed and a new Section 1-6-16
20 NMSA 1978 is enacted to read:

21 "1-6-16. [NEW MATERIAL] MAILED BALLOTS--REPLACEMENT AND
22 PROVISIONAL PAPER BALLOTS.--

23 A. A voter who has applied for a mailed ballot or
24 who has been sent a mailed ballot may execute an affidavit
25 stating that the person did not and will not vote the mailed

.211327.3

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

1 ballot that was issued. Upon receipt of the sworn affidavit,
2 if the ballot register does not show that a ballot from the
3 voter has been cast in that election, the county clerk shall
4 void the mailed ballot that was previously issued to the voter.

5 B. A voter shall be mailed a replacement ballot to
6 be returned to the county clerk for tabulation by the absent
7 ballot election board if the voter:

8 (1) communicates with the office of the county
9 clerk and requests a replacement mailed ballot be delivered to
10 the voter; and

11 (2) has executed the affidavit required by
12 Subsection A of this section and the county clerk has voided
13 the mailed ballot previously issued to the voter.

14 C. A voter shall be issued a replacement ballot to
15 be filled out and fed by the voter into the electronic vote
16 tabulator if the voter:

17 (1) appears at the office of the county clerk,
18 an alternate voting location or a mobile alternate voting
19 location:

20 (a) at any time during the period for
21 early voting if the county clerk has real-time synchronization
22 between the early voting locations and the qualification of
23 mailed ballots; or

24 (b) during the period for early voting
25 until the time the county clerk begins qualifying mailed

.211327.3

1 ballots if the county clerk does not have real-time
2 synchronization between the early voting locations and the
3 qualification of mailed ballots; and

4 (2) has executed the affidavit required by
5 Subsection A of this section and the county clerk has voided
6 the mailed ballot previously issued to the voter.

7 D. If the county clerk does not have real-time
8 synchronization between the early voting locations and the
9 qualification of mailed ballots, a voter shall be issued a
10 provisional paper ballot to be filled out and delivered to the
11 county clerk for tabulation during the county canvass if:

12 (1) the voter appears at an early voting
13 location after the time the county clerk begins qualifying
14 mailed ballots; and

15 (2) the voter has executed the affidavit
16 required by Subsection A of this section and the county clerk
17 has voided the mailed ballot previously issued to the voter.

18 E. A provisional paper ballot issued pursuant to
19 this section shall be qualified and tabulated once the county
20 clerk determines that the voter did not vote any other ballot
21 in the same election and if no challenge is successfully
22 interposed.

23 F. The secretary of state shall prescribe the form
24 of the affidavit and the manner in which the county clerk shall
25 void the previously requested absentee ballot."

underscored material = new
[bracketed material] = delete

1 SECTION 73. Section 1-6-16.1 NMSA 1978 (being Laws 1989,
2 Chapter 368, Section 1, as amended) is amended to read:

3 "1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT
4 TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

5 A. A voter who applies for ~~[an absentee]~~ a mailed
6 ballot but has not received or returned the ~~[absentee]~~ ballot
7 by mail as of the date of the election may go to the voter's
8 assigned polling place or a voter convenience center and, after
9 executing an affidavit ~~[of nonreceipt of absentee ballot]~~
10 stating that the person did not and will not vote the mailed
11 ballot that was issued, shall be permitted to vote on a
12 ~~[replacement absentee]~~ provisional paper ballot.

13 ~~[B. The completed ballot shall be placed in an~~
14 ~~official inner envelope substantially as prescribed by Section~~
15 ~~1-6-8 NMSA 1978 and sealed. The official inner envelope shall~~
16 ~~then be placed in an official envelope substantially as~~
17 ~~prescribed for a transmittal envelope or mailing envelope in~~
18 ~~Section 1-6-8 NMSA 1978. This envelope shall contain a form on~~
19 ~~its back that identifies the voter by name and signature roster~~
20 ~~number and a printed statement to the effect that the voter~~
21 ~~made application for an absentee ballot but had not received it~~
22 ~~as of the date of the election and is permitted to vote by~~
23 ~~replacement absentee paper ballot.~~

24 ~~C. The presiding judge shall put all replacement~~
25 ~~absentee ballots in a special envelope provided for that~~

1 ~~purpose by the county clerk, seal it and return it to the~~
2 ~~county clerk along with the machine tally sheets. The sealed~~
3 ~~envelope shall not be put in the locked ballot box.~~

4 ~~D. Upon receipt of the envelope containing~~
5 ~~replacement absentee ballots, the county clerk, no later than~~
6 ~~forty-eight hours after the close of the election, shall remove~~
7 ~~the transmittal envelopes and, without removing or opening the~~
8 ~~inner envelopes, determine that:~~

9 ~~(1) the voter did in fact make application for~~
10 ~~an absentee ballot; and~~

11 ~~(2) no absentee ballot was received by the~~
12 ~~county clerk from the voter by 7:00 p.m. on election day.~~

13 ~~E. Upon making that determination, the county clerk~~
14 ~~shall remove the inner envelope without opening it, retain the~~
15 ~~transmittal envelope with the other election returns and place~~
16 ~~the inner unopened envelope in a secure container to be~~
17 ~~transmitted to the county canvassing board to be tallied and~~
18 ~~included in the canvass of that county for the appropriate~~
19 ~~precinct.~~

20 ~~F. The secretary of state shall prescribe and~~
21 ~~furnish the necessary envelopes for purposes of this section~~
22 ~~and shall adopt rules deemed necessary to preserve the secrecy~~
23 ~~of the replacement absentee paper ballots.]~~

24 B. If the county clerk has real-time
25 synchronization between the election-day polling places and the

underscored material = new
[bracketed material] = delete

1 qualification of ballots received by mail, the voter shall be
2 issued a replacement ballot to be filled out and fed by the
3 voter into the electronic vote tabulator."

4 SECTION 74. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
5 Chapter 353, Section 1, as amended) is amended to read:

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

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

16 B. The provisional paper ballot shall be made
17 available by the county clerk of the county in which the voter
18 resides to any authorized representative of the voter who
19 through the representative has presented the written request to
20 the office of the county clerk.

21 [~~G. Before releasing the provisional paper ballot,~~
22 ~~the county clerk shall compare the signature on the written~~
23 ~~request with the signature on the voter's affidavit of~~
24 ~~registration. If the county clerk determines that the~~
25 ~~signature on the written request is not the signature of the~~

underscored material = new
[bracketed material] = delete

1 ~~voter, the county clerk shall reject the request for a~~
2 ~~provisional paper ballot.~~

3 D.] C. The voter shall mark the provisional paper
4 ballot, place it in an identification envelope, fill out and
5 sign the envelope and return the ballot to the office of the
6 county clerk of the county in which the voter resides no later
7 than the time of closing of the polls on election day. A
8 provisional paper ballot issued pursuant to this section shall
9 be qualified and tabulated once the county clerk determines
10 that the person did not cast any other ballot and if no
11 challenge is successfully interposed."

12 SECTION 75. A new section of the Absent Voter Act is
13 enacted to read:

14 "[NEW MATERIAL] MAILED BALLOTS--REGULAR ELECTION PILOT
15 PROJECT.--

16 A. Notwithstanding the provisions of Section 1-6-4
17 NMSA 1978 requiring an application by a voter for a mailed
18 ballot in a regular local election, on written request by a
19 county clerk no later than June 30 immediately preceding a
20 regular local election, the secretary of state may authorize a
21 county clerk in the regular local election of the same calendar
22 year to send a ballot to each voter authorized to receive a
23 ballot pursuant to Subsection B of Section 1-24-3 NMSA 1978;
24 provided that the county clerk shall send a notice by
25 forwardable mail to each voter at least forty-two days prior to

.211327.3

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

1 the regular local election. The notice sent to:

2 (1) voters described in Paragraphs (1) and (2)
3 of Subsection B of Section 1-24-3 NMSA 1978 shall inform the
4 voter that no ballot will be sent unless the voter updates the
5 voter's certificate of registration within the time frame
6 provided by Section 1-4-8 NMSA 1978 or submits an application
7 for a mailed ballot pursuant to the provisions of Section 1-6-4
8 NMSA 1978; and

9 (2) all other voters of the county shall
10 inform the voter that a mailed ballot will be sent to the voter
11 twenty-two days before the election unless:

12 (a) the voter has already voted in
13 person in the office of the county clerk in that election; or

14 (b) the voter has communicated with the
15 county clerk requesting that a mailed ballot not be sent to the
16 voter in that election.

17 B. Beginning twenty-two days before the regular
18 local election, the county clerk shall send mailed ballots to
19 each voter authorized to receive a ballot pursuant to
20 Subsection B of Section 1-24-3 NMSA 1978 and in the same manner
21 as provided for in Subsection D of Section 1-24-3 NMSA 1978;
22 provided that a ballot shall not be sent to any otherwise
23 eligible voter who has already voted in person in the office of
24 the county clerk in that election, has requested that a mailed
25 ballot not be sent to the voter or whose notice sent pursuant

.211327.3

underscored material = new
[bracketed material] = delete

1 to Paragraph (2) of Subsection A of this section was returned
2 as undeliverable.

3 C. The secretary of state shall approve the written
4 request of a county clerk pursuant to guidelines issued by the
5 secretary of state if there is sufficient funding available in
6 the election fund to cover the requirements of this section. A
7 county clerk whose written request pursuant to this section has
8 been authorized by the secretary of state shall provide the
9 same number of early voting locations and election day polling
10 places in the regular local election as would have been
11 provided had the written request not been approved."

12 SECTION 76. Section 1-6B-2 NMSA 1978 (being Laws 2015,
13 Chapter 145, Section 26, as amended) is amended to read:

14 "1-6B-2. DEFINITIONS.--As used in the Uniform Military
15 and Overseas Voters Act:

16 [~~A.~~] "~~appropriate clerk~~" ~~means the county clerk of~~
17 ~~the county in which the federal qualified elector is eligible~~
18 ~~to vote;~~

19 ~~B.]~~ A. "federal postcard application" means the
20 application prescribed under the federal Uniformed and Overseas
21 Citizens Absentee Voting Act;

22 [~~G.]~~ B. "federal write-in absentee ballot" means
23 the ballot approved pursuant to the federal Uniformed and
24 Overseas Citizens Absentee Voting Act; and

25 [~~D.]~~ C. "military-overseas ballot" means

.211327.3

underscored material = new
[bracketed material] = delete

1 [~~(1)~~ a federal write-in absentee ballot; or
2 ~~(2)~~] a ballot sent to a federal qualified
3 elector by the [~~appropriate~~] county clerk [~~and~~] or cast in
4 accordance with the provisions of the Uniform Military and
5 Overseas Voters Act

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

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

15 SECTION 77. Section 1-6B-3 NMSA 1978 (being Laws 2015,
16 Chapter 145, Section 27, as amended) is amended to read:

17 "1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT
18 MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS VOTERS
19 ACT.--

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

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

.211327.3

underscored material = new
[bracketed material] = delete

1 C. The form of the military-overseas ballot shall
2 be the same as the ballot provided to all other voters. The
3 form of the military-overseas ballot materials shall be the
4 same as the ballot materials provided to all other voters,
5 except as required by the Uniform Military and Overseas Voters
6 Act.

7 D. To receive the benefits of the Uniform Military
8 and Overseas Voters Act, a federal qualified elector shall
9 inform the [~~appropriate~~] county clerk that the individual is a
10 federal qualified elector. Methods of informing the
11 [~~appropriate~~] county clerk include:

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

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

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

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

25 **SECTION 78.** Section 1-6B-4 NMSA 1978 (being Laws 2015,
.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 145, Section 28, as amended) is amended to read:

2 "1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED
3 AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

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

8 B. The secretary of state shall maintain a web page
9 dedicated to federal qualified electors. The dedicated web
10 page shall be accessible from international internet
11 connections and may be segregated from the main website for the
12 office of the secretary of state. The secretary of state shall
13 establish an electronic transmission system through which a
14 federal qualified elector may apply for and receive voter
15 registration materials, military-overseas ballots and other
16 information pursuant to the Uniform Military and Overseas
17 Voters Act. The secretary of state shall ensure that the
18 electronic transmission system is capable of accepting a
19 federal postcard application, any other approved electronic
20 registration application and any other approved electronic
21 military-overseas ballot application sent to a county clerk.

22 C. Official transmittal envelopes and official
23 mailing envelopes for transmission of [~~absentee~~] mailed ballot
24 materials to and from federal qualified electors shall be in
25 the same form as those used in the jurisdiction where the voter

.211327.3

underscored material = new
[bracketed material] = delete

1 is registered except as modified to comply with the Uniform
2 Military and Overseas Voters Act or federal law. The secretary
3 of state may, to the extent reasonably possible, coordinate
4 with other states to develop standardized [~~absentee-voting~~]
5 materials for voting by mail, including privacy and
6 transmission envelopes and their electronic equivalents,
7 authentication materials and voting instructions, to be used
8 with the military-overseas ballot of a voter authorized to vote
9 in any jurisdiction in this state.

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

23 E. The secretary of state shall prescribe to the
24 [~~appropriate~~] county clerk the form of and distribute to each
25 county clerk a supply of:

.211327.3

underscored material = new
[bracketed material] = delete

1 (1) official inner envelopes for use in
2 sealing the completed [~~absentee~~] mailed ballot;

3 (2) official mailing envelopes for use in
4 returning the official inner envelope to the [~~appropriate~~]
5 county clerk, which shall be postage-paid within the United
6 States postal system; provided that only the official mailing
7 envelope for [~~absentee~~] mailed ballots in a political party
8 primary [~~election~~] shall contain a designation of party
9 affiliation;

10 (3) [~~absentee~~] mailed ballot instructions
11 describing the proper methods for completion and return of the
12 ballot, including instructions for those federal qualified
13 electors returning a ballot electronically;

14 (4) official transmittal envelopes for use by
15 the [~~appropriate~~] county clerk in mailing [~~absentee~~] ballot
16 materials; and

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

19 SECTION 79. Section 1-6B-5 NMSA 1978 (being Laws 2015,
20 Chapter 145, Section 29) is amended to read:

21 "1-6B-5. METHODS OF REGISTERING TO VOTE.--

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

.211327.3

underscored material = new
[bracketed material] = delete

1 (1) using the procedures provided in Chapter
2 1, Article 4 [of the Election Code] NMSA 1978; or

3 (2) using a federal postcard application or
4 the application's approved electronic equivalent [~~or~~

5 ~~(3) using the declaration accompanying a~~
6 ~~federal absentee write-in ballot].~~

7 B. A voter's certificate of registration completed
8 pursuant to the Uniform Military and Overseas Voters Act shall
9 remain valid until [~~the voter's certificate of registration is~~]
10 canceled in accordance with the procedures specified in Chapter
11 1, Article 4 [of the Election Code] NMSA 1978.

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

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

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

24 SECTION 80. Section 1-6B-6 NMSA 1978 (being Laws 2015,
25 Chapter 145, Section 30, as amended) is amended to read:

.211327.3

1 "1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS

2 BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS

3 BALLOT.--

4 A. A federal qualified elector who is currently
5 registered to vote in this state may, by the deadline specified
6 in the Absent Voter Act for receipt of [~~absentee~~] mailed ballot
7 applications, apply for a military-overseas ballot by:

8 (1) using [~~an absentee~~] a mailed ballot
9 application pursuant to the Absent Voter Act; or

10 (2) using the federal postcard application or
11 the application's electronic equivalent [~~or~~

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

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

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

.211327.3

underscored material = new
[bracketed material] = delete

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

5 SECTION 81. Section 1-6B-7 NMSA 1978 (being Laws 2015,
6 Chapter 145, Section 31, as amended) is amended to read:

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

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

15 B. The [~~appropriate~~] county clerk shall transmit a
16 ballot and balloting materials as soon as practicable when the
17 ballot application from a federal qualified elector arrives
18 after the forty-fifth day before the election and before
19 absentee ballots are transmitted to other voters pursuant to
20 the Absent Voter Act.

21 C. The [~~appropriate~~] county clerk shall transmit a
22 ballot and balloting materials in accordance with the
23 procedures for processing of all other absentee ballot
24 applications for that jurisdiction when the ballot application
25 from a federal qualified elector arrives after the

.211327.3

underscored material = new
[bracketed material] = delete

1 [appropriate] county clerk has begun transmitting ballots and
2 balloting materials to other voters.

3 D. A federal qualified elector may request that the
4 ballot and balloting materials be sent by [~~facsimile~~
5 ~~transmission, electronic mail delivery or other equivalent~~]
6 secured electronic transmission available to the [appropriate]
7 county clerk where the ballot and balloting materials are sent
8 directly by the clerk to the federal qualified elector. [~~The~~
9 ~~clerk shall transmit the ballot and balloting materials using~~
10 ~~the means of transmission requested by the federal qualified~~
11 ~~elector.~~] The clerk shall determine the most reasonable
12 expedited means of delivery for a ballot and balloting
13 materials for a federal qualified elector who does not request
14 [~~a particular means of~~] secured electronic transmission."

15 SECTION 82. Section 1-6B-8 NMSA 1978 (being Laws 2015,
16 Chapter 145, Section 32) is amended to read:

17 "1-6B-8. RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS FROM
18 FEDERAL QUALIFIED ELECTORS.--

19 A. A military-overseas ballot shall be considered
20 timely if it is received by the [appropriate] county clerk no
21 later than the [~~closing of the polls on election day~~] deadline
22 for receiving mailed ballots in Section 1-6-10 NMSA 1978.

23 B. A federal qualified elector may transmit, and
24 the [appropriate] county clerk shall accept, a military-
25 overseas ballot by [~~facsimile transmission, electronic mail~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~delivery or other equivalent~~] secured electronic [~~delivery~~
2 transmission available to the [~~appropriate~~] county clerk when
3 the military-overseas ballot is sent directly by the voter to
4 that clerk; provided that, when sending a military-overseas
5 ballot [~~utilizing any method~~] as described in this subsection:

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

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

11 (3) the [~~appropriate~~] county clerk places the
12 received ballot in a holding envelope provided by the secretary
13 of state for this purpose and delivers the ballot to the
14 [~~absent precinct~~] appropriate election board."

15 SECTION 83. Section 1-6B-9 NMSA 1978 (being Laws 2015,
16 Chapter 145, Section 33) is amended to read:

17 "1-6B-9. EMERGENCY RESPONSE PROVIDERS.--

18 A. An emergency response provider may benefit from
19 the ability to apply for [~~an absentee~~] a mailed ballot and to
20 return the marked ballot in the same manner as provided in the
21 Uniform Military and Overseas Voters Act for federal qualified
22 electors; provided that the emergency response provider may not
23 use the federal postcard application or the federal write-in
24 absentee ballot.

25 B. The [~~appropriate~~] county clerk shall transmit

underscored material = new
[bracketed material] = delete

1 to, receive from and process [~~an absentee~~] a mailed ballot of
2 an emergency response provider in the same manner as provided
3 in the Uniform Military and Overseas Voters Act for a federal
4 qualified elector.

5 C. As used in this section, "emergency response
6 provider" means a resident of this state who otherwise
7 satisfies this state's voter eligibility requirements and who,
8 in response to an emergency, is temporarily assigned by a
9 governmental or nongovernmental relief agency or employer to
10 provide support to the victims of the emergency or to rebuild
11 the infrastructure in the affected area and:

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

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

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

20 SECTION 84. Section 1-6B-10 NMSA 1978 (being Laws 2015,
21 Chapter 145, Section 34) is amended to read:

22 "1-6B-10. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
23 QUALIFICATION.--

24 A. A federal qualified elector may use a federal
25 write-in absentee ballot to vote for all offices and ballot

.211327.3

underscored material = new
[bracketed material] = delete

1 [measures] questions in an election.

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

10 C. A qualified federal write-in absentee ballot
11 shall be processed by the canvassing board in the same manner
12 as a provisional ballot. A federal write-in absentee ballot
13 from a federal qualified elector shall not be qualified if the
14 federal qualified elector voted on any other type of ballot. A
15 federal write-in absentee ballot of an overseas voter shall not
16 be qualified if the ballot is submitted from any location in
17 the United States."

18 SECTION 85. Section 1-6B-12 NMSA 1978 (being Laws 2015,
19 Chapter 145, Section 36) is amended to read:

20 "1-6B-12. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

21 A. The county clerk shall request an electronic-
22 mail address from each federal qualified elector who registers
23 to vote. An electronic-mail address provided by a federal
24 qualified elector shall not be made available to the public and
25 is exempt from disclosure pursuant to the Inspection of Public

.211327.3

underscored material = new
[bracketed material] = delete

1 Records Act. The electronic-mail address may be used only for
2 official communication with the voter about the voting process,
3 including [~~transmitting~~] the secured transmission of
4 military-overseas ballots and ballot materials if the voter has
5 requested [~~electronic~~] secured transmission [~~by electronic~~
6 ~~mail~~], and verifying the voter's mailing address and physical
7 location. The request for an electronic-mail address shall
8 describe the purposes for which the electronic-mail address may
9 be used and include a statement that any other use or
10 disclosure of the electronic-mail address is prohibited.

11 B. If [~~an absentee~~] a mailed ballot is transmitted
12 to a federal qualified elector via [~~electronic mail~~] secured
13 transmission, the [~~appropriate~~] county clerk shall note in the
14 [~~absentee~~] ballot register the voter's registration address,
15 that the ballot was delivered to the voter electronically and
16 the date on which it was sent, but shall not disclose the
17 voter's electronic-mail address.

18 C. A federal qualified elector who provides an
19 electronic-mail address may request that the voter's
20 application for a military-overseas ballot be considered a
21 standing request for secured electronic delivery of a ballot
22 for all elections in the election cycle. The [~~appropriate~~]
23 county clerk shall provide a military-overseas ballot to a
24 voter who makes a standing request for each election to which
25 the request is applicable as an automatic application for a

.211327.3

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

1 military-overseas ballot."

2 SECTION 86. Section 1-8-2 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 152, as amended by Laws 2014, Chapter 40,
4 Section 3 and by Laws 2014, Chapter 81, Section 3) is amended
5 to read:

6 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
7 CONVENTION--DESIGNATED NOMINEES.--

8 A. If the rules of a minor political party require
9 nomination by political convention:

10 (1) the chair and secretary of the state
11 political convention shall certify to the secretary of state
12 the names of their party's nominees for United States senator,
13 United States representative, all elective state offices,
14 legislative offices elected from multicounty districts, the
15 public regulation commission, all elective judicial officers in
16 the judicial department and all offices representing a district
17 composed of more than one county; and

18 (2) the chair and secretary of the county
19 political convention shall certify to the county clerk the
20 names of their party's nominees for elected county offices and
21 for legislative offices elected from a district located wholly
22 within one county or that is composed of only one county.

23 B. The names certified to the secretary of state
24 shall be filed on the twenty-third day following the primary
25 election in the year of the general election and shall be

.211327.3

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

1 accompanied by nominating petitions containing the signatures
2 of voters totaling not less than one percent of the total
3 number of votes cast for governor at the last preceding general
4 election at which a governor was elected:

5 (1) in the state for statewide offices; and

6 (2) in the district for offices other than
7 statewide offices.

8 The petition shall contain a statement that the voters
9 signing the petition are residents of the area to be
10 represented by the office for which the person being nominated
11 is a candidate.

12 C. The names certified to the county clerk shall be
13 filed on the twenty-third day following the primary election in
14 the year of the general election and shall be accompanied by a
15 nominating petition containing the signatures of voters
16 totaling not less than one percent of the total number of votes
17 cast for governor at the last preceding general election at
18 which a governor was elected:

19 (1) in the county for countywide offices; and

20 (2) in the district for offices other than
21 countywide offices.

22 The petition shall contain a statement that the voters
23 signing the petition are residents of the area to be
24 represented by the office for which the person being nominated
25 is a candidate.

.211327.3

underscoring material = new
[bracketed material] = delete

1 D. Except in the case of a political party
2 certified in the year of the election, persons certified as
3 candidates shall be members of that party on the day the
4 ~~[governor]~~ secretary of state issues the ~~[primary]~~ general
5 election proclamation.

6 E. When a political party is certified in the year
7 of the general election, and after the day the ~~[governor]~~
8 secretary of state issues the ~~[primary]~~ general election
9 proclamation, a person certified as a candidate shall be:

10 (1) a member of that party not later than the
11 date the political party filed its rules and qualifying
12 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

13 (2) a resident in the district of the office
14 for which the person is a candidate on the date of the
15 ~~[governor's]~~ secretary of state's proclamation for the
16 ~~[primary]~~ general election or in the case of a person seeking
17 the office of United States senator or United States
18 representative, a resident within New Mexico on the date of the
19 ~~[governor's]~~ secretary of state's proclamation for the
20 ~~[primary]~~ general election. No person who is a candidate for a
21 party in a primary election may be certified as a candidate for
22 a different party in the general election in the same election
23 cycle.

24 F. No voter shall sign a petition prescribed by
25 this section for more persons than the number of candidates

.211327.3

underscored material = new
[bracketed material] = delete

1 necessary to fill the office at the next ensuing general
2 election."

3 SECTION 87. Section 1-8-7 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 157, as amended) is amended to read:

5 "1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF
6 CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE
7 PRIMARY.--

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

13 (1) the death of a candidate after filing of
14 the declaration of candidacy or after certification as a
15 convention-designated nominee and before the primary election;
16 [~~or~~]

17 (2) the failure of a major political party to
18 nominate a candidate for lieutenant governor; provided that the
19 major political party nominated a candidate for governor; or

20 [~~(2)~~] (3) the resignation or death of a person
21 holding a public office after the last Friday before the first
22 Tuesday in March, when such office was not included in the
23 [~~governor's~~] general election proclamation and is required by
24 law to be filled at the next succeeding general election after
25 the vacancy is created.

.211327.3

underscored material = new
[bracketed material] = delete

1 B. The vacancy may be filled subsequent to the
2 primary election by the central committee of the state or
3 county political party, as the case may be, as provided by
4 Subsection A of Section 1-8-8 NMSA 1978.

5 C. The name of the person to fill the vacancy on
6 the general election ballot shall be filed with the proper
7 filing officer on a form approved by the secretary of state
8 ~~[within fifteen days]~~ on the twenty-third day after the primary
9 election, ~~[and when so filed, it shall be placed on the general~~
10 ~~election ballot as the political party's nominee for such~~
11 ~~office]~~ along with a declaration of candidacy subscribed and
12 sworn by the selected nominee and the required form for
13 candidates pursuant to the Campaign Reporting Act.

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

17 SECTION 88. Section 1-8-8 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 158, as amended) is amended to read:

19 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
20 AFTER PRIMARY.--

21 A. If after a primary election, but seventy or more
22 days before the general election, a vacancy occurs, for any
23 cause, in the list of the nominees of a qualified political
24 party for any public office to be filled in the general
25 election, or a vacancy occurs because of the resignation or

.211327.3

underscored material = new
[bracketed material] = delete

1 death of a person holding a public office not included in the
2 [~~governor's~~] secretary of state's general election proclamation
3 and which office is required by law to be filled at the next
4 succeeding general election, or a vacancy occurs because a new
5 public office is created and was not included in the
6 [~~governor's~~] secretary of state's general election proclamation
7 but is capable by law of being filled at the next succeeding
8 general election, the vacancy on the general election ballot
9 may be filled by:

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

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

20 B. Appointments made pursuant to Subsection A of
21 this section shall qualify pursuant to Section 1-8-18 NMSA
22 1978.

23 C. The county or state central committee members
24 making the appointment pursuant to Subsection A of this section
25 shall be as provided for in the rules of the respective party;

.211327.3

underscored material = new
[bracketed material] = delete

1 provided that, at a minimum, the committee shall include those
2 members residing within the boundaries of the area to be
3 represented by the public office.

4 D. Appointments to fill vacancies in the list of a
5 party's nominees shall be made and filed with the proper filing
6 officer using a form approved by the secretary of state at
7 least sixty-three days prior to the general election, along
8 with a declaration of candidacy subscribed and sworn by the
9 selected nominee and the required form for candidates pursuant
10 to the Campaign Reporting Act.

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

14 SECTION 89. Section 1-8-12 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 161, as amended) is amended to read:

16 "1-8-12. PRIMARY ELECTION LAW--PROCLAMATION CALLING
17 PRIMARY AND GENERAL ELECTIONS.--

18 A. The [~~governor~~] secretary of state shall issue a
19 public proclamation calling a general election to be held in
20 each county and precinct of the state on the date prescribed by
21 Article 20, Section 6 of the constitution of New Mexico.

22 B. The general election proclamation shall also
23 call a primary election for the nomination of general election
24 candidates by each major political party to be held in each
25 county and precinct of the state on the date prescribed by the

.211327.3

underscoring material = new
[bracketed material] = delete

1 Primary Election Law.

2 C. The proclamation shall be filed ~~[with]~~ by the
3 secretary of state in the office of the secretary of state on
4 the last Monday in January of each even-numbered year."

5 SECTION 90. Section 1-8-13 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 162, as amended) is amended to read:

7 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
8 PROCLAMATION.--The general election proclamation calling a
9 primary and general election shall contain:

10 A. the names of the major political parties
11 participating in the primary election;

12 B. the offices to be elected at the general
13 election and for which each political party shall nominate
14 candidates; provided that if any law is enacted by the
15 legislature in the year in which the primary election is held
16 and the law does not take effect until after the date ~~[of]~~ to
17 amend the proclamation but prior to the date ~~[of the primary~~
18 ~~election]~~ to fill vacancies pursuant to Section 1-8-7 or 1-8-8
19 NMSA 1978, the ~~[proclamation]~~ secretary of state shall conform
20 the proclamation to the intent of the law with respect to the
21 offices for which each political party shall nominate
22 candidates;

23 C. the date on which declarations of candidacy and
24 nominating petitions for United States representative, any
25 office voted upon by all the voters of the state, a legislative

.211327.3

underscoring material = new
[bracketed material] = delete

1 office, the office of district judge, district attorney, [~~state~~
2 ~~board of~~] public education commission, public regulation
3 commission or magistrate shall be filed and the places where
4 they shall be filed in order to have the candidates' names
5 printed on the official ballot of their party at the primary
6 election or in order to have the candidates' names printed on
7 the official ballot at the general election, as applicable;

8 D. the date on and place at which declarations of
9 candidacy shall be filed for any other office and filing fees
10 paid or, in lieu thereof, a pauper's statement of inability to
11 pay;

12 E. the final date on and place at which candidates
13 for the office of United States representative and for any
14 statewide office seeking preprimary convention designation by
15 the major parties shall file petitions and declarations of
16 candidacy;

17 F. the final date on which the major political
18 parties shall hold state preprimary conventions for the
19 designation of candidates; [~~and~~]

20 G. the final date on and place at which
21 certificates of designation of primary election candidates
22 shall be filed by political parties with the secretary of
23 state;

24 [~~As used in the Primary Election Law, "statewide office"~~
25 ~~means any office voted on by all the voters of the state.]~~

.211327.3

underscored material = new
[bracketed material] = delete

1 H. the date on which declarations of candidacy for
2 minor party candidates shall be filed and the places where the
3 declarations of candidacy shall be filed in order to have the
4 minor party candidate names printed on the official ballot of
5 the general election;

6 I. the date on which declarations of candidacy for
7 unaffiliated candidates shall be filed and the places where the
8 declarations of candidacy shall be filed in order to have the
9 unaffiliated candidate names printed on the official ballot of
10 the general election;

11 J. the date on which declarations of candidacy for
12 nonpartisan judicial retention shall be filed and the places
13 where the declarations of candidacy shall be filed in order to
14 have the judicial retention names printed on the official
15 ballot of the general election; and

16 K. the date on which declarations to be a write-in
17 candidate are to be filed and the places where the declarations
18 of candidacy shall be filed in order to have write-in votes
19 counted and canvassed at the political party primary or general
20 election."

21 SECTION 91. Section 1-8-18 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 167, as amended) is amended to read:

23 "1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A
24 CANDIDATE.--

25 A. No person shall become a candidate for

.211327.3

underscored material = new
[bracketed material] = delete

1 nomination by a political party or have [~~his~~] the person's name
2 printed on the primary election ballot unless [~~his~~] the
3 person's record of voter registration shows:

4 (1) [~~his~~] affiliation with that political
5 party on the date of the [~~governor's~~] secretary of state's
6 general election proclamation [~~for the primary election~~]; and

7 (2) [~~his~~] residence in the district of the
8 office for which [~~he~~] the person is a candidate on the date of
9 the [~~governor's~~] secretary of state's general election
10 proclamation [~~for the primary election~~] or in the case of a
11 person seeking the office of United States senator or United
12 States representative, [~~his~~] residence within New Mexico on the
13 date of the [~~governor's~~] secretary of state's general election
14 proclamation [~~for the primary election~~].

15 B. [~~Any~~] A voter may challenge the candidacy of
16 [~~any~~] a person seeking nomination by a political party for the
17 reason that [~~he~~] the person does not meet the requirements of
18 Subsection A of this section by filing a petition in the
19 district court within ten days after the last day for filing a
20 declaration of candidacy or a statement of candidacy for
21 convention designation. The district court shall hear and
22 render a decision on the matter within ten days after the
23 filing of the petition. The decision of the district court may
24 be appealed to the supreme court within five days after the
25 decision is rendered. The supreme court shall hear and render

.211327.3

underscored material = new
[bracketed material] = delete

1 a decision on the appeal forthwith."

2 SECTION 92. Section 1-8-26 NMSA 1978 (being Laws 1975,
3 Chapter 295, Section 12, as amended) is amended to read:

4 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS
5 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

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

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

15 C. Certificates of designation shall be submitted
16 to the secretary of state on the first Tuesday following the
17 preprimary convention at which the candidate's designation took
18 place between the hours of 9:00 a.m. and 5:00 p.m.

19 ~~[D. Declarations of candidacy for retention for all~~
20 ~~affected judicial offices shall be filed with the proper filing~~
21 ~~officer between the hours of 9:00 a.m. and 5:00 p.m. on the~~
22 ~~twenty-third day after the primary election.~~

23 ~~E.]~~ D. No ~~[candidate's]~~ name shall be placed on the
24 ballot until the ~~[candidate]~~ person has been notified in
25 writing by the proper filing officer that the certificate of

.211327.3

underscored material = new
[bracketed material] = delete

1 registration on file, the declaration of candidacy and the
2 petition, if required, [~~and the certificate of registration of~~
3 ~~the candidate on file~~] are in proper order and that the
4 [~~candidate~~] person, based on those documents, is qualified to
5 [~~have the candidate's name placed on the ballot~~] be a
6 candidate. The proper filing officer shall mail the notice no
7 later than 5:00 p.m. on the Tuesday following the filing date.

8 [F.] E. If a [~~candidate~~] person is notified by the
9 proper filing officer that the [~~candidate~~] person is not
10 qualified to [~~have the candidate's name appear on the ballot~~]
11 be a candidate, the [~~candidate~~] person may challenge that
12 decision by filing a petition with the district court within
13 ten days of the notification. The district court shall hear
14 and render a decision on the matter within ten days after the
15 petition is filed. The decision of the district court may be
16 appealed to the supreme court within five days after the
17 decision is rendered. The supreme court shall hear and render
18 a decision on the appeal forthwith."

19 **SECTION 93.** Section 1-8-29 NMSA 1978 (being Laws 1973,
20 Chapter 228, Section 3, as amended by Laws 1993, Chapter 55,
21 Section 5 and by Laws 1993, Chapter 314, Section 46 and also by
22 Laws 1993, Chapter 316, Section 46) is amended to read:

23 "1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
24 FORM.--In making a declaration of candidacy by nominating
25 petition or by pre-primary convention designation, the

.211327.3

1 candidate shall submit substantially the following form:

2 "DECLARATION OF CANDIDACY

3 BY PRE-PRIMARY CONVENTION DESIGNATION

4 (OR BY NOMINATING PETITION)

5 I, _____, (candidate's name on certificate
6 of registration) being first duly sworn, say that I reside at
7 _____, as shown by my certificate of registration
8 as a voter of Precinct No. _____ of the county of
9 _____, State of New Mexico;

10 I am a member of the _____ party as shown
11 by my certificate of registration and I have not changed such
12 party affiliation subsequent to the [~~governor's~~] secretary of
13 state's general election proclamation calling the primary in
14 which I seek to be a candidate;

15 I desire to become a candidate for the office of
16 _____ at the primary election to be held on
17 the date set by law for this year, and if the office be that of
18 a member of the legislature or that of a member of the [~~state~~
19 ~~board of~~] public education commission, that I actually reside
20 at the address designated on my certificate of voter
21 registration;

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

24 If a candidate for any office for which a nominating
25 petition is required, I am submitting with this statement a

.211327.3

underscored material = new
[bracketed material] = delete

1 nominating petition in the form and manner as prescribed by the
2 Primary Election Law; and

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

6 _____
7 (Declarant)

8 _____
9 (Mailing Address)

10 _____
11 (Residence Address)

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

14 _____
15 (Notary Public)

16 My commission expires:
17 _____ ". "

18 SECTION 94. Section 1-8-36.1 NMSA 1978 (being Laws 1981,
19 Chapter 156, Section 1, as amended) is amended to read:

20 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

21 A. Write-in candidates are permitted in the primary
22 election only for the offices of United States representative,
23 members of the legislature, district judges, district
24 attorneys, public regulation commission, public education
25 commission, magistrates and any office voted upon by all voters

.211327.3

underscored material = new
[bracketed material] = delete

1 of the state.

2 B. A person may be a write-in candidate only for
3 nomination by the major political party with which the person
4 is affiliated as shown by the certificate of registration, and
5 such person shall have the qualifications to be a candidate in
6 the primary election for the political party for which the
7 person is a write-in candidate.

8 C. A person desiring to be a write-in candidate for
9 one of the offices listed in Subsection A of this section in
10 the primary election shall file with the proper filing officer
11 a declaration of intent to be a write-in candidate. Such
12 declaration of intent shall be filed between 9:00 a.m. and 5:00
13 p.m. on the third Tuesday in March.

14 ~~[D. A write-in vote shall be counted and canvassed~~
15 ~~only if:~~

16 ~~(1) the name written in is the name of a~~
17 ~~declared write-in candidate and shows two initials and last~~
18 ~~name; first name, middle initial or name and last name; first~~
19 ~~and last name; or the full name as it appears on the~~
20 ~~declaration of intent to be a write-in candidate and~~
21 ~~misspellings of the above combinations that can be reasonably~~
22 ~~determined by a majority of the members of the precinct board~~
23 ~~to identify a declared write-in candidate; and~~

24 ~~(2) the name is written on the proper line~~
25 ~~provided on the ballot for write-in votes for the office for~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~which the candidate has filed a declaration of intent and the~~
2 ~~voter has followed the directions for casting a vote for the~~
3 ~~write-in candidate.~~

4 ~~E.]~~ D. At the time of filing the declaration of
5 intent to be a write-in candidate, the write-in candidate shall
6 be considered a candidate for all purposes and provisions
7 relating to candidates in the Election Code, including the
8 obligations to report pursuant to the Campaign Reporting Act,
9 except that the write-in candidate's name shall not be printed
10 on the ballot.

11 ~~[F. No unopposed write-in candidate shall have the~~
12 ~~write-in candidate's nomination certified unless the write-in~~
13 ~~candidate receives at least the number of write-in votes in the~~
14 ~~primary election as the write-in candidate would need~~
15 ~~signatures on a nominating petition pursuant to the~~
16 ~~requirements set out in Section 1-8-33 NMSA 1978.~~

17 ~~G. A write-in vote shall be cast by writing in the~~
18 ~~name and following the directions for casting a vote for the~~
19 ~~write-in candidate. As used in this section, "write-in" does~~
20 ~~not include the imprinting of any name by rubber stamp or~~
21 ~~similar device or the use of pre-printed stickers or labels]."~~

22 SECTION 95. Section 1-8-45 NMSA 1978 (being Laws 1977,
23 Chapter 322, Section 1, as amended) is amended to read:

24 "1-8-45. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
25 STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--DEFINITION.--

.211327.3

underscored material = new
[bracketed material] = delete

1 A. As used in the Election Code, an independent
2 candidate means a person who:

3 (1) is a candidate for any state or county
4 office to be voted on at a general election:

5 (a) whose certificate of voter
6 registration shows affiliation with no qualified political
7 party on the date of the [~~governor's~~] secretary of state's
8 general election proclamation [~~for the primary election~~] and,
9 if applicable, shows residence on the date of the [~~governor's~~]
10 secretary of state's proclamation [~~for the primary election~~] in
11 the district or county of the office for which the person is a
12 candidate; and

13 (b) who has complied with the nomination
14 procedures set forth in the Election Code for independent
15 candidates;

16 (2) is a candidate for United States senator
17 or United States representative:

18 (a) whose certificate of voter
19 registration, if any, shows affiliation with no qualified
20 political party on the date of the [~~governor's~~] secretary of
21 state's general election proclamation [~~for the primary~~
22 ~~election~~];

23 (b) who will be a resident of New Mexico
24 when elected; and

25 (c) who has complied with the nomination

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

1 procedures set forth in the Election Code for independent
2 candidates; or

3 (3) is a candidate for the office of president
4 or vice president who:

5 (a) has complied with the nomination
6 procedures set forth in the Election Code for independent
7 candidates; and

8 (b) was not a major party candidate for
9 the same office on the primary election ballot.

10 B. No person shall become an independent candidate
11 for any office, and the person's name shall not be printed on
12 the general election ballot, unless the person complies with
13 the requirements of this section.

14 C. Any voter may challenge the candidacy of any
15 person seeking to become an independent candidate for any
16 office for the reason that the person does not meet the
17 requirements of this section or because the nominating
18 petitions, if required, do not meet the requirements of Section
19 1-8-31 NMSA 1978 by filing a petition in the district court
20 within ten days after the last day for filing a declaration of
21 candidacy. The district court shall hear and render a decision
22 on the matter within ten days after the filing of the petition.
23 The decision of the district court may be appealed to the
24 supreme court within five days after the decision is rendered.
25 The supreme court shall hear and render a decision on the

.211327.3

underscored material = new
[bracketed material] = delete

1 appeal forthwith."

2 SECTION 96. Section 1-8-48 NMSA 1978 (being Laws 1977,
3 Chapter 322, Section 4, as amended) is amended to read:

4 "1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
5 STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--DECLARATION OF
6 INDEPENDENT CANDIDACY AND NOMINATING PETITION.--

7 A. Nomination as an independent candidate shall be
8 made by filing a declaration of independent candidacy and a
9 nominating petition with the proper filing officer.

10 B. In making a declaration of independent
11 candidacy, the candidate for an office other than that of
12 president or vice president shall submit a sworn statement in
13 the following form:

14 "DECLARATION OF INDEPENDENT CANDIDACY

15 I, _____ (candidate's
16 name), being first duly sworn, say that:

17 I reside at _____;

18 I did not designate any current affiliation
19 with a qualified political party on my certificate
20 of registration on or before the date of issuance of
21 the [~~governor's~~] secretary of state's general
22 election proclamation [~~for the primary election~~] in
23 the year of the general election at which I seek to
24 be a candidate;

25 I meet the qualifications listed in Section

underscored material = new
[bracketed material] = delete

1 1-8-45 NMSA 1978 for the office that I seek;

2 I desire to become a candidate for the office
3 of _____, District _____
4 at the general election to be held on the date set
5 by law for this year;

6 if the office I seek be a state or county
7 district office, I actually reside within the
8 district of the office for which I declare my
9 candidacy, and if the office I seek be a countywide
10 office, I actually reside in the county of the
11 office for which I declare my candidacy;

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

14 if a candidate for any office for which a
15 nominating petition is required, I am submitting
16 with this statement a nominating petition in the
17 form and manner as prescribed by the Election Code;
18 and

19 I make the foregoing affidavit under oath or
20 affirmation knowing that any false statement herein
21 constitutes a felony punishable under the criminal
22 laws of New Mexico.

23 _____
24 (Declarant)
25 _____

1 (Residence Address)

2 _____
3 (Mailing Address, if different)

4 Subscribed and sworn to or affirmed before me
5 this ____ day of _____, ____.
6 (month) (year)

7 _____
8 (Notary Public)

9 My commission expires:

10 _____".

11 C. The secretary of state shall prescribe and
12 furnish the form for the declaration of independent candidacy
13 for the office of president and vice president."

14 SECTION 97. Section 1-8-51 NMSA 1978 (being Laws 1977,
15 Chapter 322, Section 7, as amended) is amended to read:

16 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
17 STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--NOMINATING
18 PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

19 A. The basis of percentage for the total number of
20 votes cast in each instance referred to in this section shall
21 be the total vote cast for governor at the last preceding
22 general election at which a governor was elected.

23 B. Nominating petitions for an independent
24 candidate for president of the United States shall be signed by
25 a number of voters equal to [~~at least three percent of the~~

.211327.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~total number of votes cast in the state]~~ the number of
2 signatures required for nominating petitions for minor party
3 candidates for president of the United States.

4 C. Nominating petitions for an independent
5 candidate for United States senator or any other statewide
6 elective office shall be signed by a number of voters equal to
7 at least [~~three~~] two percent of the total number of votes cast
8 in the state.

9 D. Nominating petitions for an independent
10 candidate for United States representative shall be signed by a
11 number of voters equal to at least three percent of the total
12 number of votes cast in the district.

13 E. Nominating petitions for an independent
14 candidate for a member of the legislature, public regulation
15 commission, district judge, district attorney, member of the
16 [~~state board of~~] public education commission, magistrate or
17 county office shall be signed by a number of voters equal to at
18 least [~~three~~] two percent of the total number of votes cast in
19 the district, division or county, as the case may be.

20 F. When a vacancy for any office occurs on the
21 general election ballot pursuant to Section 1-8-7 or 1-8-8 NMSA
22 1978 in which all political parties may name a general election
23 candidate or when a vacancy occurs in the office of United
24 States representative pursuant to Section 1-15-18.1 NMSA 1978,
25 an independent candidate may file a declaration of candidacy on

.211327.3

underscored material = new
[bracketed material] = delete

1 or by the same deadline applicable to the political parties.
2 The nominating petitions for an independent candidate in such
3 circumstances shall be signed by the number of voters provided
4 in this section, unless there are fewer than:

5 (1) sixty days from the announcement of the
6 vacancy to the last day to file a declaration of candidacy, in
7 which case an independent candidate shall submit nominating
8 petitions signed by a number of voters equal to two-thirds the
9 number of voters otherwise required by this section for an
10 independent candidate; or

11 (2) thirty days from the announcement of the
12 vacancy to the last day to file a declaration of candidacy, in
13 which case an independent candidate shall submit nominating
14 petitions signed by a number of voters equal to one-third the
15 number of voters otherwise required by this section for an
16 independent candidate.

17 [~~F.~~] G. A voter shall not sign a petition for an
18 independent candidate as provided in this section if [~~he~~] the
19 voter has signed a petition for another independent candidate
20 for the same office."

21 SECTION 98. Section 1-10-4 NMSA 1978 (being Laws 1977,
22 Chapter 222, Section 27, as amended) is amended to read:

23 "1-10-4. BALLOTS--PREPARATION.--

24 A. In a primary election, not less than [~~sixty-~~
25 ~~three~~] sixty days before the [~~primary~~] election, each [~~proper~~

underscored material = new
[bracketed material] = delete

1 ~~filing officer~~ county clerk shall group ~~[all candidates for]~~
2 each candidate who has been qualified by a proper filing
3 officer and a space for any offices with a declared write-in
4 candidate, separated by political party ~~[by themselves]~~ and
5 ~~[prepare]~~ certify in writing a separate ballot for each
6 precinct in the county for each major political party ~~[and~~
7 ~~certify the candidates for each ballot position to the printer]~~
8 to be voted on at the primary election.

9 B. In a general election, not less than ~~[sixty-~~
10 ~~three]~~ sixty days before the ~~[general]~~ election, each ~~[proper~~
11 ~~filing officer]~~ county clerk shall ~~[prepare]~~ certify in writing
12 the ballot for each precinct in the county containing the name
13 of each candidate that has been certified ~~[and filed]~~ as the
14 nominee of a qualified political party, each unaffiliated
15 candidate who has been qualified by a proper filing officer, a
16 space for any offices with a declared write-in candidate and
17 any ~~[constitutional amendments, questions or other propositions~~
18 ~~that are to be voted on and certify all such information to the~~
19 ~~ballot printer. A copy of each certification shall be kept on~~
20 ~~file in the office of the secretary of state.~~

21 ~~G.]~~ ballot questions to be voted on at the general
22 election.

23 C. In a regular local election, not less than sixty
24 days before the election, each county clerk shall certify in
25 writing the ballot for each precinct in the county containing

underscored material = new
[bracketed material] = delete

1 the name of each candidate who has been qualified by a proper
2 filing officer, a space for any offices with a declared
3 write-in candidate and any ballot questions to be voted on at
4 the regular local election.

5 D. In a special local election, not less than sixty
6 days before the election, each county clerk shall certify in
7 writing the ballot for each precinct in the county containing
8 any ballot questions to be voted on at the special election.

9 E. In a special state election, not less than sixty
10 days before the election, the secretary of state shall certify
11 in writing the ballot containing any ballot questions to be
12 voted on at the special state election.

13 F. In an election to fill a vacancy in the office
14 of United States representative and except as provided in
15 Subsection G of this section, not less than fifty-three days
16 before the election, the secretary of state shall certify in
17 writing the ballot containing the name of each candidate that
18 has been certified as the nominee of a qualified political
19 party, each unaffiliated candidate who has been qualified and a
20 space for any declared write-in candidate to be voted on at the
21 election to fill a vacancy in the office of United States
22 representative.

23 G. In an election to fill a vacancy in the office
24 of United States representative in extraordinary circumstances
25 pursuant to 2 U.S.C. Section 8(b), not more than seventeen days

.211327.3

underscored material = new
[bracketed material] = delete

1 after the announcement of a vacancy in the office of United
2 States representative, the secretary of state shall certify in
3 writing the ballot containing the name of each candidate that
4 has been certified as the nominee of a qualified political
5 party, each unaffiliated candidate who has been qualified and a
6 space for any declared write-in candidate to be voted on at the
7 election to fill a vacancy in the office of United States
8 representative.

9 H. On the date specified for each election in this
10 section, each ballot certified pursuant to this section shall
11 be sent to the ballot printer or other person preparing the
12 ballot for use by voters and sent to the secretary of state to
13 keep on file for twelve months, after which the certified
14 ballot shall be transferred to be a permanent record at the
15 state records center. Upon request of the county chair of a
16 political party participating in [~~the~~] a partisan election, the
17 county clerk shall furnish proof sheets or a copy of the proof
18 sheets of the certified ballot as soon as they become
19 available."

20 **SECTION 99.** Section 1-10-5 NMSA 1978 (being Laws 1977,
21 Chapter 222, Section 28, as amended) is amended to read:

22 "1-10-5. BALLOTS--PRINTING.--The county clerk shall have
23 access to sufficient ballots to send to federal qualified
24 electors no later than the last business day before the forty-
25 fifth day prior to an election. All other pre-printed ballots

.211327.3

underscored material = new
[bracketed material] = delete

1 shall be [~~printed and~~] in the possession of the county clerk at
2 least forty days before the election. When a county is using a
3 system that is designed to print ballots at a polling location,
4 the system shall be programmed and capable of operation at
5 least forty days before the election."

6 SECTION 100. Section 1-10-6 NMSA 1978 (being Laws 1977,
7 Chapter 222, Section 29, as amended by Laws 1993, Chapter 314,
8 Section 52 and also by Laws 1993, Chapter 316, Section 52) is
9 amended to read:

10 "1-10-6. BALLOTS--NAME TO BE PRINTED--~~[CANDIDATES WITH]~~
11 SIMILAR NAMES--NAMES NOT TO BE PRINTED.--

12 A. In the preparation of ballots for a statewide
13 election, [~~A.~~] the candidate's name shall be printed on the
14 ballot as it appears on the candidate's certificate of
15 registration that is on file in the county clerk's office on
16 the day [~~the governor~~] the secretary of state issues the
17 proclamation for [~~the primary~~] that election; [~~and~~] provided
18 that:

19 (1) the last name printed on the ballot shall
20 match the candidate's legal last name;

21 (2) academic, honorific and elected titles
22 shall not be printed;

23 (3) periods after initials shall not be
24 printed;

25 (4) punctuation common to names, other than a

underscored material = new
[bracketed material] = delete

1 period, shall be printed as it appears on the candidate's
2 certificate of registration; and

3 (5) only letters and punctuation used in roman
4 typefaces shall be printed.

5 B. If it appears that the names of two or more
6 candidates for any office to be voted on at the election are
7 the same or are so similar as to tend to confuse the voter as
8 to the candidates' identities, the occupation and, [~~post-office~~
9 ~~address~~] if further differentiation is necessary, the year of
10 birth, of each such candidate shall be printed immediately
11 under the candidate's name on the ballot.

12 C. A candidate's name shall not be printed on the
13 ballot if at least seventy days before a general election,
14 sixty-three days before a primary election or regular local
15 election or seven days after the filing day for declarations of
16 candidacy for any other election:

17 (1) the candidate files with the proper filing
18 officer a signed and notarized statement of withdrawal as a
19 candidate in that election;

20 (2) a judicial determination is made that the
21 candidate does not qualify to be a candidate for the office
22 sought;

23 (3) the voter registration of the candidate is
24 updated by the candidate in such manner that the candidate does
25 not qualify to be a candidate for the office sought; or

.211327.3

underscored material = new
[bracketed material] = delete

1 (4) the voter registration of the candidate is
2 canceled for any reason provided in Chapter 1, Article 4 NMSA
3 1978."

4 SECTION 101. Section 1-10-7 NMSA 1978 (being Laws 1977,
5 Chapter 222, Section 30, as amended) is amended to read:

6 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
7 EXCEPTIONS.--~~[Except in the case of a candidate for United~~
8 ~~States senate or United States representative who is also a~~
9 ~~candidate for president or vice president of the United States]~~

10 A. In a primary or general election, no candidate's
11 name shall appear more than once on the ballot, [Whenever a
12 person is, with his knowledge and consent, a candidate at any
13 nominating convention or primary for nomination as the
14 candidate of any political party for any office to be voted on
15 at the election to be held next after such convention or
16 primary, his name shall not be printed on the ballot at such
17 election except in the column under the party name and emblem
18 of the party designated on his declaration of candidacy or
19 statement of candidacy for convention designation] except in
20 the case of a candidate who is also a candidate for president
21 or vice president of the United States.

22 B. In a regular local election, a candidate's name:

23 (1) shall not appear more than once to be
24 elected to any position with the same local government; and

25 (2) may appear more than once to be elected to

1 any position with different local governments."

2 SECTION 102. Section 1-10-8 NMSA 1978 (being Laws 1977,
3 Chapter 222, Section 31, as amended) is repealed and a new
4 Section 1-10-8 NMSA 1978 is enacted to read:

5 "1-10-8. [NEW MATERIAL] BALLOTS--ORDER OF OFFICES AND
6 BALLOT QUESTIONS.--

7 A. In the year in which the president of the United
8 States is elected, the ballot in a primary election and general
9 election shall contain, when applicable, partisan offices to be
10 voted on in the following order:

- 11 (1) in a presidential primary, president;
- 12 (2) in a general election, president and vice
13 president as a ticket;
- 14 (3) United States senator;
- 15 (4) United States representative;
- 16 (5) state senator;
- 17 (6) state representative;
- 18 (7) supreme court;
- 19 (8) court of appeals;
- 20 (9) public regulation commission districts
21 with odd-numbered designations;
- 22 (10) public education commission districts
23 with odd-numbered designations;
- 24 (11) district court;
- 25 (12) metropolitan court;

.211327.3

- 1 (13) county clerk;
- 2 (14) county treasurer; and
- 3 (15) county commission districts and positions
- 4 with odd-numbered designations.

5 B. In the year in which the governor is elected,
6 the ballot in a primary election and general election shall
7 contain, when applicable, partisan offices to be voted on in
8 the following order:

- 9 (1) United States senator;
- 10 (2) United States representative;
- 11 (3) in a major political party primary,
- 12 governor;
- 13 (4) in a major political party primary,
- 14 lieutenant governor;
- 15 (5) in a general election, governor and
- 16 lieutenant governor as a ticket;
- 17 (6) secretary of state;
- 18 (7) attorney general;
- 19 (8) state auditor;
- 20 (9) state treasurer;
- 21 (10) commissioner of public lands;
- 22 (11) state representative;
- 23 (12) supreme court;
- 24 (13) court of appeals;
- 25 (14) public regulation commission districts

1 with even-numbered designations;

2 (15) public education commission districts

3 with even-numbered designations;

4 (16) district court;

5 (17) district attorney;

6 (18) metropolitan court;

7 (19) magistrate court;

8 (20) county sheriff;

9 (21) county assessor;

10 (22) county commission districts and positions

11 with even-numbered designations; and

12 (23) probate judge.

13 C. The ballot in a regular local election shall
14 contain, when applicable, nonpartisan offices to be voted on in
15 the following order:

16 (1) municipal, with elective executive
17 officers listed first, governing board members listed second
18 and judicial officers listed third;

19 (2) board of education of a school district;

20 (3) community college, branch community
21 college, technical and vocational institute district or
22 learning center district; and

23 (4) special districts listed in order by
24 voting population of each special district, with the most
25 populous listed first and the least populous listed last.

.211327.3

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

1 D. The ballot in a statewide election shall
2 contain, when applicable, nonpartisan judicial retention and in
3 a statewide or special election, when applicable, ballot
4 questions to be voted on in the following order, unless a
5 different order is prescribed by the secretary of state:

- 6 (1) judicial retention;
 - 7 (2) proposed state constitutional amendments;
 - 8 (3) other state ballot questions;
 - 9 (4) county ballot questions; and
 - 10 (5) local government ballot questions listed
- 11 in the same order as the list of local governments in
12 Subsection C of this section.

13 E. When multiple positions for the same nonjudicial
14 office are listed on the same ballot and each position is to be
15 elected individually:

- 16 (1) offices designated by district number
- 17 shall appear on the ballot in ascending numerical order of the
18 districts;
- 19 (2) offices not designated by district number
- 20 shall appear on the ballot in ascending numerical order of the
21 position; provided that the secretary of state shall
22 numerically designate the positions on the ballot as "position
23 one", "position two" and such additional consecutively numbered
24 positions as are necessary, and only one member shall be
25 elected for each position; and

.211327.3

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

1 (3) whenever two or more positions for the
2 same office are to be elected to represent the same area with
3 terms of different lengths of time, the secretary of state
4 shall first group the offices with the shorter length of time
5 and shall designate each position with "for a term expiring
6 ___", specifying the date the term expires.

7 F. When multiple positions for the same judicial
8 office are listed on the same ballot and each position is to be
9 elected or voted on individually:

10 (1) district, metropolitan and magistrate
11 court positions, either for partisan election or for
12 nonpartisan judicial retention, shall appear on the ballot in
13 ascending numerical order of the division number assigned to
14 each position;

15 (2) supreme court and court of appeals for
16 partisan election shall appear on the ballot in ascending
17 numerical order of the position number designated by the
18 secretary of state for that election, based on the date of the
19 vacancy causing the position to be listed on the ballot;
20 provided that if multiple vacancies occurred on the same day,
21 the positions shall appear on the ballot based on the order of
22 seniority of the justice or judge who vacated the position,
23 with the highest seniority listed first; and

24 (3) supreme court and court of appeals for
25 nonpartisan judicial retention shall appear on the ballot in

.211327.3

underscored material = new
[bracketed material] = delete

1 ascending numerical order of the position number designated by
2 the secretary of state for that election, based on the
3 seniority of the justice or judge seeking retention, with the
4 highest seniority listed first."

5 SECTION 103. Section 1-10-8.1 NMSA 1978 (being Laws 1981,
6 Chapter 166, Section 1, as amended) is amended to read:

7 "1-10-8.1. ~~[GENERAL ELECTION]~~ BALLOTS--ORDER OF CANDIDATE
8 NAMES--PARTY POSITION ON BALLOT.--

9 ~~[A. The order of preference for position on the~~
10 ~~ballots of the candidates of political parties in the general~~
11 ~~election shall be determined by lot at the time and in the~~
12 ~~manner prescribed by the secretary of state.~~

13 ~~B. When electronic vote recording and tabulating~~
14 ~~machines or electronic vote tabulating machines are used, the~~
15 ~~offices and candidates shall be printed on the ballot in a~~
16 ~~vertical position with the order of preference being from top~~
17 ~~to bottom.~~

18 ~~C. When paper ballots are used in a general~~
19 ~~election, such ballots shall be printed and bound so that the~~
20 ~~ballots for each precinct shall reflect the actual positioning~~
21 ~~of parties as they appear on all ballots in that precinct.~~

22 ~~D. The secretary of state shall prescribe~~
23 ~~procedures and publish instructions to carry out the provisions~~
24 ~~of this section.]~~

25 A. Except as provided in this section, the order of

underscored material = new
[bracketed material] = delete

1 candidates for the same office in a statewide election shall be
2 determined using a randomization method provided by rule based
3 on candidate name or determined by lot.

4 B. In a general election, the order of candidates
5 for the same office shall be determined using a randomization
6 method provided by rule based on political party or candidate
7 name or determined by lot.

8 C. Candidates designated and certified by state
9 convention pursuant to Section 1-8-21.1 NMSA 1978 shall be
10 placed on the respective political party primary ballot before
11 other candidates for the same office in descending order of the
12 vote received at the applicable state convention; provided that
13 the order of names on the respective political party primary
14 ballot of two or more candidates receiving an equal number of
15 votes for designation by convention for the same office shall
16 be determined using a randomization method provided by rule
17 based on candidate name or determined by lot."

18 SECTION 104. Section 1-10-13 NMSA 1978 (being Laws 1977,
19 Chapter 222, Section 50, as amended) is amended to read:

20 "1-10-13. [~~PAPER~~] BALLOTS--WRITE-IN CANDIDATES.--When a
21 write-in candidate has been [~~certified~~] qualified by the proper
22 filing officer pursuant to the Election Code:

23 A. a space for entering the name of the write-in
24 candidate shall be clearly designated by the use of the heading
25 "Declared Write-in Candidate" after the listing of other

.211327.3

underscored material = new
[bracketed material] = delete

1 candidates for that office; and

2 B. the write-in candidate's name shall not be pre-
3 printed on the ballot, nor displayed or otherwise provided in
4 any polling place by any election official or member of an
5 election board."

6 SECTION 105. Section 1-11-1 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 211) is amended to read:

8 "1-11-1. NOTICE OF ELECTION [~~PROCLAMATION~~].--The county
9 clerk shall, at least [~~twelve~~] twenty-one days prior to [~~any~~
10 ~~county or~~] a statewide election, give notice of the election
11 [~~by proclamation~~]."

12 SECTION 106. Section 1-11-2 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 212, as amended) is amended to read:

14 "1-11-2. NOTICE OF ELECTION--CONTENTS [~~OF~~
15 ~~PROCLAMATION~~].--The [~~proclamation~~] notice of election shall, as
16 applicable:

17 A. give notice of the election;

18 B. set forth the purpose of the election;

19 C. list the ballot question or questions to be
20 voted on by voters of any precinct of the county other than
21 those questions that have been published by the secretary of
22 state;

23 D. list the final day and time when absentee or
24 mailed ballots will be accepted by the county clerk; and

25 E. for a statewide election:

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[G.]~~ (1) list the offices to be filled by
2 voters of any precinct of the county;

3 ~~[D.]~~ (2) list all ~~[properly certified]~~
4 qualified candidates ~~[and]~~ for those offices whose names shall
5 appear on the ballot and, except in the case of a regular local
6 election, list their party affiliation; ~~[for each of the~~
7 ~~offices to be filled;~~

8 ~~E.]~~ (3) list all ~~[properly certified]~~
9 qualified candidates for nonpartisan judicial retention;

10 ~~[F.]~~ (4) list all ~~[properly]~~ qualified
11 declared write-in candidates for each of the offices to be
12 filled; and

13 ~~[G. list the names of all precinct board members,~~
14 ~~the polling location and the precinct, if applicable, to which~~
15 ~~they are appointed; and~~

16 ~~H.]~~ (5) give the address or location ~~[of each~~
17 ~~polling place and alternate voting location]~~ and the hours of
18 operation where the election is to be held at:

19 (a) the office of the county clerk;

20 (b) each alternate voting location and
21 mobile alternate voting location; and

22 (c) each election day polling place."

23 SECTION 107. Section 1-11-3 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 213, as amended) is amended to read:

25 "1-11-3. ~~[PROCLAMATION]~~ NOTICE OF ELECTION--PUBLICATION--

.211327.3

underscored material = new
[bracketed material] = delete

1 POSTING.--

2 A. The [~~proclamation~~] notice of election shall be
3 published at least once, not more than [~~twelve~~] twenty-one nor
4 less than seven days before election day.

5 B. The [~~proclamation~~] notice of election shall be
6 published in a legal newspaper as [~~defined by~~] provided in
7 Section 14-11-2 NMSA 1978.

8 C. If no legal newspaper is published in the
9 county, the [~~proclamation~~] notice of election shall be
10 published in a legal newspaper of general circulation in the
11 county.

12 D. [~~A copy of the proclamation shall be posted in a~~
13 ~~public building~~] The county clerk shall post the notice of
14 election beginning no later than twenty days before the
15 election. The county clerk shall also place on the county
16 website the proclamation for the election or provide a link to
17 the proclamation posted on the secretary of state's website.

18 E. The [~~proclamation~~] notice of election shall be
19 printed in English and Spanish.

20 F. The [~~proclamation~~] notice of election shall be
21 broadcast on a radio station in the appropriate Native American
22 languages in those counties affected by the federal Voting
23 Rights Act of 1965, as amended."

24 SECTION 108. Section 1-11-4 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 214) is amended to read:

.211327.3

underscored material = new
[bracketed material] = delete

1 "1-11-4. [~~PROCLAMATION~~] NOTICE OF ELECTION--ERRORS AND
2 OMISSIONS.--

3 A. The county clerk may amend the [~~proclamation~~]
4 notice of election between the time of its issuance and the day
5 of election to provide for any corrections or to supply any
6 omissions.

7 B. Upon petition of any voter that an error or
8 omission has occurred in the [~~proclamation~~] notice of election,
9 the district court may forthwith order the county clerk to
10 correct the error or to supply the omission or immediately show
11 cause why the error should not be corrected or the omission
12 should not be supplied."

13 SECTION 109. Section 1-22-20 NMSA 1978 (being Laws 2018,
14 Chapter 79, Section 33) is recompiled in Chapter 1, Article 11
15 NMSA 1978 and is amended to read:

16 "COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--~~[LOCAL]~~
17 ELECTION FUND ESTABLISHED.--

18 A. There is created in the state treasury the
19 "~~[local]~~ election fund" solely for the purposes of:

20 (1) paying the costs of conducting and
21 administering statewide elections required by the Election
22 Code;

23 [~~(1)~~] (2) reimbursing the counties for the
24 costs of conducting and administering [~~regular local~~] statewide
25 elections required by the [~~Local Election Act~~] Election Code;

.211327.3

underscored material = new
[bracketed material] = delete

1 [~~(2)~~] (3) paying the administrative costs of
2 the office of the secretary of state for administering
3 elections required by the [~~Local Election Act~~] Election Code
4 and for administering the [~~local~~] election fund; and

5 [~~(3)~~] (4) carrying out all other specified
6 provisions of the [~~Local Election Act~~] Election Code not
7 already covered by another fund administered by the secretary
8 of state.

9 B. The state treasurer shall invest the [~~local~~]
10 election fund as other state funds are invested, and all income
11 derived from the fund shall be credited directly to the fund.
12 Remaining balances at the end of a fiscal year shall remain in
13 the fund and not revert to the general fund. Money in the fund
14 shall only be expended on warrants of the department of finance
15 and administration pursuant to vouchers signed by the secretary
16 of state or the secretary's designee.

17 C. Money received from the following sources shall
18 be deposited directly into the [~~local~~] election fund:

19 [~~(1) annual assessments imposed on local~~
20 ~~governments pursuant to Subsection F of this section; and~~

21 ~~(2)]~~ (1) money appropriated to the fund by the
22 legislature;

23 [~~D. Money in the local election fund is~~
24 ~~appropriated to the secretary of state for the purposes~~
25 ~~authorized in Subsection A of this section and for distribution~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~to the counties for reimbursement of reasonable costs~~
2 ~~associated with conducting and administering regular local~~
3 ~~elections required by the Local Election Act. Money in the~~
4 ~~fund shall only be expended on warrants of the department of~~
5 ~~finance and administration pursuant to vouchers signed by the~~
6 ~~secretary of state or the secretary's designee] and~~

7 (2) grants received by the secretary of state.

8 [E.] D. In the event that current year balances in
9 the [~~local~~] election fund do not cover the costs of [~~local~~]
10 elections, the secretary of state may apply to the state board
11 of finance for an emergency grant to cover those costs pursuant
12 to Section 6-1-2 NMSA 1978.

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

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~dollars (\$1,000,000) or minor fraction thereof of the local~~
2 ~~government's general fund expenditures; provided that:~~

3 ~~(1) for a municipality that adopts an~~
4 ~~ordinance pursuant to Section 1-22-16 NMSA 1978 to have a top-~~
5 ~~two runoff election, the annual assessment shall be equal to~~
6 ~~five hundred dollars (\$500) per one million dollars~~
7 ~~(\$1,000,000) or minor fraction thereof of the municipality's~~
8 ~~general fund expenditures; and~~

9 ~~(2) no assessment shall be paid by a local~~
10 ~~government with general fund expenditures less than one hundred~~
11 ~~thousand dollars (\$100,000).]"~~

12 SECTION 110. Section 1-12-12 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 265, as amended) is amended to read:

14 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
15 ASSISTANCE.--A voter may request assistance in voting only if
16 the voter:

- 17 A. is blind;
- 18 B. is physically disabled;
- 19 C. is unable to read or write;
- 20 D. is a member of a language minority who has an
- 21 inability to read well enough to exercise the elective
- 22 franchise; or
- 23 E. requires assistance in operating the voting
- 24 system provided for voting access for people with
- 25 disabilities."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 111. Section 1-12-19.1 NMSA 1978 (being Laws
2 1981, Chapter 156, Section 2, as amended by Laws 2014, Chapter
3 40, Section 9 and by Laws 2014, Chapter 81, Section 9) is
4 amended to read:

5 "1-12-19.1. GENERAL ELECTIONS [~~SPECIAL ELECTIONS~~]-WRITE-
6 IN CANDIDATES.--

7 A. A person desiring to be a write-in candidate in
8 a general election shall file with the proper filing officer
9 between 9:00 a.m. and 5:00 p.m. on the twenty-third day after
10 the primary election a declaration of intent to be a write-in
11 candidate. [~~A person desiring to be a write-in candidate in a
12 special election for United States representative or a
13 statewide special election shall file with the proper filing
14 officer between 9:00 a.m. and 5:00 p.m. on the sixty-third day
15 immediately preceding the election a declaration of intent to
16 be a write-in candidate.]~~

17 B. The form of the declaration of intent shall be
18 prescribed by the secretary of state and shall contain a sworn
19 statement by the [~~candidate~~] person that the [~~candidate~~] person
20 is qualified to be a candidate for and to hold the office for
21 which the [~~candidate~~] person is filing.

22 C. At the time of filing the declaration of intent
23 to be a write-in candidate, the write-in candidate shall be
24 considered a candidate for all purposes and provisions relating
25 to candidates in the Election Code, including the obligation to

.211327.3

underscored material = new
[bracketed material] = delete

1 report under the Campaign Reporting Act, except that the
2 candidate shall not be entitled to have the candidate's name
3 printed on the ballot.

4 D. The secretary of state shall, not more than ten
5 days after the filing date, certify the names of the declared
6 write-in candidates to the county clerks of every county
7 affected by such candidacy.

8 E. No person shall be a write-in candidate in the
9 general election who was a candidate or who filed a declaration
10 of candidacy in the primary election immediately prior to the
11 general election. A write-in candidate for governor or
12 lieutenant governor in the general election shall have a
13 companion write-in candidate, and they shall be candidates to
14 be elected jointly by the casting by a voter of a single vote
15 applicable to both offices.

16 ~~[F. A vote for a write-in candidate shall be~~
17 ~~counted and canvassed only if:~~

18 ~~(1) the name written in is the name of a~~
19 ~~declared write-in candidate and shows two initials and last~~
20 ~~name; first name, middle initial or name and last name; first~~
21 ~~and last name; or the full name as it appears on the~~
22 ~~declaration of intent to be a write-in candidate and~~
23 ~~misspellings of the above combinations that can be reasonably~~
24 ~~determined by a majority of the members of the precinct board~~
25 ~~to identify a declared write-in candidate; and~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~(2) the name is written in the proper office~~
2 ~~on the proper line provided on the ballot for write-in votes~~
3 ~~for the office for which the candidate has filed a declaration~~
4 ~~of intent and the voter has followed the directions for casting~~
5 ~~a vote for the write-in candidate.~~

6 ~~G. No unopposed write-in candidate shall have an~~
7 ~~election certified unless the candidate receives at least the~~
8 ~~number of write-in votes equal to two percent of the total vote~~
9 ~~in the state, district or county in which the candidate seeks~~
10 ~~election that were cast for governor in the last preceding~~
11 ~~general election in which a governor was elected.~~

12 ~~H. A write-in vote shall be cast by writing in the~~
13 ~~name. As used in this section, "write-in" does not include the~~
14 ~~imprinting of any name by rubber stamp or similar device or the~~
15 ~~use of preprinted stickers or labels.]"~~

16 SECTION 112. Section 1-12-25.4 NMSA 1978 (being Laws
17 2003, Chapter 356, Section 7, as amended) is amended to read:

18 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

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

underscored material = new
[bracketed material] = delete

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

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

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

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

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

.211327.3

underscored material = new
[bracketed material] = delete

1 H. The county clerk shall maintain a provisional
2 ballot register that shall be in the same form and made
3 available in the same manner as the absentee ballot register
4 and the mailed ballot register. The county [~~canvassing board~~]
5 clerk shall prepare a tally displaying the number of
6 provisional paper ballots received, the number found valid and
7 counted, the number rejected and not counted and the reason for
8 not counting the ballots as part of the canvassing process and
9 forward it to the secretary of state immediately upon
10 certification of the election.

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

15 SECTION 113. Section 1-12-31 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 291, as amended) is amended to read:

17 "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT
18 BOXES AND OTHER ELECTION MATERIALS.--

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

- 23 (1) one ballot box key in an envelope
24 addressed to the county clerk;
25 (2) one signature roster;

.211327.3

underscored material = new
[bracketed material] = delete

1 (3) one [~~tally sheet; and~~] certificate of
2 returns for the polling place;

3 (4) the envelope containing any provisional
4 paper ballots cast at the polling place;

5 (5) the envelope containing any absentee or
6 mailed ballots delivered to the polling place by the voter or
7 an immediate family member of the voter;

8 (6) the envelope containing paper ballots that
9 were not tabulated by the electronic vote tabulator;

10 (7) the envelope containing machine-tabulated
11 paper ballots with write-in votes; and

12 [~~4~~] (8) all unused election supplies not
13 destroyed pursuant to the Election Code.

14 B. The removable media storage device shall not be
15 placed in the ballot box and shall be returned immediately to
16 the county clerk either by messenger or along with the locked
17 ballot box.

18 C. The election judge of the party different from
19 that of the presiding judge shall place the other ballot box
20 key in the envelope addressed to the district court and
21 immediately mail it to the district court."

22 SECTION 114. Section 1-12-57 NMSA 1978 (being Laws 1977,
23 Chapter 222, Section 60, as amended) is amended to read:

24 "1-12-57. PAPER BALLOTS--PROCEDURE AFTER MARKING.--After
25 marking and preparing a paper ballot in a polling place [~~or~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~alternate voting location~~], the voter:

2 A. shall not show it to any person in the polling
3 place in such a way as to reveal its contents; and

4 B. shall feed the paper ballot into the electronic
5 vote tabulator."

6 SECTION 115. Section 1-12-59 NMSA 1978 (being Laws 1977,
7 Chapter 222, Section 62, as amended) is amended to read:

8 "1-12-59. VIEWING MARKED PAPER BALLOT.--

9 A. A voter may, on the voter's own initiative and
10 using whatever form of communication or media chosen by the
11 voter, voluntarily communicate any information regarding:

12 (1) the name of any candidate in a candidate
13 contest for whom the voter voted or for whom the voter
14 abstained from voting;

15 (2) the affirmative or negative vote cast by
16 the voter on a ballot question or nonpartisan judicial
17 retention election; or

18 (3) any other information regarding the manner
19 in which a voter marked a paper ballot in an election.

20 B. No person shall solicit [the] a voter to show
21 the voter's marked paper ballot or coerce a voter to reveal any
22 of the information listed in Subsection A of this section.

23 C. No person shall disclose without the consent of
24 the voter any of the information listed in Subsection A of this
25 section.

.211327.3

underscored material = new
[bracketed material] = delete

1 D. A violation of Subsection B or C of this section
2 may constitute the crime of offering a bribe, coercion of
3 employees, coercion of voters, intimidation or conspiracy to
4 violate the Election Code."

5 SECTION 116. Section 1-12-65 NMSA 1978 (being Laws 1977,
6 Chapter 222, Section 68, as amended) is amended to read:

7 "1-12-65. EMERGENCY SITUATIONS--PAPER BALLOTS--COUNTING
8 AND TALLYING PROCEDURES.--

9 A. The presiding judge and the election judges,
10 assisted by the election clerks, shall count ~~[and tally]~~ the
11 number of paper ballots that were not tabulated by the
12 electronic vote tabulator, ~~[and certify the results of the~~
13 ~~election on the form on the tally sheet setting opposite the~~
14 ~~name of each candidate in figures the total number of votes~~
15 ~~cast for the candidate, and they shall set forth in the spaces~~
16 ~~provided therefor the total number of votes cast for and~~
17 ~~against each constitutional amendment and other questions.~~
18 ~~Paper ballots not marked as required by the Election Code shall~~
19 ~~not be counted. The precinct board shall sign the tally sheet~~
20 ~~certificate]~~ write the number of such ballots on each copy of
21 the certificate of returns for that polling place and place the
22 paper ballots that were not tabulated by the electronic vote
23 tabulator in an envelope provided for that purpose. The
24 envelope shall not be locked in the ballot box but shall
25 instead be transmitted directly to the county clerk for

.211327.3

underscored material = new
[bracketed material] = delete

1 machine-tabulation or hand-tallying of the ballots.

2 B. The presiding judge and the election judges,
3 assisted by the election clerks, shall count the number of
4 machine-tabulated paper ballots with write-in votes, write the
5 number of such ballots on each copy of the certificate of
6 returns for that polling place and place those paper ballots
7 with write-in votes in an envelope provided for that purpose.
8 The envelope shall not be locked in the ballot box but shall
9 instead be transmitted directly to the county clerk for manual
10 counting of the write-in votes.

11 ~~[B.]~~ C. The ~~[counting and]~~ tallying of paper
12 ballots ~~[in emergency situations]~~ that were not tabulated by
13 the electronic vote tabulator at the polling place and the
14 counting of ballots with write-in votes shall be in accordance
15 with procedures prescribed by the secretary of state."

16 SECTION 117. Section 1-12-66 NMSA 1978 (being Laws 1977,
17 Chapter 222, Section 69, as amended) is amended to read:

18 "1-12-66. PAPER BALLOTS--SIGNATURE ROSTERS, CHECKLIST OF
19 VOTERS AND TALLY SHEETS--DISPOSITION.--

20 A. After ~~[the counting and tallying of paper~~
21 ~~ballots are completed and after]~~ all certificates have been
22 executed, the presiding judge and the two election judges shall
23 place the checklist of voters and one copy of the ~~[tally sheet]~~
24 certificate of returns in that polling place in the stamped,
25 addressed envelope provided for that purpose and an election

.211327.3

underscored material = new
[bracketed material] = delete

1 judge shall immediately mail it to the secretary of state.

2 B. The signature roster and the original [~~tally~~
3 ~~sheet~~] certificate of returns in that polling place shall be
4 returned to the county clerk. The signature roster and the
5 [~~tally sheet~~] certificate of returns shall not be placed in the
6 ballot box.

7 C. Signature rosters, checklists of registered
8 voters, certificates of returns and tally sheets in the custody
9 of the county clerk and the secretary of state may be destroyed
10 only pursuant to Section 1-12-69 NMSA 1978."

11 SECTION 118. Section 1-12-67 NMSA 1978 (being Laws 1977,
12 Chapter 222, Section 70, as amended) is amended to read:

13 "1-12-67. PAPER BALLOTS TO BE PLACED IN BALLOT BOX.--
14 After [~~the paper ballots are tallied, the precinct~~] all
15 certificates have been executed, the election board shall place
16 the bundles of [counted] tabulated paper ballots in the ballot
17 box and the ballot box shall be closed and locked."

18 SECTION 119. Section 1-13-1 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 303) is amended to read:

20 "1-13-1. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD.--

21 A. The board of county commissioners is ex officio
22 the county canvassing board in each county.

23 B. The board of county commissioners may designate
24 the board of registration to serve as the county canvassing
25 board for the county. The designation shall be made in the

.211327.3

underscored material = new
[bracketed material] = delete

1 polling place resolution adopted pursuant to Section 1-3-2 NMSA
2 1978 and is valid for all statewide and special elections
3 conducted within the county until the expiration of the
4 resolution."

5 SECTION 120. Section 1-13-4 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 306, as amended) is amended to read:

7 "1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--METHOD.--
8 The county [~~canvassing board~~] clerk shall:

9 A. prepare the report of the canvass of the
10 election returns by carefully examining [such] the returns of
11 each precinct to ascertain if they contain the properly
12 executed certificates required by the Election Code and to
13 ascertain whether any discrepancy, omission or error appears on
14 the face of the election returns; and

15 B. present the report of the canvass to the county
16 canvassing board for the board's consideration and approval."

17 SECTION 121. Section 1-13-12 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 315) is amended to read:

19 "1-13-12. POST-ELECTION DUTIES--MANDAMUS TO COMPEL
20 CANVASS.--

21 [~~A. The county canvassing board shall not adjourn~~
22 ~~until it has canvassed all the returns of the election.~~

23 B.] The district court, upon petition of any
24 [~~qualified elector~~] voter, may issue a writ of mandamus to the
25 county canvassing board to compel it to approve the report of

.211327.3

underscored material = new
[bracketed material] = delete

1 the county canvass [~~declare~~] and certify the election returns."

2 SECTION 122. Section 1-13-13 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 316, as amended) is amended to read:

4 "1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--
5 CERTIFYING RESULTS.--

6 A. The county canvassing board shall [~~complete~~]
7 meet to approve the report of the canvass of the returns and
8 declare the results [~~within~~] no sooner than six days and no
9 later than ten days from the date of the election. A county
10 canvassing board in a county with more than [~~two~~] one hundred
11 fifty thousand voters shall [~~complete~~] meet to approve the
12 report of the canvass of the returns and declare the results
13 [~~within~~] no sooner than six days and no later than thirteen
14 days from the date of the election.

15 B. The county canvassing board, immediately upon
16 approval of the report of the canvass of the returns of an
17 election, shall issue a certificate of canvass of the results
18 of the election and send one copy of the certified results to:

19 (1) the county clerk;
20 (2) each local governing body with a candidate
21 or ballot question receiving votes from any precinct in the
22 county;

23 (3) the secretary of state;
24 (4) the state records center;
25 (5) the state canvassing board, in the case of

underscored material = new
[bracketed material] = delete

1 a statewide election or a special state election and the
2 results are for candidates or ballot questions voted on by the
3 voters of more than one county; and

4 (6) in the case of a municipality whose laws
5 provide for a top-two runoff, the municipality and the county
6 clerk, if the results indicate the need for a top-two runoff
7 election.

8 ~~[B.]~~ C. On the thirty-first day after any primary
9 or general ~~[or district special]~~ election, the ~~[county~~
10 ~~canvassing board]~~ secretary of state shall issue to those
11 candidates entitled by law election certificates, or
12 certificate of nomination in the case of the primary election,
13 to all county officers, magistrates and to members of the
14 legislature elected from districts wholly within the county.
15 In addition, the county canvassing board, immediately after
16 completion of the canvass, shall declare the results
17 ~~[immediately after completion of the canvass]~~ of the election
18 and of all ballot questions affecting only precincts within the
19 county.

20 ~~[G. The county canvassing board, immediately after~~
21 ~~completion of the canvass, shall also certify to the state~~
22 ~~canvassing board the number of votes cast for all other~~
23 ~~candidates and questions respectively and shall immediately~~
24 ~~deliver to the county chair of each political party that~~
25 ~~participated in the election a certificate showing the total~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~number of votes cast for each candidate in the election in the~~
2 ~~county.]"~~

3 SECTION 123. Section 1-13-15 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 318, as amended) is amended to read:

5 "1-13-15. POST-ELECTION DUTIES--STATEWIDE ELECTION--STATE
6 CANVASS.--

7 A. The state canvassing board shall meet in the
8 state capitol on the third Tuesday after each statewide
9 election and proceed to approve the report of the canvass and
10 declare the results of the election or nomination of each
11 candidate voted upon by the entire state and by the voters of
12 more than one county.

13 B. The state canvassing board shall also meet in
14 the state capitol on the third Tuesday after each statewide
15 election or special state election to approve the report of the
16 canvass and declare the result of the vote on any
17 constitutional amendment or any ballot question voted upon by
18 the voters of more than one county.

19 C. Upon the completion of the state canvass, the
20 secretary of state shall notify each county clerk of that
21 fact."

22 SECTION 124. Section 1-13-16 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 319, as amended) is amended to read:

24 "1-13-16. POST-ELECTION DUTIES--~~[STATE CANVASS METHOD]~~
25 SECRETARY OF STATE DUTIES.--

.211327.3

underscored material = new
[bracketed material] = delete

1 A. The report of the state canvass shall be made
2 from the election returns transmitted directly to the secretary
3 of state from each of the [~~precinct~~] election boards and, in
4 the case of candidates voted upon by a district composed of two
5 or more counties, from the certificates transmitted by the
6 county canvassing boards. The secretary of state shall prepare
7 the report of the state canvass; provided that the state
8 canvassing board may designate a person or persons to compare
9 the totals appearing on the election returns, statements of
10 canvass and certificates and to certify the results of their
11 findings to the state canvassing board.

12 B. Upon [~~the completion~~] approval of the report of
13 the state canvass, but not sooner than the thirty-first day
14 after any primary or general [~~or district special~~] election,
15 the [~~state canvassing board~~] secretary of state shall issue to
16 those candidates entitled by law the appropriate certificate of
17 election or, in the case of a primary election, a certificate
18 of nomination.

19 ~~[G. The state canvassing board may designate a~~
20 ~~person or persons to compare the totals appearing on the~~
21 ~~election returns, statements of canvass and certificates and to~~
22 ~~certify the results of their findings to the state canvassing~~
23 ~~board.]~~

24 C. Upon receipt of the reports of the county
25 canvass of a local election from each county, the secretary of

underscored material = new
[bracketed material] = delete

1 state shall:

2 (1) not sooner than the twenty-fourth day
3 after a regular local election, issue to those candidates
4 entitled by law the appropriate certificate of election;

5 (2) not sooner than the seventeenth day
6 following a top-two runoff election, issue to those candidates
7 entitled by law the appropriate certificate of election; and

8 (3) no later than the seventeenth day
9 following a special local election in which votes were cast by
10 the voters of more than one county, declare the result of the
11 vote on any ballot question and issue a certificate of canvass
12 of the results of the special election."

13 SECTION 125. Section 1-13-21 NMSA 1978 (being Laws 1971,
14 Chapter 317, Section 21, as amended) is amended to read:

15 "1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING
16 BALLOTS.--

17 A. The county clerk shall not clear the votes
18 recorded on the removable storage media devices until at least
19 forty-five days after adjournment of the county or state
20 canvassing board, whichever is later.

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

.211327.3

underscored material = new
[bracketed material] = delete

1 the contest or inspection.

2 C. Beginning forty-five days after the adjournment
3 of the state or county canvassing board, whichever is later, or
4 forty-five days after completion of a recount or judicial
5 inquiry, the county clerk may transfer ballots from the locked
6 ballot boxes for disposition pursuant to Section 1-12-69 NMSA
7 1978."

8 SECTION 126. Section 1-22-17 NMSA 1978 (being Laws 2018,
9 Chapter 79, Section 30) is recompiled in Chapter 1, Article 13
10 NMSA 1978 and is amended to read:

11 "POST-ELECTION DUTIES--RECORDS.--

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

23 B. The returns and certificates of the result of
24 the state canvass are public documents, subject to inspection
25 and retention as provided by Section 1-12-69 NMSA 1978. The

.211327.3

underscored material = new
[bracketed material] = delete

1 certificate of results of the canvass of the election shall,
2 forty-five days after the election or recount after any contest
3 has been settled by the court, be preserved as a permanent
4 record in the state records center. A copy of the certificate
5 of results of the canvass of the election shall be preserved as
6 a permanent record in the office of the secretary of state in a
7 separate book maintained for recording the results of
8 elections."

9 SECTION 127. A new section of Chapter 1, Article 13 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] POST-ELECTION DUTIES--UNOPPOSED WRITE-IN
12 CANDIDATES.--

13 A. In a general election, the proper canvassing
14 board shall not certify the election of an unopposed write-in
15 candidate unless the candidate receives at least the number of
16 write-in votes equal to two percent of the total vote in the
17 state, district or county in which the candidate seeks election
18 that were cast for governor in the last preceding general
19 election in which a governor was elected.

20 B. In a regular local election, the secretary of
21 state shall not issue a certificate of election to an unopposed
22 write-in candidate unless the candidate receives either one
23 hundred votes or the number of write-in votes equal to at least
24 ten percent of the total number of ballots on which the office
25 appears that are cast in the regular local election.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. In a primary election, the proper canvassing
2 board shall not certify the nomination of an unopposed write-in
3 candidate unless the candidate receives at least the number of
4 write-in votes in the primary election as the write-in
5 candidate would need for signatures on a nominating petition
6 pursuant to the requirements set out in Section 1-8-33 NMSA
7 1978.

8 D. In an election to fill a vacancy in the office
9 of United States representative, the state canvassing board
10 shall not certify the election of an unopposed write-in
11 candidate unless the candidate receives at least the number of
12 write-in votes equal to two percent of the total vote in the
13 congressional district in which the candidate seeks election
14 that were cast for governor in the last preceding general
15 election in which a governor was elected."

16 **SECTION 128.** Section 1-14-22 NMSA 1978 (being Laws 2005,
17 Chapter 270, Section 76, as amended) is amended to read:

18 "1-14-22. CONTESTS AND RECOUNTS--PROVISIONAL, ABSENTEE
19 AND OTHER PAPER BALLOTS--USE OF BALLOT IMAGES.--

20 A. The secretary of state shall issue rules
21 governing and allowing procedures for reviewing the
22 qualification of provisional ballot envelopes, absentee and
23 other paper ballots in the case of a contest or recount of
24 election results. All rejected provisional paper ballot
25 envelopes shall be included in any contest or recount of

.211327.3

underscored material = new
[bracketed material] = delete

1 election results, and a review of the qualification of
2 provisional ballot envelopes shall occur in a recount.

3 B. Upon petition by the secretary of state or a
4 county clerk, the district court may permit a review of ballot
5 images in place of paper ballots whenever there are defective
6 or missing returns in an election and when the voting system
7 technology captures an image of each ballot in an election."

8 SECTION 129. Section 1-14-24 NMSA 1978 (being Laws 2008,
9 Chapter 41, Section 1, as amended) is amended to read:

10 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND
11 FEDERAL OFFICES--PROCEDURES.--

12 A. An automatic recount of the vote is required
13 when the canvass of returns [~~in a primary or general election~~
14 ~~for a federal or statewide office, or a judicial office in a~~
15 ~~county with more than two hundred thousand registered qualified~~
16 ~~electors]~~ indicates that the margin between the two candidates
17 receiving the greatest number of votes for [~~the~~] an office, the
18 margin between those supporting and those opposing a ballot
19 question or the margin affecting the outcome of a nonpartisan
20 judicial retention election is less than:

21 (1) one-fourth [~~of one~~] percent of the total
22 votes cast in that election:

23 (a) for that office [~~in that election.~~
24 ~~An automatic recount of the vote is required when the canvass~~
25 ~~of returns in a primary or general election for any other state~~

underscored material = new
[bracketed material] = delete

1 ~~office indicates that the margin between the two candidates~~
2 ~~receiving the greatest number of votes for the office is less~~
3 ~~than one percent of the total votes cast for that office in~~
4 ~~that election]~~ in the case of a federal or statewide office;

5 (b) on a ballot question in the case of
6 a state ballot question; or

7 (c) on a nonpartisan judicial retention
8 election in the case of the supreme court or the court of
9 appeals;

10 (2) one-half percent of the total votes cast
11 in that election:

12 (a) for that office in the case of a
13 public regulation commissioner, public education commissioner,
14 district attorney or any office elected countywide in a county
15 with more than one hundred fifty thousand registered voters;

16 (b) on a ballot question in the case of
17 a local ballot question; or

18 (c) on a nonpartisan judicial retention
19 election in the case of a district court or the metropolitan
20 court; or

21 (3) one percent of the total votes cast in
22 that election for that office in the case of any other office.

23 B. For an office for which ballots were cast in
24 more than one county, the secretary of state shall file notice
25 with the state canvassing board upon the completion of the

.211327.3

underscored material = new
[bracketed material] = delete

1 state canvass that an automatic recount is required, and the
2 state canvassing board shall order a recount of the ballots for
3 the specified office. For an office in which ballots were cast
4 solely within one county, the secretary of state shall file
5 notice with the state canvassing board within seven days after
6 receiving notice from the county clerk following the completion
7 of the county canvass that an automatic recount is required,
8 and the state canvassing board shall order a recount of the
9 ballots for the specified office.

10 C. Automatic recounts shall be conducted pursuant
11 to the recount procedures established in Sections 1-14-16 and
12 1-14-18 through 1-14-23 NMSA 1978.

13 [~~D. For the purposes of this section, "state~~
14 ~~office" means the office of governor, lieutenant governor,~~
15 ~~state auditor, state treasurer, attorney general, secretary of~~
16 ~~state, supreme court justice, court of appeals judge, district~~
17 ~~judge, magistrate judge, public regulation commissioner,~~
18 ~~commissioner of public lands, state senator or state~~
19 ~~representative.]"~~

20 SECTION 130. Section 1-15-18.1 NMSA 1978 (being Laws
21 1983, Chapter 232, Section 16, as amended) is amended to read:

22 "1-15-18.1. UNITED STATES REPRESENTATIVE--VACANCY.--

23 A. Within ten days after a vacancy occurs in the
24 office of United States representative, the [governor]
25 secretary of state shall, by proclamation, call [~~a special~~] an

.211327.3

underscored material = new
[bracketed material] = delete

1 election to be held not less than [~~eighty-four~~] seventy-seven
2 nor more than ninety-one days after the date of the vacancy for
3 the purpose of filling the vacancy, except as provided in
4 Subsections [~~E~~] H and [~~F~~] I of this section.

5 B. The proclamation shall forthwith be filed by the
6 secretary of state in the office of the secretary of state.

7 The proclamation shall specify the:

8 (1) date on which the election will be held;
9 (2) purpose for which the election is called;
10 (3) date on which declarations of candidacy
11 are to be filed;

12 (4) date on which declarations of intent to be
13 a write-in candidate are to be filed; and

14 (5) date certificates of registration are to
15 be subscribed and sworn to participate in the election as
16 required by law.

17 C. After the proclamation is issued pursuant to
18 Subsection B of this section, the secretary of state shall
19 within five days certify the proclamation to each county clerk
20 with precincts located in the United States representative
21 district in which the vacancy exists. Beginning not less than
22 sixty-three days before the date of the election, the secretary
23 of state shall publish the proclamation once each week for two
24 consecutive weeks in a newspaper of general circulation.

25 [~~B-~~] D. Upon the issuance of the [~~governor's~~]

underscored material = new
[bracketed material] = delete

1 proclamation, each qualified political party may nominate in
2 the manner provided by the rules of that party a candidate to
3 fill the vacancy in the office of United States representative;
4 provided that such nomination is certified to the secretary of
5 state by the state chair of that party no later than 5:00 p.m.
6 on the fifty-sixth day preceding the date of the [~~special~~]
7 election.

8 [~~G.~~] E. Declarations of [~~independent~~] unaffiliated
9 candidacy to fill the vacancy in the office of United States
10 representative and nominating petitions pertaining thereto
11 shall be filed with the secretary of state no later than 5:00
12 p.m. on the fifty-sixth day preceding the date of the [~~special~~]
13 election.

14 [~~D.—Special~~] F. Declarations of intent to be a
15 write-in candidate to fill a vacancy in the office of United
16 States representative shall be filed with the secretary of
17 state no later than 5:00 p.m. on the fifty-sixth day preceding
18 the date of the election.

19 G. Elections called for the purpose of filling a
20 vacancy in the office of United States representative shall be
21 conducted in accordance with the provisions of the Election
22 Code for general elections; provided, however, if there is a
23 conflict between this section and other provisions of the
24 Election Code, the provisions of this section shall control.
25 The secretary of state shall, only when necessary, adjust the

.211327.3

underscored material = new
[bracketed material] = delete

1 day provided in the Uniform Military and Overseas Voters Act to
2 send ballots to federal qualified electors in an election to
3 fill a vacancy in the office of United States representative.
4 The adjusted day shall be immediately posted on the website of
5 the secretary of state and reported to the federal voting
6 assistance program.

7 ~~[E.]~~ H. If a vacancy occurs in the office of United
8 States representative ~~[after the date of the primary election~~
9 ~~and before the date of the general election of that same year,~~
10 ~~the vacancy shall be filled at that general election of the~~
11 ~~same year]~~ beginning one hundred sixty days and no less than
12 sixty-three days before a statewide election, the vacancy shall
13 be filled at the next statewide election; provided that when
14 filling a vacancy:

15 (1) at a general election, candidates seeking
16 the office of United States representative in that general
17 election for the next succeeding term shall be deemed to be
18 candidates for the unexpired term as well, and the candidate
19 elected shall take office upon the certification of the
20 election results; or

21 (2) at a political party primary or a regular
22 local election, each ballot shall contain the election to fill
23 the vacancy in the office of United States representative
24 listed before the contests in the political party primary or
25 regular local election, and ballots containing only the

.211327.3

underscored material = new
[bracketed material] = delete

1 election of the vacancy in the office of United States
2 representative shall be available to voters who do not
3 otherwise qualify to vote in the political party primary or
4 that regular local election.

5 [F.] I. If a vacancy occurs in the office of United
6 States representative in extraordinary circumstances when there
7 are more than one hundred vacancies in the United States house
8 of representatives and there are more than seventy-five days
9 before a regularly scheduled election [~~or previously scheduled~~
10 ~~special election~~], then pursuant to 2 U.S.C. Section 8(b):

11 (1) the governor shall immediately issue a
12 writ of election, upon which the secretary of state shall, by
13 proclamation, call [~~a special~~] an election to be held not more
14 than forty-nine days after the vacancy is announced and file
15 the proclamation along with the writ in the office of the
16 secretary of state;

17 (2) the secretary of state shall immediately
18 certify the proclamation to each county clerk with precincts
19 located in the United States representative district in which
20 the vacancy exists, and beginning not less than thirty-five
21 days before the date of the election, the secretary of state
22 shall publish the proclamation once each week for two
23 consecutive weeks in a newspaper of general circulation;

24 [+2] (3) each qualified political party may
25 nominate in the manner provided by the rules of that party a

.211327.3

underscored material = new
[bracketed material] = delete

1 candidate to fill the vacancy in the office of United States
2 representative; provided that such nomination is certified to
3 the secretary of state by the state chair of that party no
4 later than 5:00 p.m. on the tenth business day following
5 announcement of the vacancy; ~~and~~

6 ~~(3)~~ (4) declarations of independent candidacy
7 to fill the vacancy in the office of United States
8 representative and nominating petitions pertaining thereto
9 shall be filed with the secretary of state no later than 5:00
10 p.m. on the ~~[twentieth]~~ tenth business day following
11 announcement of the vacancy; and

12 (5) declarations of intent to be a write-in
13 candidate to fill the vacancy in the office of United States
14 representative shall be filed with the secretary of state no
15 later than 5:00 p.m. on the tenth business day following
16 announcement of the vacancy.

17 J. The state shall pay all costs of an election to
18 fill a vacancy in the office of United States representative
19 when the election is not held on the same ballot as a statewide
20 election."

21 SECTION 131. Section 1-15-20 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 370) is amended to read:

23 "1-15-20. EXPIRING TERM AND NEXT SUCCEEDING TERM IN SAME
24 ELECTION.--

25 A. In all instances where the expiring term of ~~[any~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~elective state or district office or~~ the office of United
2 States senator or representative and the term next succeeding
3 ~~[such]~~ the expiring term are to be voted upon at the same
4 general election, the same individual may be a candidate for
5 both ~~[such]~~ the expiring term and next succeeding term, whether
6 at a primary election, nominating convention or general
7 election.

8 B. In those instances where a person is initially
9 elected for a next succeeding term of the office of United
10 States senator or representative at a general election and
11 there becomes a vacancy in the expiring term of that office at
12 any time beginning seventy days before the general election
13 through the first day of the next succeeding term, the person
14 initially elected for the next succeeding term and in
15 possession of the certificate of election from the general
16 election shall be declared elected for the remainder of the
17 expiring term."

18 SECTION 132. Section 1-16-1 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 374) is amended to read:

20 "1-16-1. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT
21 QUESTIONS--APPLICATION OF ELECTION CODE.--At all elections at
22 which any [~~proposed constitutional amendment or~~] ballot
23 question is submitted to [~~a vote of the electors~~] the voters,
24 the election shall be [~~held and~~] called, conducted and
25 canvassed in accordance with the Election Code."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 133. Section 1-16-2 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 375) is amended to read:

3 "1-16-2. [~~STATE CONSTITUTIONAL AMENDMENTS--BALLOTS--~~
4 ~~SPECIAL ELECTIONS]~~ BALLOT QUESTIONS--STATE BALLOT QUESTIONS--
5 LOCAL GOVERNMENT BALLOT QUESTIONS.--[~~The secretary of state~~
6 ~~shall provide ballots for the use of voters in all special~~
7 ~~elections where constitutional amendments or other questions~~
8 ~~are submitted to the voters of the entire state. Paper ballots~~
9 ~~shall bear on their face the facsimile signature of the~~
10 ~~secretary of state and shall be furnished to each of the county~~
11 ~~clerks.~~]

12 A. A state ballot question includes any:

13 (1) proposed amendment to the constitution of
14 New Mexico, as provided in a joint resolution passed by the
15 legislature;

16 (2) tax authorization for general obligation
17 bonds or mill levy, as provided by law;

18 (3) referendum, as provided in Article 4,
19 Section 1 of the constitution of New Mexico; and

20 (4) other questions, as provided by statute or
21 the constitution of New Mexico.

22 B. A local government ballot question includes any:

23 (1) tax authorization for bond sales, mill
24 levy or gross receipts tax, as required by law;

25 (2) recall of county, school board or certain

underscored material = new
[bracketed material] = delete

1 municipal officers, as provided by law or by municipal home
2 rule charter;

3 (3) petition for the creation of a special
4 district or consideration of a statutory local option, as
5 provided by law;

6 (4) referendum on local governing body
7 taxation authority, as provided by law;

8 (5) referendum on local government ordinances,
9 as provided by the charter of a home rule municipality, by an
10 incorporated or urban county or by law;

11 (6) change in the laws of a home rule
12 municipality, as provided by the municipal charter or by law;

13 (7) changes in the charter of an incorporated
14 or urban county, as provided by the charter of the incorporated
15 or urban county or by law; and

16 (8) other questions, as provided by state
17 statute or the constitution of New Mexico."

18 SECTION 134. Section 1-16-3 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 376, as amended) is amended to read:

20 "1-16-3. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT
21 QUESTIONS--CERTIFICATION.--

22 A. Whenever a [~~proposed constitutional amendment or~~
23 ~~other~~] state ballot question is to be submitted to the voters
24 of the entire state [~~the secretary of state~~] on a general
25 election or regular local election ballot, not less than

.211327.3

underscored material = new
[bracketed material] = delete

1 [sixty-three] seventy days before the election, [~~at which it is~~
2 ~~to be submitted~~] the secretary of state shall certify the
3 [~~proposed constitutional amendment or~~] state ballot question to
4 the county clerk of each county.

5 B. Whenever a local government ballot question is
6 to be submitted to the voters of a local government on a
7 general election or regular local election ballot, not less
8 than seventy days before the election at which the ballot
9 question is proposed to be submitted to the voters, the local
10 government shall file a resolution proposing the ballot
11 question with the county clerk of each county containing any
12 precinct in which votes may be cast for or against the local
13 government ballot question. Not less than sixty-seven days
14 before the election, each county clerk shall certify the local
15 government ballot question to the secretary of state.

16 C. Whenever a state or local government ballot
17 question is to be submitted to the voters in a special
18 election, the proclamation calling the election shall be filed
19 with or certified to the county clerk of each county containing
20 any precinct in which votes may be cast pursuant to the
21 provisions of the Special Election Act."

22 SECTION 135. Section 1-16-4 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 377) is amended to read:

24 "1-16-4. BALLOT QUESTIONS--STATE CONSTITUTIONAL
25 AMENDMENTS--PUBLICATION.--[~~Upon receipt of the certified~~

underscored material = new
[bracketed material] = delete

1 ~~proposed constitutional amendment or other question, the county~~
2 ~~clerk shall include it in the proclamation to be issued and~~
3 ~~shall publish the full text of each proposed constitutional~~
4 ~~amendment or other question in accordance with the constitution~~
5 ~~of New Mexico.]~~

6 A. The secretary of state shall cause a proposed
7 constitutional amendment to be published as provided in Article
8 19, Section 1 of the constitution of New Mexico.

9 B. The secretary of state shall post a proposed
10 constitutional amendment beginning no later than seventy days
11 prior to the election at which the amendment is to be submitted
12 to the voters of the state for their approval or rejection.

13 C. Each county clerk shall post a proposed
14 constitutional amendment beginning no later than sixty-seven
15 days prior to the election at which the amendment is to be
16 submitted to the voters of the state for their approval or
17 rejection."

18 SECTION 136. Section 1-16-7 NMSA 1978 (being Laws 1977,
19 Chapter 222, Section 96, as amended) is amended to read:

20 "1-16-7. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT
21 [~~LABELS~~] QUESTIONS--FORM.--

22 A. The secretary of state shall by rule prescribe
23 the form in which [state constitutional amendments] a state or
24 local ballot question shall appear on the ballot. [Such]

25 B. For a proposed constitutional amendment, the

underscored material = new
[bracketed material] = delete

1 form shall include the full title of the joint resolution
2 proposing the constitutional amendment and the constitutional
3 amendment number assigned to the joint resolution by the
4 secretary of state. ~~[The secretary of state may provide an
5 analysis of the proposed constitutional amendment on the
6 ballot. The ballot shall be printed in both English and
7 Spanish.]"~~

8 SECTION 137. Section 1-16-8 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 380, as amended) is amended to read:

10 "1-16-8. ~~[OTHER]~~ BALLOT QUESTIONS--PROHIBITION ON
11 NONBINDING OR ADVISORY QUESTIONS.--

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

23 B.] In no case shall a nonbinding or merely advisory
24 question be placed on the ballot for any election held pursuant
25 to the Election Code."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 138. Section 1-16-9 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 381, as amended) is amended to read:

3 "1-16-9. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT
4 QUESTIONS--SINGLE BALLOT--SPACE ON BALLOT.--[~~Proposed~~
5 ~~constitutional amendments or other~~]

6 A. Ballot questions submitted to the voters at any
7 election shall be printed on one ballot only.

8 B. State ballot questions certified by the
9 secretary of state shall be printed on the ballot as provided
10 in the Election Code.

11 C. Local government ballot questions authorized by
12 law shall be printed on the ballot of each county containing
13 any precinct in which votes may be cast for or against the
14 local government ballot question.

15 D. If, after printing any offices required to be
16 elected and the state ballot questions certified by the
17 secretary of state, there is insufficient space on a single-
18 page ballot using both sides of the page to accommodate the
19 various ballot questions submitted by local governments:

20 (1) priority for printing local government
21 ballot questions shall be in the order the approved ballot
22 questions were filed with the county clerk; provided that for
23 multicounty jurisdictions, exclusion from one county's ballot
24 excludes that local government ballot question from the ballot
25 in all applicable counties;

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) a local government ballot question that,
2 based on the order received by the county clerk, would require
3 the ballot to be on more than one page shall be included on the
4 ballot only if the local government submitting the ballot
5 question pays the additional costs of any subsequent ballot
6 page; provided that if more than one local government submits
7 ballot questions that would require the ballot to be on more
8 than one page, those local governments shall share the
9 additional costs of any subsequent ballot page;

10 (3) a single ballot that is printed on more
11 than one page may permit voters to cast on the first page a
12 vote for or against any local government ballot question
13 printed on a subsequent ballot page; and

14 (4) regardless of the order in which local
15 government ballot questions are filed with the county clerk,
16 the ballot questions shall be printed on the ballot in the
17 order provided in Section 1-10-8 NMSA 1978."

18 SECTION 139. Section 1-19-26 NMSA 1978 (being Laws 1979,
19 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
20 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
21 to read:

22 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
23 Act:

24 A. "advertising campaign" means an advertisement or
25 series of advertisements used for a political purpose and

.211327.3

underscored material = new
[bracketed material] = delete

1 disseminated to the public either in print, by radio or
2 television broadcast or by any other electronic means,
3 including telephonic communications, and may include direct or
4 bulk mailings of printed materials;

5 B. "anonymous contribution" means a contribution
6 the contributor of which is unknown to the candidate or the
7 candidate's agent or the political committee or its agent who
8 accepts the contribution;

9 C. "bank account" means an account in a financial
10 institution located in New Mexico;

11 D. "campaign committee" means two or more persons
12 authorized by a candidate to raise, collect or expend
13 contributions on the candidate's behalf for the purpose of
14 electing the candidate to office;

15 E. "candidate" means an individual who seeks or
16 considers an office [~~in an~~] to be voted on in a primary or
17 general election [~~covered by the Campaign Reporting Act~~],
18 including a public official, who either has filed a declaration
19 of candidacy [~~or nominating petition~~] or:

20 (1) for a nonstatewide office, has received
21 contributions or made expenditures of one thousand dollars
22 (\$1,000) or more or authorized another person or campaign
23 committee to receive contributions or make expenditures of one
24 thousand dollars (\$1,000) or more for the purpose of seeking
25 election to the office; or

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) for a statewide office, has received
2 contributions or made expenditures of two thousand five hundred
3 dollars (\$2,500) or more or authorized another person or
4 campaign committee to receive contributions or make
5 expenditures of two thousand five hundred dollars (\$2,500) or
6 more for the purpose of seeking election to the office or for
7 candidacy exploration purposes in the years prior to the year
8 of the election;

9 F. "contribution" means a gift, subscription, loan,
10 advance or deposit of money or other thing of value, including
11 the estimated value of an in-kind contribution, that is made or
12 received for a political purpose, including payment of a debt
13 incurred in an election campaign, but "contribution" does not
14 include the value of services provided without compensation or
15 unreimbursed travel or other personal expenses of individuals
16 who volunteer a portion or all of their time on behalf of a
17 candidate or political committee, nor does it include the
18 administrative or solicitation expenses of a political
19 committee that are paid by an organization that sponsors the
20 committee;

21 G. "deliver" or "delivery" means to deliver by
22 certified or registered mail, telecopier, electronic
23 transmission or facsimile or by personal service;

24 H. "election" means any primary or general [~~or~~
25 ~~statewide special~~] election [~~in New Mexico and includes county~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~and judicial retention elections but excludes municipal, school~~
2 ~~board and special district elections];~~

3 I. "election year" means an even-numbered year in
4 which an election covered by the Campaign Reporting Act is
5 held;

6 J. "expenditure" means a payment, transfer or
7 distribution or obligation or promise to pay, transfer or
8 distribute any money or other thing of value for a political
9 purpose, including payment of a debt incurred in an election
10 campaign or pre-primary convention, but does not include the
11 administrative or solicitation expenses of a political
12 committee that are paid by an organization that sponsors the
13 committee;

14 K. "person" means an individual or entity;

15 L. "political committee" means two or more persons,
16 other than members of a candidate's immediate family or
17 campaign committee or a [~~husband and wife~~] spouse who make a
18 contribution out of a joint account, who are selected,
19 appointed, chosen, associated, organized or operated primarily
20 for a political purpose; and "political committee" includes:

21 (1) political parties, political action
22 committees or similar organizations composed of employees or
23 members of any corporation, labor organization, trade or
24 professional association or any other similar group that
25 raises, collects, expends or contributes money or any other

.211327.3

underscored material = new
[bracketed material] = delete

1 thing of value for a political purpose;

2 (2) a single individual whose actions
3 represent that the individual is a political committee; and

4 (3) a person or an organization of two or more
5 persons that within one calendar year expends funds in excess
6 of five hundred dollars (\$500) to conduct an advertising
7 campaign for a political purpose;

8 M. "political purpose" means influencing or
9 attempting to influence an election or pre-primary convention,
10 including a constitutional amendment or other question
11 submitted to the voters;

12 N. "prescribed form" means a form or electronic
13 format prepared and prescribed by the secretary of state;

14 ~~[O. "proper filing officer" means either the~~
15 ~~secretary of state or the county clerk as provided in Section~~
16 ~~1-19-27 NMSA 1978;~~

17 ~~P.]~~ O. "public official" means a person elected to
18 an office in an election covered by the Campaign Reporting Act
19 or a person appointed to an office that is subject to an
20 election covered by that act; and

21 ~~[Q.]~~ P. "reporting individual" means every public
22 official, candidate or treasurer of a campaign committee and
23 every treasurer of a political committee."

24 **SECTION 140.** Section 1-22-2 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 17) is amended to read:

.211327.3

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

2 A. "local election" means a local government
3 election;

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

6 C. "local government" means a [~~school district, a
7 special hospital district, a community college district, a
8 technical and vocational institute district, a learning center
9 district, an arroyo flood control district, a special zoning
10 district, a soil and water conservation district, a water and
11 sanitation district and a municipality, including a home rule
12 municipality governed pursuant to Article 10, Section 6 of the
13 constitution of New Mexico, a municipality operating pursuant
14 to a territorial charter or special charter and, beginning July
15 1, 2022, a conservancy district governed pursuant to Chapter
16 73, Article 14 or 18 NMSA 1978 and a watershed district
17 governed pursuant to the Watershed District Act]:~~

18 (1) political subdivision of the state with
19 authority to levy taxes pursuant to Article 8, Section 9 of the
20 constitution of New Mexico and its enabling legislation, but
21 does not include a conservancy district governed pursuant to
22 Chapter 73, Article 14 or 18 NMSA 1978 or a county; and

23 (2) political subdivision of the state without
24 authority to levy taxes pursuant to Article 8, Section 9 of the
25 constitution of New Mexico or its enabling legislation, but

.211327.3

underscored material = new
[bracketed material] = delete

1 whose statutory provisions provide for election of officers or
2 ballot questions to be decided pursuant to the Local Election
3 Act;

4 D. "municipal officers" means the local governing
5 body and any executive and judicial officers of a municipality;
6 [~~and~~

7 ~~E. "proper filing officer" means the clerk of the~~
8 ~~county in which the candidate resides;]~~

9 E. "regular local election" means the biennial
10 local election at which local governing body members are
11 elected pursuant to the provisions of the Local Election Act;
12 and

13 F. "special local election" means a local election
14 conducted at a time other than a statewide election at which
15 only ballot questions are considered pursuant to the provisions
16 of the Special Election Act."

17 SECTION 141. Section 1-22-2 NMSA 1978 (being Laws 2018,
18 Chapter 79, Section 17, as amended by Section 140 of this act)
19 is repealed and a new Section 1-22-2 NMSA 1978 is enacted to
20 read:

21 "1-22-2. [NEW MATERIAL] DEFINITIONS.--As used in the
22 Local Election Act:

23 A. "local election" means a local government
24 election;

25 B. "local governing body" means a board, council or

.211327.3

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

1 commission, as appropriate for a given local government;

2 C. "local government" means a:

3 (1) political subdivision of the state with
4 authority to levy taxes pursuant to Article 8, Section 9 of the
5 constitution of New Mexico and its enabling legislation, but
6 does not include a county; and

7 (2) political subdivision of the state without
8 authority to levy taxes pursuant to Article 8, Section 9 of the
9 constitution of New Mexico or its enabling legislation, but
10 whose statutory provisions provide for election of officers or
11 ballot questions to be decided pursuant to the Local Election
12 Act;

13 D. "municipal officers" means the local governing
14 body and any elective executive and judicial officers of a
15 municipality;

16 E. "regular local election" means the biennial
17 local election at which local governing body members are
18 elected pursuant to the provisions of the Local Election Act;
19 and

20 F. "special local election" means a local election
21 conducted at a time other than a statewide election at which
22 only ballot questions are considered pursuant to the provisions
23 of the Special Election Act."

24 **SECTION 142.** Section 1-22-3 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 18) is amended to read:

.211327.3

underscored material = new
[bracketed material] = delete

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

3 A. A regular local election shall be held on the
4 first Tuesday after the first Monday in November of each odd-
5 numbered year. [~~B.~~] A regular local election shall be held to
6 elect qualified persons to membership on a local governing body
7 and, where applicable, to elective municipal executive office
8 and to municipal judicial office.

9 B. A regular local election shall be a nonpartisan
10 election, and the names of all candidates shall be listed on
11 the ballot with no party or slate designation. No person shall
12 become a candidate in a regular local election unless the
13 person physically resides within the boundaries of the district
14 or districted area in which the person desires to be elected or
15 to represent and the person's record of voter registration
16 shows that the person is both a qualified elector of the state
17 [~~physically resides in the district in which the person is a~~
18 ~~candidate~~] and was registered to vote in the [~~district~~] area to
19 be elected to represent on the date the proclamation calling a
20 local election is filed in the office of the secretary of
21 state.

22 C. [~~In addition to candidates in the election, a~~
23 ~~regular local election ballot may contain ballot questions~~
24 ~~proposed by the state, county or local government or as~~
25 ~~otherwise provided by law. An election on a ballot question~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~held at any time other than the date for a regular local~~
2 ~~election shall be held with the general election, as provided~~
3 ~~by law, or municipal officer election if authorized by the~~
4 ~~governing body of the municipality; or shall be] A local~~
5 government may propose a ballot question to be considered by
6 the voters of the local government:

7 (1) at a regular local election or a general
8 election as provided by Subsection B of Section 1-16-3 NMSA
9 1978; or

10 (2) at a special local election called,
11 conducted and canvassed as provided in [Chapter 1, Article 24
12 NMSA 1978.

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

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

20 **SECTION 143.** Section 1-22-3.1 NMSA 1978 (being Laws 2018,
21 Chapter 79, Section 34) is amended to read:

22 "1-22-3.1. MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--
23 EXCEPTIONS.--

24 A. All municipalities shall elect their municipal
25 officers pursuant to this section on the municipal officer

.211327.3

underscored material = new
[bracketed material] = delete

1 election day, which is the first Tuesday in March of even-
2 numbered years, unless the municipality has opted in to the
3 election of its municipal officers at the regular local
4 election.

5 B. Except as provided in Subsection C of this
6 section, any municipality may by ordinance opt in to the
7 election of its municipal officers in the regular local
8 election if the municipality passes an ordinance and files the
9 ordinance with the secretary of state no later than [~~January~~]
10 June 30 of the year in which the next regular local election is
11 scheduled. The ordinance shall also determine if the terms of
12 office for current office holders will be lengthened or
13 shortened to correspond with the new election date. Following
14 the second regular local election at which its municipal
15 officers are elected at the regular local election, a
16 municipality that has passed an ordinance pursuant to this
17 subsection may [~~at any time~~] rescind the ordinance opting in to
18 the election of its municipal officers in the regular local
19 election [~~upon filing~~] and file the rescission with the
20 secretary of state no later than [~~January~~] June 30 of the year
21 in which the next regular local election is scheduled.

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

.211327.3

underscored material = new
[bracketed material] = delete

1 election.

2 D. For municipalities that elect their officers on
3 municipal officer election day:

4 (1) all provisions of the Local Election Act
5 as supplemented by the Election Code apply, except as provided
6 in this section; [~~and except for those election procedures~~
7 ~~contained in the charter of a home rule municipality that~~
8 ~~operate in lieu of or in addition to the provisions of the~~
9 ~~Election Code.~~]

10 (2) for a municipal officer election, when the
11 Local Election Act or the Election Code references a process or
12 procedure to be conducted by the county clerk in the
13 administration of a regular local election, the process or
14 procedure shall instead be fulfilled and administered by the
15 municipal clerk;

16 (3) for a special local election, the
17 municipal clerk shall fulfill the duties of the county clerk
18 pursuant to the Special Election Act in the conduct of
19 administering a special local election by the municipality,
20 unless the municipal clerk has entered into a memorandum of
21 understanding with the county clerk to administer the special
22 local election on behalf of the municipality;

23 (4) for a recall election, notwithstanding the
24 laws of any municipality to the contrary, the county clerk
25 shall at all times conduct a municipal recall election pursuant

.211327.3

underscored material = new
[bracketed material] = delete

1 to the provisions of the Recall Act;

2 (5) in an election administered by the
3 municipal clerk, the secretary of state shall provide to the
4 municipal clerk access to the list of voters of the
5 municipality through the voter registration electronic
6 management system;

7 (6) the provisions of the Uniform Military and
8 Overseas Voters Act apply to an election administered by the
9 municipal clerk; provided that for the municipal officer
10 election, military-overseas ballots shall be sent to federal
11 qualified electors beginning thirty-five days before the
12 election;

13 (7) upon the approval of the governing body of
14 a municipality, a local government ballot question may appear
15 on the ballot for an election conducted pursuant to this
16 section at the request of a county, school or special district;

17 (8) the governing body of a municipality may
18 act in relation to the duties of the board of county
19 commissioners set forth in Section 1-3-2 NMSA 1978 in setting
20 polling places and consolidating precincts for the municipal
21 officer election; provided that if the governing body of a
22 municipality does not pass a resolution as provided by Section
23 1-3-2 NMSA 1978, the polling places set by the board of county
24 commissioners within the boundaries of the municipality shall
25 be used for municipal officer elections;

.211327.3

underscored material = new
[bracketed material] = delete

1 (9) the provisions of Section 1-22-3.2 NMSA
2 1978 apply to a municipality conducting elections pursuant to
3 this section; provided that the adjustment of dates in the laws
4 of the municipality shall accord with the schedule imposed by
5 the Election Code for the conduct of the municipal officer
6 election; and

7 (10) a municipality that elects its municipal
8 officers pursuant to this section shall bear the costs of
9 administering the municipal officer election.

10 E. [~~Except as otherwise provided in this~~
11 ~~subsection~~] Candidate procedures for municipalities that elect
12 their officers on municipal officer election day are as
13 follows:

14 (1) the secretary of state shall, in
15 accordance with the provisions of Section 1-22-4 NMSA 1978,
16 issue the proclamation calling for the municipal officer
17 election for all municipalities conducting the election of
18 their officers pursuant to this section. The municipal clerk
19 shall post those portions of the proclamation relevant to the
20 municipality and publish what is posted in accordance with the
21 schedule and procedures provided in Subsection D of Section
22 1-22-4 NMSA 1978, and each county clerk shall post the entire
23 proclamation on the county clerk's website along with a notice
24 of which municipalities in the county are conducting elections
25 pursuant to this section;

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) each declaration of candidacy shall be
2 delivered for filing in person by the eligible candidate or by
3 a person acting by virtue of written authorization. The proper
4 filing officer shall not accept for filing from any one
5 individual more than one declaration of candidacy;

6 (3) declarations of candidacy for municipal
7 officer elections shall be filed between 9:00 a.m. and 5:00
8 p.m. on the fifty-sixth day before the election. [~~For a home~~
9 rule municipality whose charter or ordinance requires that a
10 candidate file a declaration of candidacy before qualifying for
11 public financing, declarations of candidacy shall be filed on
12 the date provided in the municipality's charter.] No name shall
13 be placed on the ballot until the person has been notified in
14 writing by the municipal clerk that the certificate of
15 registration of the candidate on file with the county clerk,
16 the declaration of candidacy and the petition, if required, are
17 in proper order and that the person, based on those documents,
18 is qualified to be a candidate. The municipal clerk shall
19 deliver the notice to the person no later than 5:00 p.m. on the
20 Friday following the filing date;

21 (4) write-in candidates for municipal officer
22 elections shall file declarations of candidacy between 9:00
23 a.m. and 5:00 p.m. on the forty-ninth day before the election.
24 [~~The last day to file a statement of withdrawal for a municipal~~
25 officer election is forty-nine days before the election.] No

underscored material = new
[bracketed material] = delete

1 space shall appear on the ballot for a write-in candidate until
2 the person has been notified in writing by the municipal clerk
3 that the certificate of registration of the candidate on file
4 with the county clerk and the declaration of candidacy are in
5 proper order and that the person, based on those documents, is
6 qualified to be a declared write-in candidate. The municipal
7 clerk shall deliver the notice to the person no later than 5:00
8 p.m. on the Friday following the filing date;

9 (5) any voter may challenge the candidacy of
10 any person seeking election to municipal office for the reason
11 that the person does not meet the requirements for the office
12 sought by filing a petition in the district court within seven
13 days after the deadline for filing a declaration of candidacy.
14 The district court shall hear and render a decision on the
15 matter within ten days after the filing of the petition. The
16 decision of the district court may be appealed to the supreme
17 court within five days after the decision is rendered. The
18 supreme court shall hear and render a decision on the appeal
19 forthwith; and

20 (6) the municipal clerk shall certify in
21 writing the ballot for each precinct in the municipality
22 containing the name of each candidate who has been qualified, a
23 space for any offices with a declared write-in candidate and
24 any ballot questions to be voted on at the municipal officer
25 election. The order of candidates for the same office in a

.211327.3

underscored material = new
[bracketed material] = delete

1 municipal officer election shall follow the randomization
2 method established by rule by the secretary of state for the
3 regular local election. Each ballot certified pursuant to this
4 paragraph shall, no later than forty-two days before the
5 election, be sent to the ballot printer or other person
6 preparing the ballot for use by the voters and a certified copy
7 sent to the secretary of state. A copy of each certification
8 shall be kept on file in the office of the secretary of state
9 for twelve months, after which the ballot certification shall
10 be transferred to be a permanent record at the state records
11 center.

12 F. Except for municipalities that provide for a
13 top-two runoff election pursuant to Section 1-22-16 NMSA 1978,
14 [~~have chosen to have a top-two runoff election~~] the term of
15 office for municipalities holding elections pursuant to this
16 section shall begin the first day of the month following the
17 election. For [~~home rule~~] municipalities that [~~hold~~] provide
18 for a top-two runoff election, the term of office for
19 municipalities holding elections pursuant to this section shall
20 begin the first day of the month following the runoff election.

21 [~~G. A municipality holding municipal officer~~
22 ~~elections pursuant to this section may place ballot questions~~
23 ~~on the ballot of an election held pursuant to this section and~~
24 ~~as otherwise provided in the Local Election Act.~~

25 H. ~~The municipal clerk shall fulfill the duties of~~

underscored material = new
[bracketed material] = delete

1 ~~the county clerk in the conduct of elections held pursuant to~~
2 ~~this section and, except for recall elections, special local~~
3 ~~elections held pursuant to Section 1-24-3 NMSA 1978. The~~
4 ~~county clerk shall maintain accurate voter registration~~
5 ~~information for each municipality located in the county. The~~
6 ~~county clerk shall provide to the municipal clerk, in advance~~
7 ~~of an election held pursuant to this section, the names of only~~
8 ~~those voters entitled to vote in the municipal election. The~~
9 ~~municipality shall bear the reasonable cost of preparation of~~
10 ~~the voter lists, signature rosters and voter registration in~~
11 ~~electronic format and all other costs of administering~~
12 ~~municipal officer and special elections held pursuant to this~~
13 ~~section.~~

14 I. ~~The secretary of state shall issue the~~
15 ~~proclamation calling for an election pursuant to this section~~
16 ~~in accordance with the provisions of Section 1-22-4 NMSA 1978.~~
17 ~~The municipal clerk shall publish the proclamation in~~
18 ~~accordance with the schedule and procedures provided in~~
19 ~~Subsection D of Section 1-22-4 NMSA 1978. Each county clerk~~
20 ~~shall post the entire proclamation on the county clerk's~~
21 ~~website along with a notice of which municipalities in the~~
22 ~~county are conducting elections pursuant to this section.~~

23 J. ~~The governing body of the municipality may act~~
24 ~~in relation to the duties of the board of county commissioners~~
25 ~~set forth in Section 1-3-2 NMSA 1978 that are applicable to the~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~conduct of an election held pursuant to this section.]~~

2 G. When the Municipal Code:

3 (1) provides for vacancies in municipal office
4 to be filled by election at the next regular local election,
5 the vacancies shall instead be filled by election at the next
6 municipal officer election; or

7 (2) references a ballot question that may be
8 placed on the regular local election or general election
9 ballot, the reference shall also permit placing the ballot
10 question on the municipal officer election ballot."

11 SECTION 144. Section 1-22-3.2 NMSA 1978 (being Laws 2018,
12 Chapter 79, Section 35) is amended to read:

13 "1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION
14 PROVISIONS--ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR
15 PROCEDURES AFFECTED BY THE [LOCAL] ELECTION [ACT] CODE--PUBLIC
16 FINANCING.--

17 A. Election provisions or procedures in the laws of
18 a municipality that operate in addition to and do not conflict
19 with the provisions of the Election Code continue in effect as
20 long as such provisions do not conflict with the Election Code
21 or until amended or repealed by the municipality. Election
22 provisions or procedures in an ordinance or charter of a
23 municipality that conflict with the Election Code or other
24 applicable state or federal law are not operable and shall not
25 be enforced. Election provisions or procedures in an ordinance

.211327.3

underscored material = new
[bracketed material] = delete

1 or charter of a municipality that do not conflict with the
2 Election Code shall be administered by the municipal clerk,
3 unless the municipal clerk and the county clerk have signed a
4 memorandum of understanding for the county clerk to conduct
5 election provisions or procedures on behalf of the
6 municipality.

7 [A.] B. A municipality [~~that has enacted~~] with
8 election provisions or procedures in an ordinance or its
9 charter that [~~are supplemental to provisions in~~] do not
10 conflict with the Election Code shall adjust the calendar dates
11 that implement those election provisions and procedures to
12 accord with the schedules imposed by the [~~Local Election Act~~
13 ~~for the conduct of local or municipal officer elections~~]
14 Election Code. At the discretion of the municipality, the
15 adjustment of calendar dates may be done administratively, by
16 ordinance or as otherwise provided by the charter of the
17 municipality. The municipal clerk shall post the [~~conforming~~]
18 adjusted dates [~~on the municipality's website~~] no later than
19 [~~January~~] June 30 of each odd-numbered year.

20 [B.] C. At the discretion of the municipality, a
21 municipality with a charter may [~~change~~] amend its charter by
22 ordinance or as otherwise provided by the municipality to
23 conform its [~~election schedule~~] ordinances or charter with the
24 requirements of [~~this section~~] the Election Code and other
25 applicable state or federal laws related to elections.

underscored material = new
[bracketed material] = delete

1 D. In any municipality implementing public
2 financing for its municipal elections consistent with this
3 section and notwithstanding any provision to the contrary in
4 the ordinances or charter of the municipality:

5 (1) the municipality shall require as a
6 precondition to the receipt of public financing that a person
7 first be qualified as a candidate;

8 (2) if the date in the ordinances or charter
9 of the municipality for submitting documents to be approved for
10 public financing is an earlier date than the filing date for
11 declarations of candidacy provided in the Local Election Act,
12 the municipal clerk shall accept declarations of candidacy and
13 other candidate qualification documents from persons seeking to
14 be approved for public financing on the date provided in the
15 ordinances or charter of the municipality upon which the
16 municipal clerk shall deliver to the country clerk the
17 candidate qualification documents of each person seeking to be
18 approved for public financing;

19 (3) the county clerk shall notify the
20 municipal clerk in writing no later than 5:00 p.m. on the third
21 day following receipt of the candidate qualification documents
22 that the certificate of registration of the candidate, the
23 declaration of candidacy and the petition, if any, are in
24 proper order and whether the person, based on those documents,
25 is qualified to be a candidate;

underscored material = new
[bracketed material] = delete

1 (4) any voter may challenge the candidacy of a
2 person seeking election to municipal office by the county clerk
3 or approval to receive public financing by the municipal clerk
4 for the reason that the person does not meet the requirements
5 by filing a petition in the district court within seven days
6 after the deadline for the municipal clerk to approve
7 candidates to receive public financing. The district court
8 shall hear and render a decision on the matter within ten days
9 after the filing of the petition. The decision of the district
10 court may be appealed to the supreme court within five days
11 after the decision is rendered. The supreme court shall hear
12 and render a decision on the appeal forthwith; and

13 (5) on the day provided in the Local Election
14 Act to submit declarations of candidacy, any qualified person
15 may file a declaration of candidacy for municipal office,
16 including a person who failed to be approved for public
17 financing but who otherwise qualifies to be a candidate, but
18 not including a person who previously sought public financing
19 in the same election but was not qualified to be a candidate;
20 provided that any candidate qualification requirements imposed
21 by the municipality other than those pertinent to public
22 financing and the date for filing a declaration of candidacy
23 must be fulfilled by a person who submits a declaration of
24 candidacy on the day provided in the Local Election Act."

25 SECTION 145. Section 1-22-4 NMSA 1978 (being Laws 2018,

.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 79, Section 19) is amended to read:

2 "1-22-4. REGULAR LOCAL ELECTION [~~MUNICIPAL OFFICER~~
3 ~~ELECTION]~~--PROCLAMATION--PUBLICATION.--

4 A. Between one hundred twenty and one hundred fifty
5 days before the next regular local election, each local
6 government shall notify the county clerk of the county in which
7 the primary administrative office of the local government is
8 situate of all local government positions that are to be filled
9 at the next regular local election. Each county clerk shall
10 inform the secretary of state of all positions to be filled no
11 later than one hundred twelve days before the regular local
12 election.

13 [~~A.~~] B. The secretary of state shall by resolution
14 issue a public proclamation in Spanish and English calling a
15 regular local election [~~on the date prescribed by the Local~~
16 ~~Election Act~~]. The proclamation shall be issued and filed by
17 the secretary of state in the office of the secretary of state
18 ninety days preceding the date of the regular local election,

19 [~~B. Between one hundred twenty and one hundred~~
20 ~~fifty days before the next local election, each local~~
21 ~~government shall notify the secretary of state of all local~~
22 ~~government positions that are to be filled at the next election~~
23 ~~for that local government]~~ and upon filing the proclamation,
24 the secretary of state shall post the proclamation and certify
25 it to each county clerk.

.211327.3

underscored material = new
[bracketed material] = delete

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

C. The proclamation shall specify [~~the~~]:

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

(2) [~~positions on~~] each elective office, local governing body and judicial position to be filled;

~~[(3) executive and judicial positions to be filled;~~

~~[(4)]~~ (3) the date on which declarations of candidacy are to be filed;

~~[(5)]~~ (4) the date on which declarations of intent to be a write-in candidate are to be filed; and

~~[(6)]~~ (5) the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.

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

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

~~[(2) positions on each local governing body of~~

underscored material = new
[bracketed material] = delete

1 ~~a district situated in whole or in part in the county;~~

2 ~~(3) elective executive and judicial positions~~
3 ~~of each local government situated in whole or in part in the~~
4 ~~county;]~~

5 (2) for each local government situated in
6 whole or in part in the county, each elective executive, local
7 governing body and judicial position to be filled by voters of
8 any precinct in the county;

9 ~~[(4)]~~ (3) the date on which declarations of
10 candidacy are to be filed and the date on which declarations of
11 intent to be a write-in candidate are to be filed;

12 ~~[(5)]~~ (4) the location, [of each polling
13 place] days and hours for voting at the office of the county
14 clerk;

15 ~~[(6)]~~ (5) the location, [of each alternate
16 voting location for early voting;

17 ~~(7) hours each polling place and alternate~~
18 ~~voting location will be open] days and hours for early voting~~
19 at each alternate voting location and mobile alternate voting
20 location;

21 (6) the location, date and hours for voting at
22 each election day polling place; and

23 ~~[(8)]~~ (7) the date [and time of the closing of
24 the registration books by the county] certificates of
25 registration shall be subscribed and sworn as required by law.

.211327.3

underscoring material = new
[bracketed material] = delete

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

13 SECTION 146. Section 1-22-7 NMSA 1978 (being Laws 2018,
14 Chapter 79, Section 20) is amended 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 regular local election shall file a declaration of
19 candidacy with the proper filing officer [~~during the period~~
20 ~~commencing at~~] between 9:00 a.m. and 5:00 p.m. on the
21 seventieth day before the date of the regular local election
22 [~~and ending at 5:00 p.m. on the same day~~].

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

.211327.3

underscoring material = new
[bracketed material] = delete

1 filing day.

2 C. A declaration of candidacy shall not be amended
3 after it has been filed with the proper filing officer.

4 D. Each declaration of candidacy shall be delivered
5 for filing in person by the eligible candidate or by a person
6 acting by virtue of written authorization. The proper filing
7 officer shall not accept for filing from any one individual
8 more than one declaration of candidacy.

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

13 SECTION 147. Section 1-22-8 NMSA 1978 (being Laws 2018,
14 Chapter 79, Section 21) is amended to read:

15 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF
16 INTENT--FORM.--In making a declaration of candidacy, the
17 candidate shall submit a sworn statement of intent in
18 substantially the following form:

19 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

20 I, _____ (candidate's name on certificate of
21 registration), being first duly sworn, say that I am a voter of
22 the county of _____, State of New Mexico. I reside
23 at _____

24 and was registered to vote at that place on the date of the
25 proclamation calling this election;

.211327.3

underscored material = new
[bracketed material] = delete

1 I reside within and am registered to vote in the area to
2 be [~~represented~~] elected to represent;

3 I desire to become a candidate for the office of
4 _____ at the regular local election to be held [~~on~~
5 ~~the date set by law~~] in November of the year this declaration
6 is filed;

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

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

12 _____
13 (Signature of Declarant)

14 _____
15 (Mailing Address)

16 _____
17 (Residence Address)

18 Subscribed and sworn to before me by _____ this
19 _____ day of _____, 20 _____.
20 _____.

21 (Notary Public)

22 My commission expires:

23 _____".

24 SECTION 148. Section 1-22-8.1 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 22) is amended to read:

.211327.3

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

2 A. Write-in candidates shall be permitted in
3 regular local elections.

4 B. A person may be a write-in candidate only if the
5 person has the qualifications to be a candidate for the
6 position for which the person is running.

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

14 ~~[D. A write-in vote shall be counted and canvassed~~
15 ~~only if:~~

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

24 ~~(2) the name is written on the proper line~~
25 ~~provided on the ballot for write-in votes for the office and~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~position for which the candidate has declared intent and the~~
2 ~~voter has followed the directions for voting for the write-in~~
3 ~~candidate.~~

4 ~~E.]~~ D. At the time of filing the declaration of
5 candidacy, the write-in candidate shall be considered a
6 candidate for all purposes and provisions relating to
7 candidates in the Local Election Act, except that the write-in
8 candidate's name shall not be printed on the ballot nor posted
9 in any polling place.

10 ~~[F. A write-in vote shall be cast by writing in the~~
11 ~~name. As used in this section, "write-in" does not include the~~
12 ~~imprinting of any name by rubber stamp or similar device or the~~
13 ~~use of a preprinted sticker or label.~~

14 ~~G. No unopposed write-in candidate shall have an~~
15 ~~election certified unless the candidate receives at least the~~
16 ~~number of write-in votes equal to ten percent of the total~~
17 ~~number of ballots on which the office appears on the ballot~~
18 ~~that are cast in the local election, or one hundred.]"~~

19 SECTION 149. Section 1-22-10 NMSA 1978 (being Laws 2018,
20 Chapter 79, Section 24) is amended to read:

21 "1-22-10. CANDIDATE QUALIFICATION--CHALLENGES--BALLOTS.--

22 A. The proper filing officer shall determine
23 whether a candidate filing a declaration of candidacy is
24 registered to vote within the [~~local election district~~] area to
25 be elected to represent and, if required for the office being

.211327.3

underscored material = new
[bracketed material] = delete

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

10 B. Any voter may challenge the candidacy of any
11 person seeking election at the regular local election for the
12 reason that the person does not meet the requirements for the
13 office sought by filing a petition in the district court within
14 seven days after the day for filing a declaration of candidacy.
15 The district court shall hear and render a decision on the
16 matter within ten days after the filing of the petition. The
17 decision of the district court may be appealed to the supreme
18 court within five days after the decision is rendered. The
19 supreme court shall hear and render a decision on the appeal
20 forthwith.

21 [~~B.~~] C. Ballots for the regular local election
22 shall be prepared by the proper filing officer and printed in
23 accordance with the provisions of Section 1-10-5 NMSA 1978.

24 D. The printed ballot shall contain the name of
25 each person who is a candidate and the position for which the

underscored material = new
[bracketed material] = delete

1 person is a candidate.

2 E. The ballot shall also contain all ballot
3 questions [~~permitted by the board of county commissioners~~
4 ~~pursuant to Section 1-22-10.1 NMSA 1978~~] that are to be
5 submitted to the voters as certified by a local governing body
6 to the county clerk in each county in which the local
7 government is situate [~~by the local governing body~~] and shall
8 conform to the requirements [~~of Section 1-16-8 NMSA 1978.~~

9 ~~G.~~ Paper ballots shall be printed in a form in
10 ~~substantial compliance with the provisions of Section 1-10-12~~
11 ~~NMSA 1978 and in compliance with the provisions of the federal~~
12 ~~Voting Rights Act of 1965, as amended.~~

13 ~~D.~~ A local election shall be a nonpartisan
14 election, and the names of all candidates shall be listed on
15 the ballot without party or slate designation. The order in
16 which the names of candidates are listed on the ballot shall be
17 determined by the secretary of state either by lot or by
18 randomization as provided by rule.

19 ~~E.~~ Space shall be provided on each ballot for a
20 voter to write in the name of one candidate for each position
21 to be filled when a declaration of candidacy by a write-in
22 candidate has been filed] for ballot questions on the regular
23 local election ballot as provided in Chapter 1, Article 16 NMSA
24 1978."

25 SECTION 150. Section 1-22-16 NMSA 1978 (being Laws 2018,

.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 79, Section 29) is amended to read:

2 "1-22-16. MUNICIPAL RUNOFF ELECTIONS.--

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

7 (1) a top-two runoff election shall be
8 conducted on a separate ballot when the candidate receiving the
9 most votes for an office did not receive the percentage of
10 votes required by the laws of the municipality to be elected in
11 the first round of voting. When ordered, the top-two runoff
12 election shall be held following the regular local election [~~or~~
13 ~~municipal officer election~~] and allow the voter to select
14 between the two candidates who in the first round of voting
15 received the highest number of votes for an office; and

16 (2) a ranked-choice runoff election shall be
17 conducted on the same ballot as the regular local election [~~or~~
18 ~~municipal officer election~~] and allow the voter to rank the
19 candidates for an office in the order of preference for the
20 voter.

21 B. If a municipality whose laws provide for top-two
22 runoff elections is notified by the proper canvassing board
23 that a runoff election is required following the regular local
24 election [~~or municipal officer election~~], the top-two runoff
25 election shall be conducted in accordance with [~~the~~] those

.211327.3

underscored material = new
[bracketed material] = delete

1 election provisions [of the municipality's ordinance or charter
2 that supplement the Local Election Act] and procedures in the
3 ordinances or charter of the municipality that do not conflict
4 with the Election Code or administrative rules issued by the
5 secretary of state; provided that

6 ~~[(1) in the case of]~~ in a municipality in
7 which the first round of voting is conducted at the regular
8 local election, the county clerk shall perform the duties of
9 administering the top-two runoff election ~~[and~~

10 ~~(2) in the case of a municipality in which the~~
11 ~~first round of voting is conducted at the municipal officer~~
12 ~~election, the municipal clerk shall perform the duties of~~
13 ~~administering the top-two runoff election].~~

14 C. A municipality whose laws provide for a runoff
15 election shall conduct the election in the manner provided by
16 the municipality's ordinance or charter; provided that a
17 municipality may by ordinance choose between conducting a
18 top-two runoff election and a ranked-choice runoff election.
19 The ordinance shall be filed with the secretary of state no
20 later than ~~[January]~~ June 30 of the year the next regular local
21 election ~~[or municipal officer election]~~ is scheduled.

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

24 SECTION 151. Section 1-22-19 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 32) is amended to read:

.211327.3

underscored material = new
[bracketed material] = delete

1 "1-22-19. [~~ABSENTEE~~] EARLY VOTING--~~[ALTERNATE]~~ MUNICIPAL
2 EARLY VOTING LOCATIONS.--

3 [~~A. The provisions of the Absent Voter Act and~~
4 ~~Uniform Military and Overseas Voter Act apply to absentee~~
5 ~~voting in local elections.~~

6 [~~B. Early voting shall be conducted in each office~~
7 ~~of the county clerk pursuant to Section 1-6-5 NMSA 1978 and at~~
8 ~~such alternate voting locations as may be established by the~~
9 ~~county clerk pursuant to the provisions of Section 1-6-5.7 NMSA~~
10 ~~1978.~~

11 [~~G.~~] In a regular local election, a county clerk
12 shall provide at least one alternate [~~early~~] voting or mobile
13 alternate voting location in a municipality when requested by a
14 municipality in the county; provided that the:

15 [~~(1)~~] A. municipality elects its municipal officers
16 at the regular local election and submits a written request to
17 the county clerk no later than January 30 of the year of the
18 local election;

19 [~~(2)~~] B. alternate [~~early~~] voting or mobile
20 alternate voting location may operate for less than the full
21 early voting period, to be decided upon between the
22 municipality and the county clerk;

23 [~~(3)~~] C. location of the alternate [~~early~~] voting
24 or mobile alternate voting location in the municipality
25 conforms to the requirements for alternate [~~early~~] voting

.211327.3

underscored material = new
[bracketed material] = delete

1 locations; and

2 [(4)] D. municipality provides the facility and
3 services for the alternate [~~early~~] voting or mobile alternate
4 voting location."

5 SECTION 152. Section 1-24-1 NMSA 1978 (being Laws 1989,
6 Chapter 295, Section 1, as amended) is amended to read:

7 "1-24-1. SHORT TITLE--SPECIAL ELECTION ACT--APPLICATION--
8 [~~EXCEPTION~~] PROHIBITION.--

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

11 B. Notwithstanding any state or local laws to the
12 contrary, the provisions of the Special Election Act govern the
13 conduct of all special elections conducted by the state or [~~a~~
14 ~~local government, except for ballot questions printed on a~~
15 ~~general election ballot or a ballot on which local governing~~
16 ~~body members are elected pursuant to the Local Election Act]~~
17 any local public body.

18 C. No special election shall be held beginning the
19 seventieth day prior to any statewide election and until:

20 (1) the one hundredth day following a general
21 or regular local election; or

22 (2) the seventieth day following a major
23 political party primary or an election to fill a vacancy in the
24 office of united states representative."

25 SECTION 153. Section 1-24-6 NMSA 1978 (being Laws 2018,

.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 79, Section 39) is recompiled as Section 1-24-1.1 NMSA
2 1978 and is amended to read:

3 "1-24-1.1. DEFINITION.--As used in the Special Election
4 Act, "local ~~[government]~~ public body" means:

5 A. a county;

6 B. a local government subject to the Local Election
7 Act; or

8 C. a special district not subject to the Local
9 Election Act."

10 SECTION 154. Section 1-24-2 NMSA 1978 (being Laws 1989,
11 Chapter 295, Section 2, as amended) is amended to read:

12 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--
13 PUBLICATION.--

14 A. Whenever a local ~~[government special election is~~
15 ~~to be called or is required by law]~~ public body determines that
16 it is necessary or desirable to conduct a special election:

17 (1) the governing body shall by resolution
18 issue a public proclamation calling the election. The
19 proclamation shall forthwith be filed with the county clerk no
20 later than seventy days prior to the date for the special
21 election. If the boundaries of the local public body include
22 precincts in multiple counties, the proclamation shall
23 forthwith be filed with each county clerk no later than seventy
24 days prior to the election;

25 (2) the proclamation shall specify:

.211327.3

underscored material = new
[bracketed material] = delete

1 [~~(1)~~] (a) the date on which the special
2 election will be held;

3 [~~(2)~~] (b) the purpose for which the
4 special election is called; and

5 [~~(3)~~] (c) the text of [~~any~~] the ballot
6 question or ballot questions to be voted on; [~~and~~

7 ~~(4) the date and time of closing the~~
8 ~~registration books by the county clerk as required by law;~~

9 B.] (3) after filing with the county clerk or
10 clerks the proclamation issued pursuant to [~~Subsection A of~~
11 ~~this section~~] this subsection, each county clerk shall post the
12 proclamation beginning no later than sixty-seven days before
13 the election and, beginning not less than sixty-three days
14 before the date of the election, [~~the~~] each county clerk shall
15 publish the proclamation once each week for two consecutive
16 weeks in a newspaper of general circulation within the
17 boundaries of the local [~~government or special district~~] public
18 body; provided that if the boundaries of the local public body
19 include precincts in multiple counties that share the same
20 newspaper of general circulation, the county clerks may jointly
21 publish the proclamation;

22 (4) the posting and publication pursuant to
23 this subsection shall also inform the public that the special
24 election will be conducted by mailed ballot, of the date
25 ballots will be initially mailed to voters and of the last day

.211327.3

underscored material = new
[bracketed material] = delete

1 to register to vote or to update an existing registration in
2 advance of the special election; and

3 (5) the proclamation shall conform to the
4 requirements of the federal Voting Rights Act of 1965, as
5 amended.

6 [G.] B. Whenever ~~[a statewide special election is~~
7 ~~to be called or is required by law]~~ the state determines that
8 it is necessary or desirable to conduct a special election:

9 (1) the ~~[governor]~~ secretary of state shall by
10 resolution issue a public proclamation calling the election.

11 ~~[Whenever an election to fill a vacancy in the office of United~~
12 ~~States representative is to be called or is required by law,~~
13 ~~the governor shall by resolution issue a public proclamation~~
14 ~~calling the election pursuant to the requirements of Section~~
15 ~~1-15-18.1 NMSA 1978.]~~ The proclamation shall forthwith be filed
16 with the secretary of state no later than seventy-five days
17 prior to the election;

18 (2) the proclamation shall specify:

19 ~~[(1)]~~ (a) the date on which the special
20 election will be held;

21 ~~[(2)]~~ (b) the purpose for which the
22 special election is called; and

23 ~~[(3)]~~ ~~if a vacancy in the office of United~~
24 ~~States representative is to be filled, the date on which~~
25 ~~declarations of candidacy are to be filed;~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~(4)~~] (c) the text of ~~[any]~~ the ballot
2 question or ballot questions to be voted upon; ~~[and~~

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

5 ~~D.~~] (3) after filing with the secretary of
6 state the proclamation issued pursuant to ~~[Subsection C of this~~
7 ~~section is filed with the secretary of state]~~ this subsection,
8 the secretary of state shall within five days certify the
9 proclamation to each county clerk in the state; ~~[Beginning not~~
10 ~~less than sixty-three days before the date of the election, the~~
11 ~~county clerk shall publish the proclamation once each week for~~
12 ~~two consecutive weeks in a newspaper of general circulation;~~

13 ~~E.~~ ~~For an election called pursuant to Subsection F~~
14 ~~of Section 1-15-18.1 NMSA 1978, the proclamation shall be~~
15 ~~published consistent with this subsection not less than thirty-~~
16 ~~six days before the date of the election]~~

17 (4) the proclamation shall be posted and
18 published in the same manner as provided for a proposed state
19 constitutional amendment pursuant to Section 1-16-4 NMSA 1978;

20 (5) the posting and publication pursuant to
21 this subsection shall also inform the public that the special
22 election will be conducted by mailed ballot, of the date
23 ballots will be initially mailed to voters and of the last day
24 to register to vote or to update an existing registration in
25 advance of the special election; and

.211327.3

underscored material = new
[bracketed material] = delete

1 (6) the proclamation shall conform to the
2 requirements of the federal Voting Rights Act of 1965, as
3 amended."

4 SECTION 155. Section 1-24-3 NMSA 1978 (being Laws 1989,
5 Chapter 295, Section 3, as amended) is repealed and a new
6 Section 1-24-3 NMSA 1978 is enacted to read:

7 "1-24-3. [NEW MATERIAL] SPECIAL ELECTION PROCEDURES--
8 CONDUCT.--

9 A. All special elections in this state shall be
10 conducted absentee. Mailed ballots shall be used exclusively
11 for voting in special elections. Except as otherwise provided
12 in the Special Election Act, all special elections in this
13 state shall be conducted and canvassed as provided in the
14 Election Code.

15 B. Without requiring a voter to file an application
16 to receive a ballot, the county clerk shall send a mailed
17 ballot to every voter of the county or local public body,
18 except a voter:

19 (1) who was sent a notice pursuant to
20 Subsection C of Section 1-4-28 NMSA 1978 and who has not
21 returned the prepaid and pre-addressed return card sent
22 pursuant to that section and has not filed a new certificate of
23 registration with a new address; or

24 (2) whose official election-related mail sent
25 through a uniform, nondiscriminatory process was returned to

.211327.3

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

1 the county clerk or the secretary of state as undeliverable and
2 the voter has not communicated with the county clerk that the
3 official election-related mail was returned as undeliverable in
4 error or filed a certificate of registration with a new
5 address.

6 C. Forty-two days before the election, the county
7 clerk shall send to each voter of the county or local public
8 body described in Paragraphs (1) and (2) of Subsection B of
9 this section notice, sent by forwardable mail, that the voter
10 will not be sent a ballot for the special election unless the
11 voter updates the voter's address as provided by the Election
12 Code or informs the county clerk that the address on the
13 certificate of registration is valid. The notice shall include
14 contact information for the office of the county clerk and an
15 internet address where the voter may update the voter's address
16 or communicate with the county clerk. The mailed ballot
17 register shall note which voters were sent a notice pursuant to
18 this subsection.

19 D. Twenty-two days before the election, pursuant to
20 Subsection B of this section, the county clerk shall send to
21 each voter a ballot for the special election, along with a
22 postage-paid return envelope, a notice that there will be no
23 traditional polling places for the election, the deadline for
24 the ballot to be received by the county clerk and a list of the
25 times and locations of secured containers available in addition

.211327.3

underscored material = new
[bracketed material] = delete

1 to the United States postal service for a voter to return the
2 ballot.

3 E. Beginning twenty-one days before the election,
4 the county clerk shall issue replacement and provisional
5 ballots as provided in the Absent Voter Act for the mailed
6 ballot process. In addition, the county clerk shall send a
7 ballot to any voter described in Paragraphs (1) and (2) of
8 Subsection B of this section who has not previously been sent a
9 ballot if the voter submits an application pursuant to Section
10 1-6-4 NMSA 1978.

11 F. When required by federal law, if the voter has
12 on file with the county a valid certificate of registration
13 that indicates that the voter is a new registrant in the state
14 and who registered by mail without submitting the required
15 voter identification, the county clerk shall notify the voter
16 that the voter must submit with the mailed ballot the required
17 documentary identification from the list in Paragraph (3) of
18 Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk
19 shall note on the mailed ballot register and signature roster
20 that the applicant's mailed ballot must be returned with the
21 required voter identification."

22 SECTION 156. Section 1-24-4 NMSA 1978 (being Laws 1989,
23 Chapter 295, Section 4) is amended to read:

24 "1-24-4. SPECIAL ELECTION PROCEDURES--ELECTION BOARD--
25 RECORDS.--

.211327.3

underscored material = new
[bracketed material] = delete

1 A. Upon the filing in the office of the county
2 clerk of a proclamation calling a special election, the county
3 clerk shall appoint election boards for the special election
4 pursuant to the provisions of Sections 1-2-6 through 1-2-18
5 NMSA 1978. The county clerk shall keep a log of how each
6 person was notified and confirmation that the notice was
7 received. Presiding judges and election judges on the election
8 board for the special election shall be appointed from among
9 those persons who served as election board members in a recent
10 statewide election. The handling of mailed ballots returned to
11 the county clerk in a special election shall be pursuant to the
12 provisions of Section 1-6-14 NMSA 1978. The election board for
13 the special election shall tally the votes for each ballot
14 question in the special election ballot in the presence of the
15 county clerk and any other person who may desire to be present;
16 provided that such person does not interfere with the duties of
17 the election board for the special election. After completion
18 of the tally, the election board for the special election shall
19 replace the ballots in the ballot boxes or ballot containers
20 and lock the ballot boxes or ballot containers, and the
21 election board for the special election shall certify for the
22 county canvassing report the results of the special election.

23 B. The returns [and certificates] of the results of
24 special elections are public documents, subject to retention
25 and inspection [during the customary hours and days of

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~business. Poll books, signature rosters and tally books may be~~
2 ~~destroyed three years after the election to which they apply.~~
3 ~~The certificate of results of the canvass of the election~~
4 ~~shall, after three years, be placed on file as a permanent~~
5 ~~record in the records center] pursuant to Section 1-12-69 NMSA~~
6 1978."

7 SECTION 157. Section 1-24-5 NMSA 1978 (being Laws 2018,
8 Chapter 79, Section 42) is amended to read:

9 "1-24-5. SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--
10 PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

11 A. The costs of conducting a special election shall
12 be paid for by the state or local ~~[government]~~ public body
13 calling for the election.

14 B. When the proclamation is issued by:

15 (1) the secretary of state, the state shall
16 pay all costs of the special election, including reasonable
17 costs incurred by each county clerk; and

18 (2) a local public body:

19 (a) unless the local public body has
20 made appropriate arrangements with the county clerk by means of
21 a written memorandum of understanding, the local public body
22 shall deposit the estimated actual amount for all costs
23 associated with the conduct of the special local election with
24 the county clerk no later than forty-nine days before the
25 special local election; and if multiple local public bodies

.211327.3

underscored material = new
[bracketed material] = delete

1 jointly conduct a special local election, each local public
2 body shall post a pro rata share of the estimated actual cost
3 of conducting the special local election;

4 (b) a county clerk may refuse to print
5 or mail ballots for a special local election if the estimated
6 actual cost of the election has not been deposited with the
7 county clerk no later than forty-nine days before the special
8 local election and the local public body has not made
9 appropriate arrangements with the county clerk by means of a
10 written memorandum of understanding;

11 (c) within sixty days following the
12 special local election, the county clerk shall provide an
13 accounting of expenses along with a refund for any funds not
14 expended or a bill for the remainder of the expenses to be paid
15 by the local public body within ninety days following the
16 special local election; and

17 (d) the secretary of state shall
18 maintain current on the secretary's website guidance for
19 calculating the estimated actual cost of a special local
20 election.

21 ~~[B-]~~ C. No individual, corporation, person,
22 political action committee or other nongovernmental entity
23 shall pay for or reimburse the state or a local ~~[government]~~
24 public body for the costs associated with conducting a special
25 election. ~~[G-]~~ Upon a finding of a violation of this ~~[section]~~

.211327.3

underscored material = new
[bracketed material] = delete

1 subsection, the district court shall nullify the votes cast in
2 the special election and shall void the result of the special
3 election."

4 SECTION 158. Section 22-7-1 NMSA 1978 (being Laws 1977,
5 Chapter 308, Section 1, as amended) is recompiled as Section
6 1-25-1 NMSA 1978 and is amended to read:

7 "1-25-1. SHORT TITLE.--~~[Chapter 22, Article 7]~~ Chapter 1,
8 Article 25 NMSA 1978 may be cited as the "~~[Local School Board~~
9 ~~Member]~~ Recall Act".

10 SECTION 159. Section 22-7-3 NMSA 1978 (being Laws 1977,
11 Chapter 308, Section 3, as amended) is recompiled as Section
12 1-25-2 NMSA 1978 and is amended to read:

13 "1-25-2. DEFINITIONS.--As used in the ~~[Local School Board~~
14 ~~Member]~~ Recall Act:

15 A. "canvasser" means a ~~[registered voter]~~ person
16 who circulates a petition and collects signatures;

17 ~~[B. "date of closure" means the date on which the~~
18 ~~county clerk receives signed petitions for the recall of one or~~
19 ~~more named members;~~

20 ~~C. "date of initiation" means the date on which the~~
21 ~~county clerk stamps the face sheet of the petition initiating~~
22 ~~the recall procedure;]~~

23 B. "county clerk" means:

24 (1) the clerk of the county in which the local
25 jurisdiction is situate;

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) in the case of a multicounty jurisdiction,
2 the clerk of the county in which the primary administrative
3 office of the local jurisdiction is situate; and

4 (3) the clerk of each county containing any
5 precinct in which votes may be cast for or against the recall
6 of a named official;

7 ~~[D.]~~ C. "face sheet" means the first page of a
8 petition containing the information ~~[as provided in Subsections~~
9 ~~D and E of Section 22-7-6 NMSA 1978;~~

10 ~~E. "member" means any person elected to the local~~
11 ~~school board of a school district]~~ required in the Recall Act;

12 D. "filing date" means the date on which the county
13 clerk receives signed petitions for the recall of one or more
14 named officials;

15 E. "initiation date" means the date on which the
16 district court stamps the face sheet of the petition after
17 entering an order finding that probable cause exists to proceed
18 with the recall process;

19 F. "malfeasance" means wrongful conduct that
20 affects, interrupts or interferes with the performance of
21 official duties; provided that if the act is discretionary, the
22 act was performed with an improper or corrupt motive;

23 G. "misfeasance" means performing a legal act in an
24 improper or illegal manner and the conduct evinces an improper
25 or corrupt motive;

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[F.]~~ H. "named ~~[member]~~ official" means ~~[a local~~
2 ~~school board member]~~ an elected official of a local
3 jurisdiction subject to the Recall Act and who is named on a
4 petition ~~[and subject to recall];~~

5 ~~[G.]~~ I. "petition" means a document consisting of a
6 completed face sheet or exact duplicate thereof and as many
7 subsequent pages as are necessary for signatures;

8 ~~[H.]~~ J. "petitioner" means a person, group or
9 organization initiating the petition;

10 ~~[I. "registered voter" means any qualified elector~~
11 ~~who is registered to vote as provided in the Election Code;~~

12 ~~J. "signature" means the name of a person as~~
13 ~~written by himself;]~~

14 K. "subsequent page" means the pages in a petition
15 after the face sheet ~~[arranged as provided in Subsection G of~~
16 ~~Section 22-7-6 NMSA 1978];~~ and

17 ~~[L. "county clerk" means the clerk of the county in~~
18 ~~which the school district is situate or, in the case of a~~
19 ~~multi-county school district, the clerk of the county in which~~
20 ~~the administrative office of the school district is situate;]~~

21 L. "violation of oath of office" means to refuse or
22 neglect to perform, without any just cause, any of the duties
23 that are or shall be required by law of the named official."

24 SECTION 160. Section 22-7-4 NMSA 1978 (being Laws 1977,
25 Chapter 308, Section 4) is recompiled as Section 1-25-3 NMSA

underscored material = new
[bracketed material] = delete

1 1978 and is amended to read:

2 "1-25-3. [~~MEMBERS~~] RECALL--ELECTED OFFICIALS SUBJECT TO
3 RECALL--LIMITATIONS.--~~[Any elected member of the local school~~
4 ~~board of any school district may be recalled as provided in the~~
5 ~~Local School Board Member Recall Act.]~~

6 A. An elected official of the following local
7 jurisdictions is subject to recall pursuant to the provisions
8 of the Recall Act:

9 (1) a school district, pursuant to Article 12,
10 Section 14 of the constitution of New Mexico;

11 (2) a county, pursuant to Article 10, Section
12 9 of the constitution of New Mexico;

13 (3) a commission-manager municipality,
14 pursuant to Section 3-14-16 NMSA 1978; and

15 (4) a home rule municipality, if the charter
16 of the home rule municipality provides for recall of elective
17 officers and notwithstanding any election provisions or
18 procedures in the laws of the municipality that may conflict
19 with the Recall Act; provided that if the recall procedures of
20 a home rule municipality provide greater due process than the
21 Recall Act, the recall procedures of the home rule municipality
22 shall be utilized in place of the due process procedures of the
23 Recall Act.

24 B. Recall of elected officials of the local
25 jurisdictions listed in Subsection A of this section is subject

.211327.3

underscored material = new
[bracketed material] = delete

1 to the following limitations:

2 (1) the cited grounds for recall shall be
3 based upon acts or failures to act constituting malfeasance in
4 office, misfeasance in office or violation of oath of office
5 occurring during the current term of the named official sought
6 to be recalled;

7 (2) no petition for recall of a named official
8 shall be submitted more than once during the same term of
9 office to which the official is elected; and

10 (3) an election to recall a named official
11 shall not be conducted:

12 (a) later than one hundred eighty days
13 from the end of the term for the office for which the recall of
14 a named official is sought, in the case of any office subject
15 to recall; and

16 (b) after May 1 in the calendar year in
17 which an election is to be held for the office for which the
18 recall of a named official is sought, in the case of a county
19 official who is a candidate for reelection."

20 SECTION 161. Section 22-7-6 NMSA 1978 (being Laws 1977,
21 Chapter 308, Section 6, as amended) is recompiled as Section
22 1-25-4 NMSA 1978 and is amended to read:

23 "1-25-4. RECALL--PETITION.--

24 [~~A. A separate petition shall be initiated for each~~
25 ~~named member.~~]

.211327.3

underscored material = new
[bracketed material] = delete

1 A. The recall petition shall be composed of a face
2 sheet and a subsequent page. An individual, group or
3 organization desiring to initiate the recall process may obtain
4 the forms from the district court.

5 B. The petition shall be on eight and one-half inch
6 by [~~fourteen~~] eleven inch paper.

7 C. All information written on the petition form
8 shall be in compliance with the federal Voting Rights Act of
9 1965, as amended.

10 D. Each face sheet of a petition shall contain the
11 following:

12 (1) a space for the initiation date;

13 (2) a notice at the top of the sheet stating:
14 "Recall is a local decision to be funded by local money.
15 [~~Additional~~] State funds will not be advanced to support
16 recall.";

17 (3) a space for the name of the named [~~member~~]
18 official;

19 (4) a space for the name of the local
20 jurisdiction in which the named official has been elected;

21 [~~(4)~~] (5) a space for the name of the [~~person~~]
22 individual, group or organization initiating the petition;

23 [~~(5)~~] (6) a space in which to list the
24 specific charges [~~in~~] to support [~~of the~~] recall of the named
25 [~~member~~] official that constitute malfeasance in office,

underscored material = new
[bracketed material] = delete

1 misfeasance in office or violation of oath of office; and
2 [~~(6)~~] (7) a notice stating "Signatures are
3 valid for a maximum of [~~one hundred ten~~] ninety days from [~~date~~
4 ~~of initiation~~] the initiation date".

5 E. The remaining portion of the face sheet shall be
6 substantially in the following form:

7 "I, the undersigned, a registered voter [~~in the county of~~
8 _____, ~~New Mexico~~] and a resident of the
9 _____ [~~school district~~] (name of local jurisdiction),
10 hereby petition for the recall of the [~~local school board~~
11 ~~member~~] named official on the face sheet of this petition.

12 1. _____
13 Usual Signature Name Printed Address As City Or Date
14 As Registered Registered Zip Code Signed
15 2. _____
16 Usual Signature Name Printed Address As City Or Date
17 As Registered Registered Zip Code Signed".

18 F. One completed face sheet or duplicate thereof
19 shall be the first page of all circulated petitions.

20 G. Each subsequent page [~~of the petition shall have~~
21 ~~approximately twenty-five lines numbered one to twenty-five~~]
22 shall describe the purpose of the petition, provide the name of
23 the named official sought to be recalled and indicate that
24 additional details are contained on the face sheet and [shall]
25 be substantially in the form [~~as~~] provided in [~~Subsection E of~~]

underscored material = new
[bracketed material] = delete

1 this section."

2 SECTION 162. Section 22-7-8 NMSA 1978 (being Laws 1977,
3 Chapter 308, Section 8, as amended) is recompiled as Section
4 1-25-5 NMSA 1978 and is amended to read:

5 "1-25-5. RECALL--RESPONSIBILITIES OF PETITIONER.--

6 [~~A. The petitioner may obtain a face sheet form and
7 a subsequent page form from the county clerk, or the petitioner
8 may assemble both as provided in Section 22-7-6 NMSA 1978.~~

9 B.] The petitioner shall complete the following
10 portions of the face sheet:

11 [~~(1)~~] A. name of the named [member; and] official;

12 B. name of the local jurisdiction in which the
13 named official has been elected;

14 [~~(2)~~] C. name of the [person] individual, group or
15 organization initiating the petition; and

16 [~~G. The petitioner shall cite the specific charges
17 in support of the recall of the named member on the face sheet
18 in compliance with the federal Voting Rights Act of 1965, as
19 amended.~~]

20 D. the specific charges to support recall of the
21 named official, which shall constitute [misfeasance]
22 malfeasance in office, [malfeasance] misfeasance in office or
23 violation of oath of office.

24 [~~D. The petitioner shall submit the completed face
25 sheet to the county clerk for affixing of the initiation date.~~

.211327.3

underscored material = new
[bracketed material] = delete

1 E. ~~The petitioner shall duplicate the completed~~
2 ~~face sheet with the initiation date affixed.~~

3 F. ~~The petitioner shall file all petitions~~
4 ~~collected to recall the named member with the county clerk on~~
5 ~~the same day within one hundred ten calendar days from the~~
6 ~~initiation date.]"~~

7 SECTION 163. Section 22-7-9.1 NMSA 1978 (being Laws 1987,
8 Chapter 142, Section 2) is recompiled as Section 1-25-6 NMSA
9 1978 and is amended to read:

10 "1-25-6. RECALL--COURT HEARING.--

11 A. ~~[Prior to affixing the date of initiation to the~~
12 ~~completed face sheet, the county clerk shall file an~~
13 ~~application with the district court within five days from the~~
14 ~~date the completed face sheet is presented to the county clerk]~~
15 The petitioner shall file the completed face sheet along with a
16 petition in the district court of the county in which the named
17 official resides, requesting a hearing for a determination by
18 the court of whether sufficient facts and probable cause exist
19 to allow the petitioner to continue with the recall process. A
20 separate face sheet and petition shall be filed for each named
21 official.

22 B. Upon the filing of the application, the district
23 court shall set a hearing date on the issue of sufficiency of
24 the facts alleged, which hearing shall be held not more than
25 [~~ten~~] fourteen days from the date the [~~application is filed by~~

underscored material = new
[bracketed material] = delete

1 ~~the county clerk] petitioner files the face sheet and petition.~~
2 The court shall notify the [~~petitioner at the mailing address~~
3 ~~listed on the face sheet of the time and place of the hearing.~~

4 ~~G. Upon review of the completed face sheet together~~
5 ~~with affidavits submitted by the petitioner setting forth~~
6 ~~specific facts in support of the charges specified on the face~~
7 ~~sheet, the district court shall make a determination whether~~
8 ~~sufficient facts exist to allow petitioners to continue with~~
9 ~~the recall process.~~

10 ~~D. Upon entry of an order by the court that~~
11 ~~sufficient facts exist to allow the petitioner to continue the~~
12 ~~recall process, the county clerk shall affix the date of~~
13 ~~initiation to the completed face sheet] county clerk of the~~
14 ~~date for the hearing. At the hearing, the petitioner and the~~
15 ~~named official shall each be given an opportunity to present~~
16 ~~evidence and cross-examine witnesses.~~

17 ~~[E.]~~ C. The district court's decision is appealable
18 by the petitioner or the named official only to the supreme
19 court, and notice of appeal shall be filed within five days
20 after the decision of the district court. The supreme court
21 shall hear and render a decision on the appeal forthwith."

22 SECTION 164. Section 22-7-9 NMSA 1978 (being Laws 1977,
23 Chapter 308, Section 9, as amended) is recompiled as Section
24 1-25-7 NMSA 1978 and is amended to read:

25 "1-25-7. RECALL--DUTIES OF COUNTY CLERK.--

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[A. The county clerk shall perform the following~~
2 ~~duties:~~

3 ~~(1) provide standard face sheet forms to~~
4 ~~include a place for the mailing address of the petitioner,~~
5 ~~standard subsequent page forms and standard affidavit forms to~~
6 ~~the general public upon request;~~

7 ~~(2) affix the initiation date to the completed~~
8 ~~face sheet only after the district court has issued an order~~
9 ~~permitting the continuation of the recall process after a~~
10 ~~hearing pursuant to Section 22-7-9.1 NMSA 1978 on the~~
11 ~~sufficiency of facts supporting the charges of malfeasance or~~
12 ~~misfeasance in office or violation of oath of office;~~

13 ~~(3) send one copy of the completed face sheet~~
14 ~~to the named member by registered mail, return receipt~~
15 ~~requested; and~~

16 ~~(4) keep one copy of the completed face sheet~~
17 ~~on file.~~

18 ~~B.]~~ A. Upon receipt of completed petitions, the
19 county clerk shall stamp the petitions with the filing date [~~of~~
20 ~~closure~~]. All completed petitions for the recall of one or
21 more named [~~members~~] officials shall be filed with the county
22 clerk on the same day within [~~one hundred ten calendar~~] ninety
23 days from the date of initiation.

24 ~~[G.]~~ B. For each petition that is accompanied by
25 the required affidavit pursuant to the Recall Act, the county

underscored material = new
[bracketed material] = delete

1 clerk shall verify the signatures on the completed petitions
2 within [~~ten working~~] fifteen days

3 ~~[D. Within five working days of the validation by~~
4 ~~the county clerk, the county clerk shall]~~ and determine whether
5 the verified signatures meet the required minimum number.
6 [~~required by Section 22-7-10 NMSA 1978.~~

7 ~~E. If the county clerk determines that sufficient~~
8 ~~signatures have not been submitted, he shall notify the~~
9 ~~petitioner at the mailing address listed on the face sheet and~~
10 ~~the named member by registered mail, return receipt requested,~~
11 ~~within three working days after the determination.~~

12 ~~F. If the county clerk determines that sufficient~~
13 ~~signatures have been submitted, he shall do the following~~
14 ~~within three working days after the determination:~~

15 ~~(1) notify the petitioner at the mailing~~
16 ~~address listed on the face sheet and the named member by~~
17 ~~registered mail, return receipt requested; and~~

18 ~~(2) initiate procedures for a special recall~~
19 ~~election as provided in Section 22-7-13 NMSA 1978.]~~

20 C. The minimum number of verified signatures
21 required to validate a petition is thirty-three and one-third
22 percent of the total number of voters who voted for all
23 candidates for the elected position currently occupied by the
24 named official at the last election where the official was
25 elected.

.211327.3

underscored material = new
[bracketed material] = delete

1 D. Within five days of making a determination
2 whether the verified signatures meet the required minimum
3 number, the county clerk shall notify the petitioner and the
4 named official in writing of the determination, and if the
5 county clerk determines that sufficient signatures have been
6 submitted, the clerk shall initiate procedures for a recall
7 election as provided in the Local Election Act; provided that
8 the order of the district court shall serve as the proclamation
9 calling the recall election."

10 SECTION 165. Section 22-7-7 NMSA 1978 (being Laws 1977,
11 Chapter 308, Section 7, as amended) is recompiled as Section
12 1-25-8 NMSA 1978 and is amended to read:

13 "1-25-8. RECALL--AFFIDAVIT WITH PETITION--PENALTY.--

14 A. When submitted to the county clerk, each
15 petition shall have a notarized affidavit attached. The
16 affidavit shall state that the canvasser [~~is a registered voter~~
17 ~~of the district and that the canvasser~~] circulated that
18 particular petition and witnessed each [~~signer write his~~]
19 signature and any other information recorded on the petition.

20 B. According to the best information and belief of
21 the canvasser, the canvasser shall [~~insure~~] ensure the
22 following:

23 (1) each signature is the signature of the
24 person whose name it purports to be;

25 (2) each signer is a registered voter of the

underscored material = new
[bracketed material] = delete

1 [county and school district] local jurisdiction listed on the
2 petition;

3 (3) each signature was obtained on or after
4 the filing date [~~of initiation~~]; and

5 (4) each signer had an opportunity to read the
6 information on the completed face sheet or an exact duplicate
7 thereof.

8 C. Any knowingly false statement made in the
9 affidavit constitutes a fourth degree felony."

10 SECTION 166. Section 22-7-10 NMSA 1978 (being Laws 1977,
11 Chapter 308, Section 10, as amended) is recompiled as Section
12 1-25-9 NMSA 1978 and is amended to read:

13 "1-25-9. RECALL--SIGNATURES.--

14 A. No signature may be signed on the petition prior
15 to the initiation date.

16 B. Signatures are valid for a maximum of [~~one~~
17 ~~hundred ten calendar~~] ninety days from the date of initiation.

18 C. Each signer of a recall petition shall sign but
19 one petition [~~unless more than one member is a named member,~~
20 ~~and in that case not more than the number of recall petitions~~
21 ~~equal to the number of named members shall be signed~~] for each
22 named official of a local jurisdiction in which the signer is
23 registered to vote.

24 D. The signature shall not be counted unless the
25 entire line is filled in full and is upon the form prescribed

.211327.3

underscored material = new
[bracketed material] = delete

1 by the [~~Local School Board Member~~] Recall Act.

2 E. A signature shall be counted on a recall
3 petition unless there is evidence presented that the person
4 signing:

5 (1) is not a registered voter of the [~~county~~
6 ~~and of the school district~~] local jurisdiction listed on the
7 face sheet of the petition, and in the case of a named official
8 serving in a districted position, is not a registered voter of
9 that district within the local jurisdiction;

10 (2) has signed more than one recall petition
11 [~~for one~~] page seeking to recall the same named [~~member~~]
12 official or has signed one petition page more than once; or

13 (3) is not the person whose name appears [~~on~~]
14 as a signer of the recall petition.

15 [~~F. The minimum number of verified signatures~~
16 ~~needed to validate a petition is thirty-three and one-third~~
17 ~~percent of the number of registered voters who voted for the~~
18 ~~school board position of the named member at the last preceding~~
19 ~~school board election.]"~~

20 SECTION 167. Section 22-7-12 NMSA 1978 (being Laws 1977,
21 Chapter 308, Section 12, as amended) is recompiled as Section
22 1-25-10 NMSA 1978 and is amended to read:

23 "1-25-10. RECALL [PETITION]--LIMITATION ON APPEALS OF
24 VALIDITY OF RECALL PETITION.--

25 A. Any person filing any court action challenging a

underscored material = new
[bracketed material] = delete

1 recall petition provided for in the [~~Local School Board Member~~]
2 Recall Act shall do so within [~~ten~~] seven days after the
3 determination of the county clerk as [~~set forth in Section~~
4 ~~22-7-9 NMSA 1978~~] to whether sufficient signatures have been
5 submitted. Challenges to the recall petition shall be directed
6 to:

7 (1) the validity of the signatures on the
8 petitions; or

9 (2) the determination of the county clerk as
10 to the minimum number of signatures [~~or~~

11 ~~(3) the sufficiency of the charge~~].

12 B. Within ten days after the filing of the action,
13 the district court shall hear and render a decision on the
14 matter. The decision shall be appealable only to the supreme
15 court, and notice of appeal shall be filed within five days
16 after the decision of the district court. The supreme court
17 shall hear and render a decision on the appeal forthwith.

18 [~~B. For the purpose of an action challenging a~~
19 ~~recall petition, each petitioner filing a recall petition under~~
20 ~~the Local School Board Member Recall Act appoints the proper~~
21 ~~filing officer as his agent to receive service of process.~~
22 ~~Immediately upon receipt of process served upon the proper~~
23 ~~filing officer, that officer shall, by certified mail, return~~
24 ~~receipt requested, mail the process to the person.]"~~

25 SECTION 168. Section 22-7-13 NMSA 1978 (being Laws 1977,

.211327.3

underscored material = new
[bracketed material] = delete

1 Chapter 308, Section 13, as amended) is recompiled as Section
2 1-25-11 NMSA 1978 and is amended to read:

3 "1-25-11. [~~SPECIAL~~] RECALL--ELECTION.--

4 A. Except as otherwise provided in the Recall Act,
5 recall elections shall be conducted and canvassed pursuant to
6 the provisions of the Local Election Act.

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

13 (1) the date is not in conflict with the
14 provisions of Section 1-24-1 NMSA 1978; and

15 (2) if the date of the determination by the
16 county clerk is within ninety days but no less than forty-nine
17 days before a statewide election, the recall election shall be
18 the first ballot question following the election or nomination
19 of candidates on the statewide election ballot; and if the
20 statewide election is a political party primary or the regular
21 local election, ballots containing only the recall ballot
22 question shall be available to voters who do not otherwise
23 qualify to vote in the statewide election.

24 [~~B.~~] C. The question to be submitted to the voters
25 at the [~~special~~] recall election shall be whether the named

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[member]~~ official shall be recalled

2 ~~[G. A special recall election may be held in~~
3 ~~conjunction with a regular or local special election.~~

4 ~~D. Except as otherwise provided in the Local School~~
5 ~~Board Member Recall Act, special recall elections in a school~~
6 ~~district shall be conducted pursuant to the provisions of the~~
7 ~~Local Election Act.~~

8 ~~E. The ballot shall be in compliance with the~~
9 ~~federal Voting Rights Act of 1965, as amended, and shall~~
10 ~~present the voter the choice of voting "for the removal of the~~
11 ~~named member" or "against the removal of the named member"] and~~
12 ~~shall present the voter the choice of voting "for the removal~~
13 ~~of" the named official or "against the removal of" the named~~
14 ~~official. The ballot or ballot question shall be in compliance~~
15 ~~with the federal Voting Rights Act of 1965, as amended."~~

16 SECTION 169. Section 22-7-5 NMSA 1978 (being Laws 1977,
17 Chapter 308, Section 5, as amended) is recompiled as Section
18 1-25-12 NMSA 1978 and is amended to read:

19 "1-25-12. RECALL--EXPENSES.--Following a decision of the
20 district court, if the county clerk proceeds to initiate
21 proceedings for a recall election as a special local election,
22 the local ~~[school board]~~ jurisdiction shall ensure ~~[the]~~
23 payment of the cost of ~~[a special]~~ the recall election ~~[and any~~
24 ~~costs incurred by the county clerk in carrying out his duties]~~
25 as provided in the ~~[Local School Board Member Recall]~~ Special

.211327.3

underscored material = new
[bracketed material] = delete

1 Election Act."

2 SECTION 170. Section 22-7-14 NMSA 1978 (being Laws 1977,
3 Chapter 308, Section 14) is recompiled as Section 1-25-13 NMSA
4 1978 and is amended to read:

5 "1-25-13. RECALL--VACANCY.--

6 A. The vacancy created by a recalled [~~member~~]
7 official shall be filled as provided [~~in Section 77-4-6 NMSA~~
8 ~~1953~~] by law for vacancies in office for the local
9 jurisdiction.

10 B. Under no circumstances may a recalled [~~member~~]
11 official be appointed to fill any vacancy for the remainder of
12 the term of office for which [~~he~~] the recalled official was
13 elected and from which the official was recalled."

14 SECTION 171. A new section of the Election Code is
15 enacted to read:

16 "[NEW MATERIAL] SHORT TITLE.--Sections 171 through 176 of
17 this act may be cited as the "Nonpartisan Judicial Retention
18 Act"."

19 SECTION 172. A new section of the Election Code is
20 enacted to read:

21 "[NEW MATERIAL] JUDICIAL RETENTION--ELIGIBILITY FOR
22 RETENTION--DEFINITIONS.--

23 A. A justice of the supreme court, judge of the
24 court of appeals, district court judge or metropolitan court
25 judge is eligible for nonpartisan judicial retention after the

.211327.3

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

1 justice or judge has first been elected to that position in a
2 partisan election.

3 B. In the last year of the term of office for the
4 position to which an eligible justice or eligible judge was
5 elected in a partisan election or by a previous nonpartisan
6 retention election, the eligible justice or judge desiring to
7 continue to serve in that position shall be subject to a
8 nonpartisan judicial retention election as provided in the
9 Nonpartisan Judicial Retention Act.

10 C. Declarations of candidacy for nonpartisan
11 judicial retention for the supreme court, court of appeals,
12 district court or metropolitan court shall be filed with the
13 proper filing officer between the hours of 9:00 a.m. and 5:00
14 p.m. on the twenty-third day after the primary election.

15 D. Each declaration of candidacy for nonpartisan
16 judicial retention shall be delivered for filing in person by
17 the eligible justice or judge therein named or by a person
18 acting by virtue of written authorization. The proper filing
19 officer shall not accept for filing from any one individual
20 more than one declaration of candidacy for nonpartisan judicial
21 retention.

22 E. As used in the Nonpartisan Judicial Retention
23 Act, "eligible justice" or "eligible judge" means a justice or
24 judge who has been elected to that position in a partisan
25 election."

.211327.3

underscoring material = new
[bracketed material] = delete

1 SECTION 173. A new section of the Election Code is
2 enacted to read:

3 "[NEW MATERIAL] JUDICIAL RETENTION--SUPREME COURT
4 JUSTICES.--

5 A. Each eligible justice of the supreme court shall
6 be subject to retention or rejection at the general election in
7 the last year of the eight-year term of office for the position
8 in which the justice is serving.

9 B. Terms of office for positions on the supreme
10 court shall be staggered so that at least one term of office
11 shall expire each even-numbered year; provided that no more
12 than two terms of office shall expire in the same year.

13 C. The administrative office of the courts shall
14 maintain current on its website a list of the names of the
15 currently serving justices of the supreme court and the year in
16 which the term of office for each position on the supreme court
17 expires."

18 SECTION 174. A new section of the Election Code is
19 enacted to read:

20 "[NEW MATERIAL] JUDICIAL RETENTION--APPEALS COURT
21 JUDGES.--

22 A. Each eligible judge of the court of appeals
23 shall be subject to retention or rejection at the general
24 election in the last year of the eight-year term of office for
25 the position in which the judge is serving.

.211327.3

underscoring material = new
[bracketed material] = delete

1 B. Terms of office for positions on the court of
2 appeals shall be staggered so that at least two terms of office
3 shall expire each even-numbered year; provided that no more
4 than three terms of office shall expire in the same year.

5 C. The administrative office of the courts shall
6 maintain current on its website a list of the names of the
7 currently serving judges of the court of appeals and the year
8 in which the term of office for each position on the court of
9 appeals expires."

10 SECTION 175. A new section of the Election Code is
11 enacted to read:

12 "[NEW MATERIAL] JUDICIAL RETENTION--DISTRICT COURT
13 JUDGES.--

14 A. Each eligible district court judge shall be
15 subject to retention or rejection at the general election in
16 the last year of the six-year term of office for the position
17 in which the judge is serving.

18 B. Terms of office for positions on the district
19 court in each judicial district shall be staggered, as follows:

20 (1) the term of office for division 1 and for
21 every third division number thereafter shall expire in 2020 and
22 every six years thereafter;

23 (2) the term of office for division 2 and for
24 every third division number thereafter shall expire in 2022 and
25 every six years thereafter; and

.211327.3

underscored material = new
[bracketed material] = delete

1 (3) the term of office for division 3 and for
2 every third division number thereafter shall expire in 2024 and
3 every six years thereafter.

4 C. The administrative office of the courts shall
5 maintain current on its website a list of the names of the
6 currently serving judges of each judicial district and the year
7 in which the term of office for each position expires.

8 D. As used in this section, "division" means the
9 divisions established pursuant to Section 34-6-18 NMSA 1978."

10 SECTION 176. A new section of the Election Code is
11 enacted to read:

12 "[NEW MATERIAL] JUDICIAL RETENTION--METROPOLITAN COURT
13 JUDGES.--

14 A. Each eligible metropolitan court judge shall be
15 subject to retention or rejection at the general election in
16 the last year of the four-year term of office for the position
17 in which the judge is serving.

18 B. Terms of office for positions on each
19 metropolitan court shall be staggered, as follows:

20 (1) the term of office for division 1 and for
21 every second division number thereafter shall expire in 2022
22 and every four years thereafter; and

23 (2) the term of office for division 2 and for
24 every second division number thereafter shall expire in 2024
25 and every four years thereafter.

.211327.3

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

1 C. The administrative office of the courts shall
2 maintain current on its website a list of the names of the
3 currently serving judges of the metropolitan court and the year
4 in which the term of office for each position expires.

5 D. As used in this section, "division" means the
6 divisions established pursuant to Subsection B of Section
7 34-8A-4 NMSA 1978."

8 **SECTION 177.** Section 3-1-2 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-1-2, as amended) is amended to read:

10 "3-1-2. DEFINITIONS.--As used in the Municipal Code:

11 A. "acquire" or "acquisition" means purchase,
12 construct, accept or any combination of purchasing,
13 constructing or accepting;

14 B. "business" means any person, occupation,
15 profession, trade, pursuit, corporation, institution,
16 establishment, utility, article, commodity or device engaged in
17 making a profit, but does not include an employee;

18 C. "census" means any enumeration of population of
19 a municipality conducted under the direction of the government
20 of the United States, the state of New Mexico or the
21 municipality;

22 D. "county" means the county in which the
23 municipality or land is situated;

24 E. "district court" means the district court of the
25 district in which the municipality or land is situated;

.211327.3

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

1 F. "governing body" means the city council or city
2 commission of a city, the board of trustees of a town or
3 village, the council of incorporated counties and the board of
4 county commissioners of H class counties;

5 G. "municipal" or "municipality" means any
6 incorporated city, town or village, whether incorporated under
7 general act, special act or special charter, incorporated
8 counties and H class counties;

9 H. "municipal utility" means sewer facilities,
10 water facilities, gas facilities, electric facilities,
11 generating facilities or any interest in jointly owned
12 generating facilities owned by a municipality and serving the
13 public. A municipality that owns both electric facilities and
14 any interest in jointly owned generating facilities may, by
15 ordinance, designate such interest in jointly owned generating
16 facilities as part of its electric facilities. Generating
17 facilities shall be considered as part of a municipality's
18 electric facilities unless the municipality designates, by
19 ordinance, the generating facilities as a separate municipal
20 utility, such designation being conclusive subject to any
21 existing property rights or contract rights;

22 I. "public ground" means any real property owned or
23 leased by a municipality;

24 J. "publish" or "publication" means printing in a
25 newspaper that maintains an office in the municipality and is

.211327.3

underscored material = new
[bracketed material] = delete

1 of general circulation within the municipality or, if such
2 newspaper is a nondaily paper that will not be circulated to
3 the public in time to meet publication requirements or if there
4 is no newspaper that maintains an office in the municipality
5 and is of general circulation within the municipality, then
6 "publish" or "publication" means posting in six public places
7 within the municipality on the first day that publication is
8 required in a newspaper that maintains an office in the
9 municipality and is of general circulation within the
10 municipality. One of the public places where posting shall be
11 made is the office of the municipal clerk, who shall maintain
12 the posting during the length of time necessary to comply with
13 the provisions relating to the number of times publication is
14 required in a newspaper of general circulation within the
15 municipality. The municipal clerk may, in addition to posting,
16 publish one or more times in a newspaper of general circulation
17 in the municipality;

18 K. "qualified elector" means any person [~~whose~~
19 ~~affidavit of voter registration has been filed by the county~~
20 ~~clerk, who is registered to vote in a general election precinct~~
21 ~~established by the board of county commissioners that is wholly~~
22 ~~or partly within the municipal boundaries and]~~ who is a
23 resident of the municipality and is registered to vote under
24 the provisions of the Election Code. Persons who would
25 otherwise be qualified electors if land on which they reside is

.211327.3

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

1 annexed to a municipality shall be deemed to be qualified
2 electors:

3 (1) upon the effective date of the municipal
4 ordinance effectuating the terms of the annexation as certified
5 by the board of arbitration pursuant to Section 3-7-10 NMSA
6 1978;

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

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

16 L. "revenue producing project" means any
17 municipally owned self-liquidating projects that furnish public
18 services to a municipality and its citizens, including but not
19 necessarily limited to public buildings; facilities and
20 equipment for the collection or disposal of trash, refuse or
21 garbage; swimming pools; golf courses and other recreational
22 facilities; cemeteries or mausoleums or both; airports; off-
23 street parking garages; and transportation centers, which may
24 include but are not limited to office facilities and customary
25 terminal facilities for airlines, trains, monorails, subways,

.211327.3

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

1 intercity and intracity buses and taxicabs [~~but~~]. "Revenue
2 producing [~~facilities~~] project" does not mean a municipal
3 utility as defined in Subsection H of this section;

4 M. "street" means any thoroughfare that can
5 accommodate pedestrian or vehicular traffic, is open to the
6 public and is under the control of the municipality;

7 N. "warrant" means a warrant, check or other
8 negotiable instrument issued by a municipality in payment for
9 goods or services acquired by the municipality or for the
10 payment of a debt incurred by the municipality;

11 O. "mayor" means the chief executive officer of
12 municipalities having the mayor-council form of government. In
13 municipalities having other forms of government, the presiding
14 officer of the governing body and the official head of the
15 government, without executive powers, may be designated mayor
16 by the governing body. Wherever the Municipal Code requires an
17 act to be performed by the mayor with the consent of the
18 governing body, in municipalities not having the mayor-council
19 form of government, the act shall be performed by the governing
20 body;

21 P. "generating facility" means any facility located
22 within or outside the state necessary or incidental to the
23 generation or production of electric power and energy by any
24 means and includes:

25 (1) any facility necessary or incidental to

.211327.3

underscored material = new
[bracketed material] = delete

1 the acquisition of fuel of any kind for the production of
2 electric power and energy, including the acquisition of fuel
3 deposits, the extraction of fuel from natural deposits, the
4 conversion of fuel for use in another form, the burning of fuel
5 in place and the transportation and storage of such fuel; and

6 (2) any facility necessary or incidental to
7 the transfer of the electric power and energy to the
8 municipality, including without limitation step-down
9 substations or other facilities used to reduce the voltage in a
10 transmission line in order that electric power and energy may
11 be distributed by the municipality to its retail customers;

12 Q. "jointly owned generating facility" means any
13 generating facility in which a municipality owns any undivided
14 or other interest, including without limitation any right to
15 entitlement or capacity; and

16 R. "joint participant" means any municipality in
17 New Mexico or any other state; any public entity incorporated
18 under the laws of any other state having the power to enter
19 into the type of transaction contemplated by the Municipal
20 Electric Generation Act; the state of New Mexico; the United
21 States; Indian tribes; and any public electric utility,
22 investor-owned electric utility or electric cooperative subject
23 to general or limited regulation by the [~~New Mexico~~] public
24 [~~utility~~] regulation commission or a similar commission of any
25 other state."

.211327.3

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

1 SECTION 178. Section 3-2-3 NMSA 1978 (being Laws 1965,
2 Chapter 300, Section 14-2-3, as amended) is amended to read:

3 "3-2-3. URBANIZED TERRITORY--INCORPORATION LIMITED WITHIN
4 URBANIZED TERRITORY.--

5 A. Urbanized territory is that territory within the
6 same county and within five miles of the boundary of any
7 municipality having a population of five thousand or more
8 persons and that territory within the same county and within
9 three miles of a municipality having a population of less than
10 five thousand persons, except that territory in a class B
11 county with a population between ninety-five thousand and
12 ninety-nine thousand five hundred, based on the 1990 federal
13 decennial census, declared by an ordinance of the board of
14 county commissioners to be a traditional historic community
15 shall not be considered urbanized territory and shall not be
16 annexed by a municipality unless it is considered for
17 annexation pursuant to a petition requesting annexation signed
18 by a majority of the [~~registered~~] qualified electors within the
19 traditional historic community.

20 B. No territory within an urbanized territory shall
21 be incorporated as a municipality unless the:

22 (1) municipality or municipalities causing the
23 urbanized territory approve, by resolution, the incorporation
24 of the territory as a municipality;

25 (2) residents of the territory proposed to be

.211327.3

underscored material = new
[bracketed material] = delete

1 incorporated have filed with the municipality a valid petition
2 to annex the territory proposed to be incorporated and the
3 municipality fails, within one hundred twenty days after the
4 filing of the annexation petition, to annex the territory
5 proposed to be incorporated; or

6 (3) residents of the territory proposed to be
7 annexed conclusively prove that the municipality is unable to
8 provide municipal services within the territory proposed to be
9 incorporated within the same period of time that the proposed
10 municipality could provide municipal service.

11 C. A traditional historic community may become
12 incorporated even though it is located within what is defined
13 as urbanized territory pursuant to Subsection A of this
14 section, by following the procedures set forth in Sections
15 3-2-5 through 3-2-9 NMSA 1978."

16 SECTION 179. Section 3-7-1 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-7-1, as amended by Laws 1995, Chapter
18 170, Section 2 and also by Laws 1995, Chapter 211, Section 1)
19 is amended to read:

20 "3-7-1. METHODS OF ANNEXATION.--

21 A. There shall be three methods of annexing
22 territory to a municipality:

23 (1) the arbitration method as provided in
24 Sections 3-7-5 through 3-7-10 NMSA 1978;

25 (2) the boundary commission method as provided

.211327.3

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

1 in Sections 3-7-11 through 3-7-16 NMSA 1978; and

2 (3) the petition method as provided in Section
3 3-7-17 NMSA 1978.

4 B. Territory may be annexed to a municipality by
5 any one of the three methods of annexation provided for in
6 Sections 3-7-5 through 3-7-18 NMSA 1978 except where
7 limitations of annexation are provided by law. The provisions
8 of this section apply to annexations of all municipalities
9 except those that are otherwise specifically provided by law.
10 The arbitration method of annexation may be used for municipal
11 annexation of a traditional historic community only upon
12 petition of a majority of the ~~[registered]~~ qualified electors
13 of the territory within the traditional historic community."

14 SECTION 180. Section 3-7-1.1 NMSA 1978 (being Laws 1995,
15 Chapter 170, Section 5 and Laws 1995, Chapter 211, Section 4)
16 is amended to read:

17 "3-7-1.1. TRADITIONAL HISTORIC COMMUNITY--
18 QUALIFICATIONS--ANNEXATION RESTRICTIONS.--

19 A. To qualify as a traditional historic community,
20 an area shall:

21 (1) be an unincorporated area of a class B
22 county with a population between ninety-five thousand and
23 ninety-nine thousand five hundred, based on the 1990 federal
24 decennial census;

25 (2) be an identifiable village, community,

.211327.3

underscored material = new
[bracketed material] = delete

1 neighborhood or district that can be documented as having
2 existed for more than one hundred years;

3 (3) include structures or landmarks that are
4 associated with the identity of the specific village,
5 community, neighborhood or district seeking designation as a
6 traditional historic community;

7 (4) have a distinctive character or
8 traditional quality that can be distinguished from surrounding
9 areas or new developments in the vicinity; and

10 (5) be declared a traditional historic
11 community by an ordinance of the board of county commissioners
12 of the county in which the petitioning village, community,
13 neighborhood or district is located.

14 B. A traditional historic community may be annexed
15 by a municipality only by petition of a majority of the
16 ~~[registered]~~ qualified electors of the territory within the
17 traditional historic community proposed to be annexed by the
18 municipality or by the arbitration method of annexation only
19 upon petition of a majority of the ~~[registered]~~ qualified
20 electors of the territory within the traditional historic
21 community."

22 SECTION 181. Section 3-14-16 NMSA 1978 (being Laws 1965,
23 Chapter 300, Section 14-13-16, as amended) is amended to read:

24 "3-14-16. COMMISSION--MANAGER--RECALL--ELECTION [~~BALLOT--~~
25 ~~EFFECT--FILLING VACANCIES]~~.--

underscored material = new
[bracketed material] = delete

1 A. In any commission-manager municipality, any
2 elective [~~officer~~] executive or commissioner is subject to a
3 recall election for malfeasance [~~or~~] in office, misfeasance in
4 office or a violation of [~~the~~] oath of office based upon acts
5 or failures to act occurring during the current term of the
6 official sought to be recalled.

7 ~~[B. The factual allegations that support the~~
8 ~~grounds for recall shall be presented in a complaint to the~~
9 ~~district court for the county in which the recall is proposed~~
10 ~~to be conducted. The district court shall hold a hearing to~~
11 ~~determine if probable cause exists for the grounds for recall.~~
12 ~~The proponents of the recall effort and the officer sought to~~
13 ~~be recalled shall be given an opportunity to present evidence~~
14 ~~at the hearing. In making its determination, the district~~
15 ~~court shall only consider evidence of acts or failures to act~~
16 ~~occurring during the current term of the official sought to be~~
17 ~~recalled.~~

18 ~~G. If the district court determines that probable~~
19 ~~cause for the recall exists, the recall petition may be~~
20 ~~circulated. The recall petition shall cite the grounds of~~
21 ~~malfeasance or misfeasance in office or violation of the oath~~
22 ~~of office by the official concerned. The cited grounds shall~~
23 ~~be based upon acts or failures to act occurring during the~~
24 ~~current term of the official sought to be recalled. The~~
25 ~~grounds for recall in the petition shall be as found by the~~

underscored material = new
[bracketed material] = delete

1 ~~district court in its finding of probable cause. The recall~~
2 ~~petition shall be signed by the qualified electors in a number~~
3 ~~more than twenty percent of the average number of voters who~~
4 ~~voted at the previous four regular municipal elections or more~~
5 ~~than twenty percent of the number of voters who voted at the~~
6 ~~previous regular municipal election, whichever is the greater.~~

7 D. ~~The municipal clerk shall verify that the~~
8 ~~persons who signed the petition are qualified electors in the~~
9 ~~district and that the petition contains the proper number of~~
10 ~~signatures. If the municipal clerk has so verified the~~
11 ~~petition, the commission shall call a special election unless~~
12 ~~the regular municipal election occurs within sixty days, in~~
13 ~~which case the qualified electors shall vote on the recall at~~
14 ~~the regular election. In either case, there shall be a special~~
15 ~~ballot containing the name of the officer, the title of the~~
16 ~~office and the dates of the beginning and termination of the~~
17 ~~officer's official term. Below the name of the officer shall~~
18 ~~be two phrases, "For the recall" and "Against the recall", one~~
19 ~~below the other with a space after each for placing a cross~~
20 ~~where desired. If a majority of the votes cast favor recall~~
21 ~~and the number of votes cast favoring a recall are equal to or~~
22 ~~more than the number the officer received when the officer was~~
23 ~~a candidate for office, the officer who is the subject of~~
24 ~~recall is recalled from the office and the office in question~~
25 ~~is declared vacant.~~

.211327.3

underscored material = new
[bracketed material] = delete

1 E. ~~If an officer is recalled, the officer shall not~~
2 ~~be eligible for reelection until the term for which the officer~~
3 ~~was originally elected has expired.~~

4 F. ~~If the recall election results in a failure to~~
5 ~~secure the votes necessary to recall, the officer in question~~
6 ~~shall not be subject again to recall until six months have~~
7 ~~elapsed from the date the previous recall election was held.~~

8 G. ~~A vacancy created by a recall election shall be~~
9 ~~filled in the same manner as other vacancies on the commission~~
10 ~~are filled.] Recall of an elective executive or commissioner in~~
11 ~~a commissioner-manager municipality shall be conducted pursuant~~
12 ~~to the provisions of the Recall Act.~~

13 B. If all commissioners are recalled at the same
14 election, [~~the municipal clerk or, if there is no municipal~~
15 ~~clerk] the district court shall [~~within three days, call] order~~
16 ~~an election [as provided in Section 3-14-8 NMSA 1978 for the~~
17 ~~election of five commissioners]."~~~~

18 SECTION 182. Section 3-21-1 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-20-1, as amended by Laws 2007, Chapter
20 46, Section 3 and by Laws 2007, Chapter 270, Section 1) is
21 amended to read:

22 "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

23 A. For the purpose of promoting health, safety,
24 morals or the general welfare, a county or municipality is a
25 zoning authority and may regulate and restrict within its

.211327.3

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

1 jurisdiction the:

- 2 (1) height, number of stories and size of
- 3 buildings and other structures;
- 4 (2) percentage of a lot that may be occupied;
- 5 (3) size of yards, courts and other open
- 6 space;
- 7 (4) density of population; and
- 8 (5) location and use of buildings, structures
- 9 and land for trade, industry, residence or other purposes.

10 B. The county or municipal zoning authority may:

- 11 (1) divide the territory under its
- 12 jurisdiction into districts of such number, shape, area and
- 13 form as is necessary to carry out the purposes of Sections
- 14 3-21-1 through 3-21-14 NMSA 1978; and
- 15 (2) regulate or restrict the erection,
- 16 construction, reconstruction, alteration, repair or use of
- 17 buildings, structures or land in each district. All such
- 18 regulations shall be uniform for each class or kind of
- 19 buildings within each district, but regulation in one district
- 20 may differ from regulation in another district.

21 C. All state-licensed or state-operated community
22 residences for persons with a mental or developmental
23 disability and serving ten or fewer persons may be considered a
24 residential use of property for purposes of zoning and may be
25 permitted use in all districts in which residential uses are

underscored material = new
[bracketed material] = delete

1 permitted generally, including particularly residential zones
2 for single-family dwellings.

3 D. A board of county commissioners of the county in
4 which the greatest amount of the territory of the petitioning
5 village, community, neighborhood or district lies may declare
6 by ordinance that a village, community, neighborhood or
7 district is a "traditional historic community" upon petition by
8 twenty-five percent or more of the [~~registered~~] qualified
9 electors of the territory within the village, community,
10 neighborhood or district requesting the designation. The
11 number of [~~registered~~] qualified electors shall be based on
12 county records as of the date of the last general election.

13 E. Any village, community, neighborhood or district
14 that is declared a traditional historic community shall be
15 excluded from the extraterritorial zone and extraterritorial
16 zoning authority of any municipality whose extraterritorial
17 zoning authority extends to include all or a portion of the
18 traditional historic community and shall be subject to the
19 zoning jurisdiction of the county in which the greatest portion
20 of the traditional historic community lies.

21 F. Zoning authorities, including zoning authorities
22 of home rule municipalities, shall accommodate
23 multigenerational housing by creating a mechanism to allow up
24 to two kitchens within a single-family zoning district, such as
25 conditional use permits.

.211327.3

underscored material = new
[bracketed material] = delete

1 G. For the purpose of this section,
2 "multigenerational" means any number of persons related by
3 blood, common ancestry, marriage, guardianship or adoption."

4 **SECTION 183.** Section 3-30-1 NMSA 1978 (being Laws 1965,
5 Chapter 300, Section 14-29-1) is repealed and a new Section
6 3-30-1 NMSA 1978 is enacted to read:

7 "3-30-1. [NEW MATERIAL] BOND ELECTIONS--FINDINGS--
8 QUALIFIED ELECTORS.--

9 A. The legislature finds that the provisions of
10 Article 9, Section 12 of the constitution of New Mexico
11 regarding nonresident municipal electors violate the rights of
12 property owners who are not qualified electors of the county
13 where such city, town or village is situated compared to
14 nonresident property owners who are qualified electors of the
15 county where such city, town or village is located, and further
16 finds that providing voting rights based on property ownership
17 violates the franchise provisions in Article 7, Section 1 of
18 the constitution of New Mexico.

19 B. Voting for all purposes in all public elections
20 in a municipality shall be based exclusively on voter
21 registration by qualified electors of the municipality as
22 provided in the Municipal Code and Election Code."

23 **SECTION 184.** Section 3-30-6 NMSA 1978 (being Laws 1965,
24 Chapter 300, Section 14-29-6, as amended) is amended to read:

25 "3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--

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

1 SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

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

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

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

23 SECTION 185. Section 3-33-14.1 NMSA 1978 (being Laws
24 2001, Chapter 312, Section 5) is amended to read:

25 "3-33-14.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY

.211327.3

underscored material = new
[bracketed material] = delete

1 TAX--LIMITATIONS.--

2 A. If in connection with the creation of the
3 improvement district the governing body determines that it is
4 in the best interest of the municipality to finance the
5 district improvements by the imposition of an improvement
6 district property tax and the issuance of improvement district
7 general obligation bonds, the governing body shall enact an
8 ordinance making the determination and provide in the ordinance
9 the improvement district property tax rate to be imposed; the
10 date, which may be a predetermined date or a date to be
11 established in the future after completion of the improvements,
12 of commencement of the tax; the amount of the bonds to be
13 issued to finance the improvements; and any other matters the
14 governing body deems necessary or appropriate. The governing
15 body shall call an election within the improvement district for
16 the purpose of authorizing the governing body to issue general
17 obligation bonds, the proceeds of the sale of which shall be
18 used for constructing the improvements for which the district
19 was created and to impose improvement district property taxes
20 on all taxable property within the district for the purpose of
21 paying the principal, debt service and other expenses
22 incidental to the issuance and sale of the bonds. The
23 ~~[ordinance shall also include procedures for the conduct of the~~
24 ~~election based upon the size of the improvement district and~~
25 ~~the number of voters entitled to vote]~~ election shall be

.211327.3

underscored material = new
[bracketed material] = delete

1 conducted as prescribed by the Local Election Act and pursuant
2 to the requirements of the property tax division of the
3 taxation and revenue department.

4 B. If at the election described in Subsection A of
5 this section the property tax imposition and the issuance of
6 improvement district general obligation bonds are approved by a
7 majority of the voters voting on the issues, the governing body
8 shall impose the tax at a rate sufficient to pay the debt
9 service on the bonds and retire them at maturity.

10 C. Imposition and collection of the improvement
11 district property tax authorized in this section shall be made
12 at the same time and in the same manner as impositions and
13 collections of property taxes for use by municipalities and
14 counties are made.

15 D. Bonds issued by the governing body for payment
16 of the specified improvement district improvements shall be
17 sold at a price that does not result in a net effective
18 interest rate exceeding the maximum net effective interest rate
19 permitted by the Public Securities Act. The bonds may be sold
20 at public or private sale and may be in denominations that the
21 governing body determines.

22 E. The form and terms of the bonds, including a
23 final maturity of thirty years and provisions for their payment
24 and redemption, shall be as determined by the governing body.
25 The bonds shall be executed in the name of and on behalf of the

.211327.3

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

1 improvement district by the mayor and clerk of the
2 municipality. The bonds may be executed and sealed in
3 accordance with the provisions of the Uniform Facsimile
4 Signature of Public Officials Act.

5 F. To provide for the payment of the interest and
6 principal of the bonds issued and sold pursuant to this
7 section, the governing body shall annually impose a property
8 tax on all taxable property in the district in an amount
9 sufficient to produce a sum equal to the principal and interest
10 on all bonds as they mature.

11 G. The bonds authorized in this section are general
12 obligation bonds of the district, and the full faith and credit
13 of the district are pledged to the payment of the bonds. The
14 proceeds obtained from the issuance of the bonds shall not be
15 diverted or expended for any purposes other than those provided
16 in Chapter 3, Article 33 NMSA 1978.

17 H. All bonds issued by an improvement district
18 shall be fully negotiable and constitute negotiable instruments
19 within the meaning of and for all the purposes of the Uniform
20 Commercial Code. If lost or completely destroyed, any bond may
21 be reissued in the form and tenor of the lost or destroyed bond
22 upon the owner furnishing to the satisfaction of the governing
23 body:

- 24 (1) proof of ownership;
25 (2) proof of loss or destruction;

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

1 (3) a surety bond in twice the face amount of
2 the bond and coupons; and

3 (4) payment of the cost of preparing and
4 issuing the new bond and coupons.

5 I. The governing body may in any proceeding
6 authorizing improvement district bonds provide for the initial
7 issuance of one or more bonds aggregating the amount of the
8 entire issue or may make provision for installment payments of
9 the principal amount of any bond as it may consider desirable.

10 J. The governing body may issue bonds to be
11 denominated refunding bonds, for the purpose of refunding any
12 of the general obligation bonded indebtedness of the
13 improvement district. Whenever the governing body deems it
14 expedient to issue refunding bonds, it shall adopt an ordinance
15 setting out the facts making the issuance of the refunding
16 bonds necessary or advisable, the determination of the
17 necessity or advisability by the governing body and the amount
18 of refunding bonds that the governing body deems necessary and
19 advisable to issue. The ordinance shall fix the form of the
20 bonds; the rate or rates of interest of the bonds, but the net
21 effective interest rate of the bonds shall not exceed the
22 maximum net effective interest rate permitted by the Public
23 Securities Act; the date of the refunding bonds; the
24 denominations of the refunding bonds; the maturity dates; and
25 the place or places of payment within or without the state of

.211327.3

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

1 both principal and interest. Refunding bonds when issued,
2 except for bonds issued in book entry or similar form without
3 the delivery of physical securities, shall be negotiable in
4 form and shall bear the signature or the facsimile signature of
5 the mayor and clerk of the municipality. All refunding bonds
6 may be exchanged dollar for dollar for the bonds to be refunded
7 or they may be sold as directed by the governing body, and the
8 proceeds of the sale shall be applied only to the purpose for
9 which the bonds were issued and the payment of any incidental
10 expenses.

11 K. The principal amount of improvement district
12 general obligation bonds that may be issued by the governing
13 body for any improvement district shall not exceed twenty-five
14 percent of the final estimated value of properties in the
15 district after completion of the projects to be financed with
16 the improvement district general obligation bonds and after
17 development of the properties in the improvement district in
18 accordance with their planned use, as determined by the
19 governing body with the assistance of the engineer and other
20 qualified professionals.

21 L. In connection with an improvement district
22 project to be financed with the proceeds of improvement
23 district general obligation bonds issued pursuant to this
24 section, a property owner subject to the improvement district
25 property tax or the governing body may enter into contracts to

.211327.3

underscored material = new
[bracketed material] = delete

1 design, engineer, finance, construct or acquire a project with
2 contractors and professionals, on such terms and with such
3 persons as a property owner subject to the improvement district
4 property tax or the governing body determines to be
5 appropriate, without following the procedures or meeting the
6 requirements of the Procurement Code or the requirements of
7 Sections 6-15-1 through 6-15-22 NMSA 1978."

8 SECTION 186. Section 3-52-3 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-53-3, as amended) is amended to read:

10 "3-52-3. AUTHORIZATION.--

11 A. A municipality may invoke the authority
12 contained in the Municipal Transit Law on finding all of the
13 following state of facts to exist:

14 (1) general transportation of persons is
15 necessary and convenient;

16 (2) privately owned public transportation
17 facilities in operation are inadequate;

18 (3) it is impossible for existing franchise
19 operators to render necessary service with adequate resulting
20 return on the investment of capital; and

21 (4) assignment of the existing franchise by
22 the holder or release [~~thereof~~] of the existing franchise and
23 granting of a new franchise by the city will not afford
24 adequate service.

25 Such finding, if made, shall be by resolution adopted by

.211327.3

underscored material = new
[bracketed material] = delete

1 the governing body on the affirmative recorded vote of at least
2 two-thirds of the elected members of the governing body.

3 [~~Such~~] The resolution shall be published in full in a daily
4 newspaper of general circulation in the municipality. It shall
5 not take effect until thirty days after the publication. If
6 within the thirty days of the publication a petition signed by
7 qualified voters in number equal to twenty percent of the
8 number of voters at the preceding city election on which
9 members of the governing body were elected asks that the
10 resolution in question be submitted to a vote of the people for
11 adoption or rejection, the measure shall not take effect until
12 an election is held as petitioned. The [~~city~~] governing body
13 may then rescind the resolution or, in its discretion, call an
14 election within ninety days, at which time the proposition
15 shall be submitted to the voters; provided that the date is not
16 in conflict with the provisions of Section 1-24-1 NMSA 1978.

17 The governing body shall provide for the election [~~in the same~~
18 ~~manner as for an election at which members of the governing~~
19 ~~body are chosen~~] pursuant to the provisions of the Local
20 Election Act. If a majority of the votes cast at such election
21 are against the measure, it shall be void. If a majority of
22 the votes cast favor the measure, the governing body may
23 proceed to acquire and operate a transit system as provided in
24 the Municipal Transit Law. If a majority of those voting on
25 the proposition disapprove the proposition, the matter may not

.211327.3

underscored material = new
[bracketed material] = delete

1 again be submitted by the governing body until the next
2 election at which city commissioners are chosen.

3 B. Any transit department so established is
4 declared to be a public utility."

5 SECTION 187. Section 4-33-3 NMSA 1978 (being Laws 1947,
6 Chapter 196, Section 3, as amended) is amended to read:

7 "4-33-3. CONTEST--NOTICE OF ELECTION.--Immediately upon
8 the filing of [~~such~~] a petition under Section 4-33-2 NMSA 1978,
9 it shall be the duty of the board of county commissioners with
10 [~~whom such~~] which the petition is filed to cause a notice to be
11 published in some newspaper [~~or newspapers~~] of general
12 circulation in each county affected. Within thirty [~~(30)~~] days
13 after the publication of [~~such~~] the notice, but not thereafter,
14 any resident of either of the counties affected, on behalf of
15 [~~himself~~] the resident and all others similarly situated, may
16 bring an action in the district court of the county in which
17 [~~such~~] the area proposed to be annexed is located, against any
18 one or more of the signers of the petition, alleging that the
19 petition has not been executed by the requisite number of
20 signers or that the [~~description of the~~] area to be annexed is
21 not accurately described or that the conditions described in
22 Section [~~1-(15-3305) hereof~~] 4-33-1 NMSA 1978 do not exist.

23 The judge, after hearing, shall make a determination as to
24 whether the allegations of the petition are well taken. If
25 [~~he~~] the judge shall determine that the allegations of the

.211327.3

underscored material = new
[bracketed material] = delete

1 petition are well taken, ~~[he]~~ the judge shall enter an order
2 ~~[and]~~. If the ~~[same be]~~ order is not stayed, it shall be the
3 duty of the board of county commissioners to call an election
4 to be held within ~~[30]~~ ninety days within the county of the
5 area proposed to be annexed; ~~[and]~~ provided that the date is
6 not in conflict with the provisions of Section 1-24-1 NMSA
7 1978. The county clerk shall cause a notice of election to be
8 published two ~~[2]~~ times in a newspaper of general circulation
9 in ~~[said]~~ the county, the last publication thereof to be at
10 least seven ~~[7]~~ days before the date ~~[set for]~~ of the
11 election. ~~[Such]~~ The notice shall specify ~~[the polling places,~~
12 ~~which polling places shall be not fewer than there were in said~~
13 ~~county at the last general election]~~ whether the proposed
14 annexation shall appear as a ballot question in a statewide
15 election or specify the date a special election will be held as
16 prescribed in the Election Code. At ~~[such]~~ the election, all
17 qualified electors who reside within ~~[said]~~ the county shall be
18 entitled to vote ~~[provided, however, that this Act shall not~~
19 ~~apply in any case where a petition has been filed with any~~
20 ~~board of county commissioners under Chapter 196 of New Mexico~~
21 ~~Session Laws of 1947 in accordance with the requirements of~~
22 ~~said Act of 1947, and where such a petition has been filed~~
23 ~~prior to the effective date of this Act, the election shall be~~
24 ~~held under the provisions of Chapter 196, New Mexico Session~~
25 ~~Laws of 1947]."~~

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 188. Section 4-48A-6 NMSA 1978 (being Laws 1978,
2 Chapter 29, Section 6, as amended) is amended to read:

3 "4-48A-6. BOARD OF TRUSTEES--TERMS--VACANCIES--REMOVAL.--

4 A. Subject to the requirements of Section 4-48A-3
5 NMSA 1978, the board of trustees of a special hospital district
6 shall consist of the greater of five members or a number of
7 members equal to the number of counties which agree to form a
8 special hospital district. In the case of a special hospital
9 district:

10 (1) [~~in the case of a special hospital~~
11 ~~district~~] included wholly within a county, the members shall be
12 elected at large or from single-member districts as provided in
13 the Special Hospital District Act; or

14 (2) [~~in the case of a special hospital~~
15 ~~district~~] that includes all or a portion of two or more
16 counties, one member of the board shall be elected from each
17 subdistrict by the qualified electors who reside in that
18 subdistrict and the remainder shall be elected at large by the
19 qualified electors who reside in the special hospital district.

20 B. Members shall be elected as follows:

21 (1) for the purposes of the first election of
22 a board of trustees, the board of county commissioners shall
23 designate in its proclamation five positions to be filled so
24 that:

25 (a) two members shall be elected for an

.211327.3

underscored material = new
[bracketed material] = delete

1 initial term of two years; and

2 (b) [~~two~~] three members shall be elected
3 for an initial term of four years [~~and~~

4 ~~(c) one member shall be elected for an~~
5 ~~initial term of five years].~~

6 Thereafter, all members shall be elected for [~~five-year~~] four-
7 year terms; and

8 (2) for the purposes of staggering the terms
9 of any nonstaggered terms of a board of trustees elected under
10 the provisions of the Special Hospital District Act, the board
11 of county commissioners may call an election to provide for
12 five positions to be filled so that:

13 (a) two members shall be elected for an
14 initial term of two years; and

15 (b) [~~two~~] three members shall be elected
16 for an initial term of four years [~~and~~

17 ~~(c) one member shall be elected for an~~
18 ~~initial term of five years].~~

19 Thereafter, all members shall be elected for [~~five-year~~] four-
20 year terms.

21 C. Vacancies on the board of trustees created by a
22 member elected from a subdistrict or a single-member district
23 shall be filled by the board of county commissioners of the
24 county in which the subdistrict or single-member district is
25 located, and vacancies created by a member elected at large

.211327.3

underscored material = new
[bracketed material] = delete

1 shall be filled by the remaining members of the board of
2 trustees for the remainder of the unexpired term of the member
3 creating the vacancy.

4 D. Members of the board of trustees shall be
5 suspended or removed from office only as provided in Sections
6 10-4-1 through 10-4-29 NMSA 1978 or as provided in Section
7 [~~4-8A-7~~] 4-48A-7 NMSA 1978."

8 SECTION 189. Section 5-5-3 NMSA 1978 (being Laws 1959,
9 Chapter 300, Section 3, as amended) is amended to read:

10 "5-5-3. DEFINITIONS.--As used in the Joint City-County
11 Building Law, the following words or phrases shall be defined
12 as follows:

13 A. "city" means any incorporated city, town or
14 village [~~which~~] that is a county seat in the state of New
15 Mexico, whether incorporated or governed under a general act,
16 special act or special charter of any type and includes any
17 combination of such cities, towns or villages located in
18 adjacent counties;

19 B. "council" or "city council" means the city
20 council, city commission, board of commissioners, board of
21 trustees or other governing body of a city in which the
22 legislative powers of the city are vested. "Councilmen" means
23 the [~~aldermen or other~~] members of the council;

24 C. "county" means any county or combination of
25 adjacent counties in the state of New Mexico;

.211327.3

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

1 D. "board" means the board of county commissioners.
2 "Commissioners" or "county commissioners" means the members of
3 a board;

4 E. "municipality" means a city or county;

5 F. "governing body" means a council or board;

6 G. "building" means any building for use as a
7 county courthouse, city hall, jail, regional jail, library,
8 museum, utility office, garage for housing county and city
9 vehicles, transportation office, communications office,
10 maintenance shop, warehouse, cafeteria and restaurant
11 facilities for county and city personnel, sheriff's office,
12 police station, fire station, records office and administration
13 building and for similar uses, or any combination thereof, to
14 be acquired and jointly owned by a county and a city as tenants
15 in common;

16 H. "site" means land and any estate, interest or
17 right therein on which to locate a building. Any building site
18 may include landscaped grounds and off-street parking
19 facilities, including [~~but not limited to~~] improved or
20 unimproved parking lots and buildings erected above or below
21 the surface of the land for the accommodation of parked motor
22 and other vehicles;

23 I. "acquisition" or "acquire" means the acquisition
24 by purchase, construction, installation, reconstruction,
25 condemnation, lease, rent, gift, grant, endowment, bequest,

.211327.3

underscored material = new
[bracketed material] = delete

1 devise, contract and other acquisition as may be deemed
2 necessary or desirable by the board and council, or any
3 combination thereof;

4 J. "improvement" or "improve" means the extension,
5 betterment, alteration, reconstruction, repair and other
6 improvement as may be deemed necessary or desirable by the
7 board and council, or any combination thereof;

8 K. "equipment" or "equip" means furnishing all
9 necessary or desirable, related or appurtenant, facilities, or
10 any combination thereof;

11 L. "project" means any building site therefor,
12 structure, facility and undertaking of any kind ~~[which]~~ that
13 a county and a city are authorized by the Joint City-County
14 Building Law to acquire, improve, equip, maintain and operate.
15 A project may consist of any kind or all kinds of personal and
16 real property, including ~~[but not limited to]~~ land,
17 improvements and fixtures thereon, property of any nature
18 appurtenant thereto or used in connection therewith and every
19 estate, interest and right therein, legal or equitable,
20 including terms for years, or any combination thereof;

21 M. "disposition" or "dispose" means the sale,
22 lease, exchange, transfer, assignment and other disposition as
23 may be deemed necessary or desirable by the board and council,
24 or any combination thereof;

25 N. "federal government" means the United States or

.211327.3

underscoring material = new
[bracketed material] = delete

1 any federal agency, instrumentality or corporation;

2 O. "state" means the state of New Mexico or, except
3 where the subject matter or context is repugnant thereto, any
4 state agency, instrumentality or corporation;

5 ~~[P. "elector" of a municipality means a registered~~
6 ~~and qualified elector thereof;~~

7 ~~Q.]~~ P. "publication" or "publish" means publication
8 once a week for at least three consecutive weeks commencing at
9 least twenty days prior to the election in any newspaper
10 published in a county;

11 ~~[R.]~~ Q. for the purpose of computing any period of
12 time prescribed in the Joint City-County Building Law,
13 including ~~[but not limited to]~~ publications, the day of the
14 first publication, other act or designated time shall be
15 excluded and the day of the last publication, other act or
16 designated time shall be included; and

17 ~~[S.]~~ R. whenever such construction is applicable,
18 words used in the Joint City-County Building Law importing
19 singular or plural number may be construed so that one number
20 includes both; words importing masculine gender shall be
21 construed to apply to the feminine gender as well; and the word
22 "person" may extend to and include a firm and corporation,
23 except in any reference to any election; provided, however,
24 that these rules of construction shall not apply to any part of
25 that law containing express provisions excluding such

.211327.3

underscored material = new
[bracketed material] = delete

1 construction or where the subject matter or context is
2 repugnant thereto."

3 SECTION 190. Section 5-5-9 NMSA 1978 (being Laws 1959,
4 Chapter 300, Section 9, as amended) is amended to read:

5 "5-5-9. LIMITATIONS UPON INCURRING DEBTS.--No general
6 obligation bonds or other evidences of indebtedness, the
7 payment of which is secured wholly or in part by a pledge of
8 any proceeds of general ad valorem property taxes or to which
9 the full faith and credit of a municipality are pledged, shall
10 be issued, except as follows:

11 A. a county shall so borrow money only for the
12 purpose of erecting necessary public buildings in connection
13 with any project, and in any such case only after the
14 proposition to create such debt shall have been submitted at a
15 general or special election to the ~~[registered]~~ qualified
16 electors of the county and approved by a majority of those
17 voting thereon;

18 B. a city shall so contract any such debt only by
19 an ordinance ~~[which]~~ that shall be irrevocable until the
20 indebtedness therein provided for shall have been fully paid or
21 discharged and ~~[which]~~ that shall specify the purposes to which
22 the funds to be raised shall be applied. No such debt shall be
23 created unless the question of incurring the ~~[same]~~ debt shall,
24 at a regular election for councilmen or other officers of
25 ~~[such]~~ the city, have been submitted to a vote of the

.211327.3

underscored material = new
[bracketed material] = delete

1 [registered] qualified electors thereof and a majority of those
2 voting on the question shall have voted in favor of creating
3 [such] the debt; and

4 C. no municipality shall ever become indebted to an
5 amount in the aggregate, including existing indebtedness,
6 exceeding four [percentum] percent on the value of the taxable
7 property within [such] the municipality as shown by the last
8 preceding assessment for state or county taxes, but excluding
9 debts contracted by a city for the construction or purchase of
10 a system for supplying water or of a sewer system for [such]
11 the city; and all bonds or obligations issued in excess of
12 [such] that amount shall be void."

13 SECTION 191. Section 5-11-2 NMSA 1978 (being Laws 2001,
14 Chapter 305, Section 2, as amended) is amended to read:

15 "5-11-2. DEFINITIONS.--As used in the Public Improvement
16 District Act:

17 A. "allowable base" means the sum of the appraised
18 value, not including the value of public infrastructure
19 improvements, of:

20 (1) taxable property in a district that is
21 owned by persons other than the applicant or the applicant's
22 related entities;

23 (2) commercial, industrial or retail property
24 in a district that is owned by the applicant or the applicant's
25 related entities for which a certificate of completion has been

.211327.3

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

1 issued; and

2 (3) all other taxable property in a district
3 not described in Paragraphs (1) and (2) of this subsection, to
4 the extent that its appraised value is less than or equal to
5 the appraised value of property described in Paragraph (1) of
6 this subsection;

7 B. "applicant" means a person that applies for the
8 formation of a district pursuant to the Public Improvement
9 District Act;

10 C. "clerk" means the clerk of the municipality or
11 county, or any person appointed by the district board to be the
12 district clerk pursuant to Section 5-11-6 NMSA 1978;

13 D. "county" means a county that forms a public
14 improvement district pursuant to the Public Improvement
15 District Act in an unincorporated area or in an incorporated
16 area with the municipality's consent;

17 E. "debt service" means the principal of, interest
18 on and premium, if any, on the bonds, when due, whether at
19 maturity or prior redemption; the fees and costs of registrars,
20 trustees, paying agents or other agents necessary to handle the
21 bonds; and the costs of credit enhancement or liquidity
22 support;

23 F. "development agreement" means an agreement
24 between a property owner or developer and the county,
25 municipality or district, concerning the improvement of

.211327.3

underscored material = new
[bracketed material] = delete

1 specific property within the district, which agreement may be
2 used to establish obligations of the owner or developer, the
3 county or municipality or the district concerning the zoning,
4 subdivision, improvement, impact fees, financial
5 responsibilities and other matters relating to the development,
6 improvement and use of real property within a district;

7 G. "district" means a public improvement district
8 formed pursuant to the Public Improvement District Act by a
9 municipality or by a county in an unincorporated area or in an
10 incorporated area with the municipality's consent;

11 H. "district board" means the board of directors of
12 the district, which shall be composed of members of the
13 governing body, ex officio, or, at the option of the governing
14 body, five directors appointed by the governing body of the
15 municipality or county in which the district is located, until
16 replaced by elected directors, which shall occur not later than
17 six years after the date on which the resolution establishing
18 the district is enacted, as provided in Section 5-11-9 NMSA
19 1978;

20 I. "election" means an election held in compliance
21 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and
22 pursuant to the provisions of the Local Election Act;

23 J. "enhanced services" means public services
24 provided by a municipality or county within the district at a
25 higher level or to a greater degree than otherwise available to

.211327.3

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

1 the land located in the district from the municipality or
2 county, including such services as public safety, fire
3 protection, street or sidewalk cleaning or landscape
4 maintenance in public areas. "Enhanced services" does not
5 include the basic operation and maintenance related to
6 infrastructure improvements financed by the district pursuant
7 to the Public Improvement District Act;

8 K. "general plan" means the general plan described
9 in Section 5-11-3 NMSA 1978, as the plan may be amended from
10 time to time;

11 L. "governing body" means the body or board that by
12 law is constituted as the governing body of the municipality or
13 county in which the public improvement district is located;

14 M. "municipality" means an incorporated city,
15 village or town;

16 N. "owner" means:

17 (1) the person who is listed as the owner of
18 real property in the district on the current property tax
19 assessment roll in effect at the time that the action,
20 proceeding, hearing or election has begun. For purposes of
21 voting in elections held pursuant to the Public Improvement
22 District Act, when the owner of record title is a married
23 person, only one spouse in whose name title is held may vote at
24 such election. Where record title is held in more than one
25 name, each owner may vote the number of fractions of acres

.211327.3

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

1 represented by the owner's legal interest or proportionate
2 share of and in the lands within the district;

3 (2) the administrator or executor of an estate
4 holding record title to land within the district;

5 (3) the guardian of a minor or incompetent
6 person holding record title to land within the district,
7 appointed and qualified under the laws of the state;

8 (4) an officer of a corporation holding record
9 title to land within the district, which officer has been
10 authorized by resolution of the corporation's board of
11 directors to act with respect to such land;

12 (5) the general partner of a partnership
13 holding record title to land within the district;

14 (6) the trustee of a trust holding record
15 title to land within the district; or

16 (7) the manager or member of a limited
17 liability company holding record title to land within the
18 district who has been authorized to represent the company;

19 O. "person" means any individual, estate, trust,
20 receiver, cooperative association, club, corporation, company,
21 firm, partnership, limited liability company, joint venture,
22 syndicate or other association;

23 P. "public infrastructure improvements" means all
24 improvements listed in this subsection and includes both on-
25 site improvements and off-site improvements that directly or

.211327.3

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

1 indirectly benefit the district. Such improvements include
2 necessary or incidental work, whether newly constructed,
3 renovated or existing, and all necessary or desirable
4 appurtenances. "Public infrastructure improvements" includes:

5 (1) sanitary sewage systems, including
6 collection, transport, storage, treatment, dispersal, effluent
7 use and discharge;

8 (2) drainage and flood control systems,
9 including collection, transport, diversion, storage, detention,
10 retention, dispersal, use and discharge;

11 (3) water systems for domestic, commercial,
12 office, hotel or motel, industrial, irrigation, municipal or
13 fire protection purposes, including production, collection,
14 storage, treatment, transport, delivery, connection and
15 dispersal;

16 (4) highways, streets, roadways, bridges,
17 crossing structures and parking facilities, including all areas
18 for vehicular use for travel, ingress, egress and parking;

19 (5) trails and areas for pedestrian,
20 equestrian, bicycle or other nonmotor vehicle use for travel,
21 ingress, egress and parking;

22 (6) pedestrian malls, parks, recreational
23 facilities and open space areas for the use of members of the
24 public for entertainment, assembly and recreation;

25 (7) landscaping, including earthworks,

.211327.3

1 structures, lakes and other water features, plants, trees and
2 related water delivery systems;

3 (8) public buildings, public safety facilities
4 and fire protection and police facilities;

5 (9) electrical generation, transmission and
6 distribution facilities;

7 (10) natural gas distribution facilities;

8 (11) lighting systems;

9 (12) cable or other telecommunications lines
10 and related equipment;

11 (13) traffic control systems and devices,
12 including signals, controls, markings and signage;

13 (14) school sites and facilities with the
14 consent of the governing board of the public school district
15 for which the site or facility is to be acquired, constructed
16 or renovated;

17 (15) library and other public educational or
18 cultural facilities;

19 (16) equipment, vehicles, furnishings and
20 other personalty related to the items listed in this
21 subsection; and

22 (17) inspection, construction management and
23 program management costs;

24 Q. "public infrastructure purpose" means:

25 (1) planning, design, engineering,

.211327.3

underscored material = new
[bracketed material] = delete

1 construction, acquisition or installation of public
2 infrastructure, including the costs of applications, impact
3 fees and other fees, permits and approvals related to the
4 construction, acquisition or installation of such
5 infrastructure;

6 (2) acquiring, converting, renovating or
7 improving existing facilities for public infrastructure,
8 including facilities owned, leased or installed by an owner;

9 (3) acquiring interests in real property or
10 water rights for public infrastructure, including interests of
11 an owner;

12 (4) establishing, maintaining and replenishing
13 reserves in order to secure payment of debt service on bonds;

14 (5) funding and paying from bond proceeds
15 interest accruing on bonds for a period not to exceed three
16 years from their date of issuance;

17 (6) funding and paying from bond proceeds
18 fiscal, financial and legal consultant fees, trustee fees,
19 discount fees, district formation and election costs and all
20 costs of issuance of bonds issued pursuant to the Public
21 Improvement District Act, including ~~[but not limited to]~~ fees
22 and costs for bond counsel, financial advisors, consultants and
23 underwriters, costs of obtaining credit ratings, bond insurance
24 premiums, fees for letters of credit and other credit
25 enhancement costs and printing costs;

.211327.3

underscored material = new
[bracketed material] = delete

1 (7) providing for the timely payment of debt
2 service on bonds or other indebtedness of the district;

3 (8) refinancing any outstanding bonds with new
4 bonds, including through the formation of a new public
5 improvement district; and

6 (9) incurring expenses of the district
7 incident to and reasonably necessary to carry out the purposes
8 specified in this subsection;

9 R. "related entities" means two or more entities
10 that are owned in an amount greater than fifty percent by the
11 same person, either directly or through one or more persons;

12 [~~S.~~] ~~"resident qualified elector" means a person who~~
13 ~~resides within the boundaries of a district or proposed~~
14 ~~district and who is qualified to vote in the general elections~~
15 ~~held in the state pursuant to Section 1-1-4 NMSA 1978;~~

16 ~~F.~~] S. "special levy" means a levy imposed against
17 real property within a district that may be apportioned
18 according to direct or indirect benefits conferred upon
19 affected real property, as well as acreage, front footage, the
20 cost of providing public infrastructure for affected real
21 property, or other reasonable method, as determined by the
22 governing body or district board, as applicable; and

23 [~~U.~~] T. "treasurer" means the treasurer of the
24 governing body or the person appointed by the district board as
25 the district treasurer pursuant to Section 5-11-6 NMSA 1978."

.211327.3

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

1 SECTION 192. Section 5-11-6 NMSA 1978 (being Laws 2001,
2 Chapter 305, Section 6, as amended) is amended to read:

3 "5-11-6. ORDER FORMING DISTRICT--DETERMINATION--
4 ELECTION.--

5 A. After the hearing, the governing body shall
6 determine whether the district should be formed based upon the
7 interests, convenience or necessity of the owners, residents of
8 the district and citizens of the municipality or county in
9 which the proposed district would be located. If the governing
10 body determines that the district should be formed, it shall
11 adopt a resolution ordering that the district be formed,
12 deleting any property determined not to be directly or
13 indirectly benefited by the district or modifying the general
14 plan and then ordering that a formation determination be
15 conducted and an election be held on the question whether to
16 form the district. A resolution ordering a formation of the
17 district shall state that the district will be governed by a
18 district board consisting of members of the governing body, ex
19 officio, or, upon determination of the governing body, five
20 directors appointed by the governing body, and shall contain
21 the names of the five initial directors and the terms of office
22 of each. If the governing body appoints a district board, it
23 shall appoint a treasurer and a clerk from the appointed
24 members.

25 B. Before submitting the question of formation of

.211327.3

underscored material = new
[bracketed material] = delete

1 the district to the qualified electors of the proposed
2 district, a formation [~~election~~] determination shall [~~include~~]
3 be conducted among the owners unless a petition is presented to
4 the governing body pursuant to Subsection [~~F~~] F of Section
5 5-11-7 NMSA 1978. In the formation determination, each owner
6 shall have the number of votes or portions of votes equal to
7 the number of acres or portions of acres rounded upward to the
8 nearest one-fifth of an acre owned by that owner in the
9 submitted district. The right to vote on the question of
10 formation of the district shall not be assigned or delegated to
11 the property owners signing a petition submitted to the
12 governing body for formation of a district or related entities
13 of such property owners.

14 C. Should the formation determination by the owners
15 result in an affirmative vote, the question shall also be
16 submitted to a vote of the [~~resident~~] qualified electors of the
17 proposed district. The conduct of a formation election shall
18 meet the requirements of Section 5-11-7 NMSA 1978."

19 **SECTION 193.** Section 5-11-7 NMSA 1978 (being Laws 2001,
20 Chapter 305, Section 7) is amended to read:

21 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

22 A. Any election pursuant to the Public Improvement
23 District Act shall be a nonpartisan election called, [~~by~~
24 ~~posting notices in three public places within the boundaries of~~
25 ~~the district not less than twenty days before the election.~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~Notice shall also be published in a newspaper of general~~
2 ~~circulation in the municipality or county, or, if there is no~~
3 ~~newspaper so circulated in the municipality, in a newspaper of~~
4 ~~general circulation in the county in which the municipality is~~
5 ~~located once a week for two consecutive weeks before the~~
6 ~~election]~~ conducted and canvassed pursuant to the provisions of
7 the Local Election Act. In addition to those matters required
8 for notice as provided in the Election Code, the notice of
9 election shall state:

10 ~~[(1) the place of holding the election and~~
11 ~~provisions for voting by mail, if any;~~

12 ~~(2) the hours during the day, not less than~~
13 ~~six, in which the polls will be open;~~

14 ~~(3)]~~ (1) if the election is a formation
15 election, the boundaries of the proposed district;

16 ~~[(4)]~~ (2) if the election is a bond election,
17 the amount of bonds to be authorized for the district, the
18 maximum rate of interest to be paid on the bonds and the
19 maximum term of the bonds, not exceeding thirty years;

20 ~~[(5)]~~ (3) if the election is a property tax
21 levy election pursuant to Section ~~[19 of the Public Improvement~~
22 ~~District Act]~~ 5-11-19 NMSA 1978, the maximum tax rate per one
23 thousand dollars (\$1,000) of assessed valuation to be imposed,
24 the purposes for which the revenues raised will be used and the
25 existing maximum tax rate, if any;

.211327.3

underscored material = new
[bracketed material] = delete

1 [(6)] (4) that a general plan is on file with
2 the clerk;

3 [(7)] (5) the purposes for which the property
4 taxes or the special levies will be imposed, and the revenues
5 raised will be used, including a description of the public
6 improvements to be financed with tax revenues, special levies,
7 district revenues or bond proceeds; and

8 [(8)] (6) that the imposition of property
9 taxes or special levies will result in a lien for the payment
10 thereof on property within the district.

11 B. The district board or, in the case of a
12 formation election, the governing body, shall determine the
13 date of the election [~~and the polling places for the election~~
14 ~~and may consolidate county precincts. The district board or~~
15 ~~governing body may establish provisions for voting by mail.~~

16 C. ~~Voter lists shall be used to determine the~~
17 ~~resident qualified electors. If the district includes land~~
18 ~~lying partly in and partly out of any county election precinct,~~
19 ~~the voter lists may contain the names of all registered voters~~
20 ~~in the precinct, and the precinct boards at those precincts~~
21 ~~shall require that a prospective elector execute an affidavit~~
22 ~~stating that the elector is also a resident qualified elector.~~

23 D. ~~For all elections held pursuant to the Public~~
24 ~~Improvement District Act, a prospective elector who is not a~~
25 ~~resident qualified elector shall execute an affidavit stating~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~that the elector is the owner of land in the proposed district~~
2 ~~and stating the area of land in acres owned by the prospective~~
3 ~~elector. Precinct board members may administer oaths or take~~
4 ~~all affirmations for these purposes] by passing a resolution~~
5 ~~placing the ballot question on a regular local election or~~
6 ~~general election ballot or by adopting a proclamation calling~~
7 ~~for a special election.~~

8 [E.] C. Except as otherwise provided by this
9 section, the election shall comply with the [~~general election~~
10 ~~laws of this state~~] Local Election Act. The ballot material
11 provided to each voter shall include:

12 (1) for a formation election, an impartial
13 description of the district improvements contemplated and a
14 brief description of arguments for and against the formation of
15 the district, if any;

16 (2) for an election concerning the imposition
17 of property taxes, an impartial description of the taxes to be
18 imposed, the method of apportionment, collection and
19 enforcement and other details sufficient to enable each elector
20 to determine the amount of tax it will be obligated to pay; a
21 brief description of arguments for and against the imposition
22 of taxes that are the subject of the election, if any; and a
23 statement that the imposition of property taxes is for the
24 provision of certain but not necessarily all public
25 infrastructure improvements and services that may be needed or

.211327.3

underscored material = new
[bracketed material] = delete

1 desirable within the district, and that other taxes, levies or
2 assessments by other governmental entities may be presented for
3 approval by owners and [~~resident~~] qualified electors; and

4 (3) for a formation election, the ballot,
5 which shall pose the question to be voted upon as "district,
6 yes" and "district, no"; for a bond election, "bonds, yes" and
7 "bonds, no"; for a property tax election, if no tax is in
8 place, "property tax, yes" and "property tax, no"; and for an
9 election to change an existing maximum or eliminate an existing
10 tax, "tax change, yes" and "tax change, no", specifying the
11 type of tax to which the proposed change pertains.

12 [~~F. The governing body or, if after formation, the~~
13 ~~district board, may provide for the returns of the election to~~
14 ~~be made in person or by mail.~~

15 [~~G. Within thirty days after an election, the~~
16 ~~governing body, or if after formation, the district board,~~
17 ~~shall meet and canvass the returns, determining the number of~~
18 ~~votes properly cast by owners and resident qualified electors.]~~

19 D. At least a [~~three-fourths~~] three-fourths'
20 majority of the votes cast at the election shall be required
21 for formation, issuing the bonds, imposing the tax or special
22 levy or changing the tax or special levy. [~~The canvass may be~~
23 ~~continued for an additional period not to exceed thirty days at~~
24 ~~the election of the governing body or district board for the~~
25 ~~purpose of completing the canvass.] Failure of a required~~

.211327.3

underscored material = new
[bracketed material] = delete

1 majority to vote in favor of the matter submitted shall not
2 prejudice the submission of the same or similar matters at a
3 later election.

4 ~~[H.]~~ E. If a person listed on the assessment roll
5 is no longer the owner of land in the district and the name of
6 the successor owner becomes known and is verified by recorded
7 deed or other similar evidence of transfer of ownership, the
8 successor owner is deemed to be the owner for the purposes of
9 the Public Improvement District Act.

10 ~~[I.]~~ F. Notwithstanding any other provision of the
11 Public Improvement District Act, if a petition for formation is
12 signed by owners of all of the land in the district described
13 in the petition and is approved by the municipality or county,
14 the municipality or county may waive any or all requirements of
15 posting, publication, mailing, notice, hearing and owner
16 ~~[election]~~ determination. On receipt of such a petition, and
17 after approval by an election of ~~[resident]~~ qualified electors,
18 if any, the municipality or county shall declare the district
19 formed without being required to comply with the provisions of
20 the Public Improvement District Act for posting, publication,
21 mailing, notice, hearing or owner ~~[election]~~ determination.

22 ~~[J.]~~ G. If no person ~~[has]~~ is registered to vote
23 within the district within ~~[fifty]~~ seventy days immediately
24 preceding any scheduled election date, ~~[any]~~ the election
25 required to be held pursuant to the Public Improvement District

.211327.3

underscored material = new
[bracketed material] = delete

1 Act shall be ~~[held by vote of the owners. Each owner shall~~
2 ~~have the number of votes or portion of votes equal to the~~
3 ~~number of acres or portion of acres rounded upward to the~~
4 ~~nearest one-fifth of an acre owned in the district by that~~
5 ~~owner.~~

6 K. ~~In any election held pursuant to the Public~~
7 ~~Improvement District Act, an owner who is also a resident~~
8 ~~qualified elector shall have the number of votes or portion of~~
9 ~~votes to which he is entitled as an owner and shall not be~~
10 ~~entitled to an additional vote as a result of residing within~~
11 ~~the district] canceled. Under such circumstances, when the~~
12 ~~question is on the formation of the district, the results of~~
13 ~~the formation determination of the owners shall prevail. When~~
14 ~~the question is on any other allowable action otherwise~~
15 ~~requiring a vote of the qualified electors, the owners shall~~
16 ~~make a determination in the same manner as the formation~~
17 ~~determination was conducted, the result of which shall~~
18 ~~prevail."~~

19 SECTION 194. Section 5-11-9 NMSA 1978 (being Laws 2001,
20 Chapter 305, Section 9, as amended) is amended to read:

21 "5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--
22 TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

23 A. The governing body, at its option, may authorize
24 the appointment of a separate district board. In the case of
25 an appointed district board, three of the appointed directors

.211327.3

underscored material = new
[bracketed material] = delete

1 shall serve an initial term [~~of~~] to expire following a regular
2 local election and not to exceed six years. Two of the
3 appointed directors shall serve an initial term [~~of~~] to expire
4 following a regular local election and not to exceed four
5 years. The resolution forming the district shall state which
6 directors shall serve [~~four-year~~] the longer terms and which
7 shall serve [~~six-year~~] the shorter terms. If a vacancy occurs
8 on the district board because of death, resignation or
9 inability of the director to discharge the duties of director,
10 the governing body shall appoint a director to fill the
11 vacancy, who shall hold office for the remainder of the
12 unexpired term until a successor is appointed or elected.

13 [~~B. A director may be a director of more than one~~
14 ~~district.~~

15 ~~G.]~~ B. At the end of the appointed directors'
16 terms, the governing body shall resume governance of the
17 district as its board either directly or through the governing
18 body's designees or, at the governing body's option, shall hold
19 an election of new directors by majority vote of the qualified
20 electors and owners."

21 **SECTION 195.** Section 5-11-13 NMSA 1978 (being Laws 2001,
22 Chapter 305, Section 13) is amended to read:

23 "5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL
24 PLAN.--

25 A. After the formation election, an area may be

.211327.3

underscored material = new
[bracketed material] = delete

1 deleted from the district only following a hearing on notice to
2 the owners of land in the district given in the manner
3 prescribed for the formation hearing, adoption of a resolution
4 of intention to do so by the district board, a determination by
5 the owners and voter approval by the [~~owners and resident~~]
6 qualified electors as provided in Sections [~~6 and 7 of the~~
7 ~~Public Improvement District Act~~] 5-11-6 and 5-11-7 NMSA 1978.

8 Lands within the district that are subject to the lien of
9 property taxes, special levies or other charges imposed
10 pursuant to the Public Improvement District Act shall not be
11 deleted from the district while there are bonds outstanding
12 that are payable by such taxes, special levies or charges.

13 B. At any time after adoption of a resolution
14 creating a district, an area may be added to the district upon
15 [~~the approval of~~] a determination by the owners of land in the
16 proposed addition area and the [~~resident~~] approval of the
17 qualified electors residing therein, as well as a determination
18 by the owners of land in the district and approval of the
19 [~~resident~~] qualified electors of the district, in the same
20 manner as required for the formation of a district.

21 C. The district board, following a hearing on
22 notice to the owners of real property located in the district
23 given in the manner prescribed for the formation hearing, may
24 amend the general plan in any manner that it determines will
25 not substantially reduce the benefits to be received by any

.211327.3

underscored material = new
[bracketed material] = delete

1 land in the district from the public infrastructure on
2 completion of the work to be performed under the general plan.
3 No election shall be required solely for the purposes of this
4 subsection."

5 SECTION 196. Section 5-11-19 NMSA 1978 (being Laws 2001,
6 Chapter 305, Section 19, as amended) is amended to read:

7 "5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--
8 EXCEPTION.--

9 A. At any time after the hearing on formation of
10 the district, the district board, or, if before formation, the
11 governing body may from time to time order and call a general
12 obligation bond election to submit to the [~~owners and~~]
13 qualified electors the question of authorizing the district to
14 issue general obligation bonds of the district to provide money
15 for any public infrastructure purposes consistent with the
16 general plan. The question shall include authorization for a
17 levy, including a limitation on the levy, of a property tax to
18 pay debt service on the bonds. The election shall be held
19 pursuant to the provisions of the Local Election Act and may be
20 held in conjunction with the formation election.

21 B. If general obligation bonds are approved at an
22 election, the district board may issue and sell general
23 obligation bonds of the district; provided that the district
24 board shall have determined by resolution that the principal
25 amount of all district general obligation bonds currently

.211327.3

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

1 outstanding and the district general obligation bonds proposed
2 for issuance and sale shall not result in a total annual debt
3 service that exceeds five-tenths percent of the allowable base.

4 C. Bonds may be sold in a public offering or in a
5 negotiated sale.

6 D. After the bonds are issued, the district board
7 shall enter in its minutes a record of the bonds sold and their
8 numbers and dates and shall annually levy and cause a property
9 tax to be collected, at the same time and in the same manner as
10 other property taxes are levied and collected on all taxable
11 property in the district, sufficient, together with any money
12 from the sources described in Section 5-11-17 NMSA 1978 to pay
13 debt service on the bonds when due. Money derived from the
14 levy of property taxes that are pledged to pay the debt service
15 on the bonds shall be kept separately from other funds of the
16 district. Property tax revenues not pledged to pay debt
17 service on bonds may be used to pay other costs of the
18 district, including costs of formation, administration,
19 operation and maintenance, services or enhanced services. A
20 district's levy of property taxes shall constitute a lien on
21 all taxable property within the district, including, without
22 limitation, all leased property or improvements to leased land,
23 which shall be subject to foreclosure in the same manner as
24 other property tax liens under the laws of this state. The
25 lien shall include delinquencies and interest thereon at a rate

.211327.3

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

1 not to exceed ten percent per year, the actual costs of
2 foreclosure and any other costs of the district resulting from
3 the delinquency. The proceeds of any foreclosure sale shall be
4 deposited in the special bond fund for payment of any
5 obligations secured thereby.

6 E. Subject to the election requirements of this
7 section, a district may issue general obligation bonds at such
8 times and in such amounts as the district deems appropriate to
9 carry out a project or projects in phases.

10 F. Pursuant to this section, the district may issue
11 and sell refunding bonds to refund general obligation bonds of
12 the district authorized by the Public Improvement District Act.
13 No election is required in connection with the issuance and
14 sale of refunding bonds. Refunding bonds issued pursuant to
15 this section shall have a final maturity date no later than the
16 final maturity date of the bonds being refunded."

17 SECTION 197. Section 5-11-23 NMSA 1978 (being Laws 2001,
18 Chapter 305, Section 23) is amended to read:

19 "5-11-23. DISTRICT TAXES--ANNUAL FINANCIAL ESTIMATE--
20 ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL
21 GOVERNMENT DIVISION.--

22 A. All property taxes for the operation and
23 maintenance expenses of the district shall not exceed an amount
24 equal to three dollars (\$3.00) per one thousand dollars
25 (\$1,000) of net taxable value for all real and personal

.211327.3

underscored material = new
[bracketed material] = delete

1 property in the district, unless a higher rate is approved by a
2 vote of the [~~resident~~] qualified electors [~~and owners~~] voting
3 at an election conducted pursuant to the provisions of the
4 Local Election Act not less than three years after the date of
5 the formation of the district.

6 B. Once approved at an election or, in the case of
7 a special levy, by resolution of the district board, the
8 maximum rate of a property tax shall remain in effect until
9 increased or decreased at a subsequent election, and the
10 maximum rate of a special levy shall remain in effect until
11 increased or decreased by resolution of the district board at a
12 subsequent hearing.

13 C. If a maximum property tax rate is in effect, the
14 district board, on petition of twenty-five percent of the
15 [~~resident~~] qualified electors, or by the owners of twenty-five
16 percent of the land area of the district, shall call an
17 election pursuant to the provisions of the Local Election Act
18 to reduce the maximum tax rate but not below the lesser of that
19 rate determined by the district board to be necessary to
20 maintain the district's facilities and improvements where the
21 tax was authorized for operation and maintenance, or the actual
22 rate then in effect, but in no event shall the rate be reduced
23 below the rate necessary to satisfy the district's obligations
24 in connection with any outstanding bonds issued pursuant to the
25 Public Improvement District Act.

.211327.3

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

1 D. If a maximum special levy is in effect, the
2 district board, on petition of twenty-five percent of the
3 ~~[resident]~~ qualified electors, or by the owners of twenty-five
4 percent of the land area of the district, shall hold a hearing
5 to determine whether to reduce the maximum special levy but not
6 below the lesser of that rate determined by the district board
7 to be necessary to maintain the district's facilities and
8 improvements, where the special levy was authorized for
9 operation and maintenance, or the actual rate then in effect,
10 but in no event shall the rate be reduced below the rate
11 necessary to satisfy the district's obligations in connection
12 with any outstanding bonds issued pursuant to the Public
13 Improvement District Act.

14 E. Upon presentation to the district board of a
15 petition signed by the owners of a majority of the property in
16 the district, the district board shall adopt a resolution to
17 reduce or eliminate the portion of the tax or special levy,
18 beginning the next fiscal year, required for one or more
19 services or enhanced services specified in the petition.
20 Signatures on a petition to reduce or eliminate a tax or
21 special levy shall be valid for a period of sixty days.

22 F. When levying property tax or imposing a special
23 levy, the district board shall make annual statements and
24 estimates of the operation and maintenance expenses of the
25 district, the costs of public improvements to be financed by

.211327.3

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

1 the taxes or special levy and the amount of all other
2 expenditures for public infrastructure improvements and
3 enhanced services proposed to be paid from the taxes or special
4 levy and of the amount to be raised to pay general obligation
5 bonds of the district or special levy bonds, all of which shall
6 be provided for by the levy and collection of property taxes on
7 the net taxable value of the real property in the district or
8 by the imposition and collection of special levies. The
9 district board shall file the annual statements and estimates
10 with the clerk. The district board shall publish a notice of
11 the filing of the estimate, shall hold hearings on the portions
12 of the estimate not relating to debt service on general
13 obligation bonds or special levy bonds and shall adopt a
14 budget. The district board, on or before the date set by law
15 for certifying the annual budget of the municipality or county,
16 shall fix, levy and assess the amounts to be raised by property
17 taxes or special levies of the district and shall cause
18 certified copies of the order to be delivered to the local
19 government division of the department of finance and
20 administration. All statutes relating to the levy and
21 collection of property taxes, including the collection of
22 delinquent taxes and sale of property for nonpayment of taxes,
23 apply to district property taxes and to special levies, except
24 to the extent that the district board has provided for other
25 imposition, collection and foreclosure procedures in connection

.211327.3

underscored material = new
[bracketed material] = delete

1 with special levies."

2 SECTION 198. Section 5-15-3 NMSA 1978 (being Laws 2006,
3 Chapter 75, Section 3) is amended to read:

4 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
5 Development Act:

6 A. "base gross receipts taxes" means:

7 (1) the total amount of gross receipts taxes
8 collected within a tax increment development district, as
9 estimated by the governing body that adopted a resolution to
10 form that district, in consultation with the taxation and
11 revenue department, in the calendar year preceding the
12 formation of the tax increment development district or, when an
13 area is added to an existing district, the amount of gross
14 receipts taxes collected in the calendar year preceding the
15 effective date of the modification of the tax increment
16 development plan and designated by the governing body to be
17 available as part of the gross receipts tax increment; and

18 (2) any amount of gross receipts taxes that
19 would have been collected in such year if any applicable
20 additional gross receipts taxes imposed after that year had
21 been imposed in that year;

22 B. "base property taxes" means:

23 (1) the portion of property taxes produced by
24 the total of all property tax levied at the rate fixed each
25 year by each governing body levying a property tax on the

.211327.3

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

1 assessed value of taxable property within the tax increment
2 development area last certified for the year ending immediately
3 prior to the year in which a tax increment development plan is
4 approved for the tax increment development area, or, when an
5 area is added to an existing tax increment development area,
6 "base property taxes" means that portion of property taxes
7 produced by the total of all property tax levied at the rate
8 fixed each year by each governing body levying a property tax
9 upon the assessed value of taxable property within the tax
10 increment development area on the date of the modification of
11 the tax increment development plan and designated by the
12 governing body to be available as part of the property tax
13 increment; and

14 (2) any amount of property taxes that would
15 have been collected in such year if any applicable additional
16 property taxes imposed after that year had been imposed in that
17 year;

18 C. "county option gross receipts taxes" means gross
19 receipts taxes imposed by counties pursuant to the County Local
20 Option Gross Receipts Taxes Act and designated by the governing
21 body of the county to be available as part of the gross
22 receipts tax increment;

23 D. "district" means a tax increment development
24 district;

25 E. "district board" means a board formed in

.211327.3

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

1 accordance with the provisions of the Tax Increment for
2 Development Act to govern a tax increment development district;

3 F. "enhanced services" means public services
4 provided by a municipality or county within the district at a
5 higher level or to a greater degree than otherwise available to
6 the land located in the district from the municipality or
7 county, including such services as public safety, fire
8 protection, street or sidewalk cleaning or landscape
9 maintenance in public areas; provided that "enhanced services"
10 does not include the basic operation and maintenance related to
11 infrastructure improvements financed by the district pursuant
12 to the Tax Increment for Development Act;

13 G. "governing body" means the city council or city
14 commission of a city, the board of trustees or council of a
15 town or village or the board of county commissioners of a
16 county;

17 H. "gross receipts tax increment" means the gross
18 receipts taxes collected within a tax increment development
19 district in excess of the base gross receipts taxes collected
20 for the duration of the existence of a tax increment
21 development district and distributed to the district in the
22 same manner as distributions are made under the provisions of
23 the Tax Administration Act;

24 I. "gross receipts tax increment bonds" means bonds
25 issued by a district in accordance with the Tax Increment for

.211327.3

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

1 Development Act, the pledged revenue for which is a gross
2 receipts tax increment;

3 J. "local government" means a municipality or
4 county;

5 K. "municipal option gross receipts taxes" means
6 those gross receipts taxes imposed by municipalities pursuant
7 to the Municipal Local Option Gross Receipts Taxes Act and
8 designated by the governing body of the municipality to be
9 available as part of the gross receipts tax increment;

10 L. "municipality" means an incorporated city, town
11 or village;

12 M. "owner" means a person owning real property
13 within the boundaries of a district;

14 N. "person" means an individual, corporation,
15 association, partnership, limited liability company or other
16 legal entity;

17 O. "project" means a tax increment development
18 project;

19 P. "property tax increment" means all property tax
20 collected on real property within the designated tax increment
21 development area that is in excess of the base property tax
22 until termination of the district and distributed to the
23 district in the same manner as distributions are made under the
24 provisions of the Tax Administration Act;

25 Q. "property tax increment bonds" means bonds

.211327.3

underscored material = new
[bracketed material] = delete

1 issued by a district in accordance with the Tax Increment for
2 Development Act, the pledged revenue for which is a property
3 tax increment;

4 R. "public improvements" means on-site improvements
5 and off-site improvements that directly or indirectly benefit a
6 tax increment development district or facilitate development
7 within a tax increment development area and that are dedicated
8 to the governing body in which the district lies. "Public
9 improvements" [~~include~~] includes:

10 (1) sanitary sewage systems, including
11 collection, transport, treatment, dispersal, effluent use and
12 discharge;

13 (2) drainage and flood control systems,
14 including collection, transport, storage, treatment, dispersal,
15 effluent use and discharge;

16 (3) water systems for domestic, commercial,
17 office, hotel or motel, industrial, irrigation, municipal or
18 fire protection purposes, including production, collection,
19 storage, treatment, transport, delivery, connection and
20 dispersal;

21 (4) highways, streets, roadways, bridges,
22 crossing structures and parking facilities, including all areas
23 for vehicular use for travel, ingress, egress and parking;

24 (5) trails and areas for pedestrian,
25 equestrian, bicycle or other non-motor vehicle use for travel,

.211327.3

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

1 ingress, egress and parking;

2 (6) pedestrian and transit facilities, parks,
3 recreational facilities and open space areas for the use of
4 members of the public for entertainment, assembly and
5 recreation;

6 (7) landscaping, including earthworks,
7 structures, plants, trees and related water delivery systems;

8 (8) public buildings, public safety facilities
9 and fire protection and police facilities;

10 (9) electrical generation, transmission and
11 distribution facilities;

12 (10) natural gas distribution facilities;

13 (11) lighting systems;

14 (12) cable or other telecommunications lines
15 and related equipment;

16 (13) traffic control systems and devices,
17 including signals, controls, markings and signage;

18 (14) school sites and facilities with the
19 consent of the governing board of the public school district
20 for which the facility is to be acquired, constructed or
21 renovated;

22 (15) library and other public educational or
23 cultural facilities;

24 (16) equipment, vehicles, furnishings and
25 other personal property related to the items listed in this

.211327.3

underscored material = new
[bracketed material] = delete

1 subsection;

2 (17) inspection, construction management,
3 planning and program management and other professional services
4 costs incidental to the project;

5 (18) workforce housing; and

6 (19) any other improvement that the governing
7 body determines to be for the use or benefit of the public;

8 ~~[S. "resident qualified elector" means a person who~~
9 ~~resides within the boundaries of a tax increment development~~
10 ~~district or proposed tax increment development district, and~~
11 ~~who is qualified to vote in the general elections held in the~~
12 ~~state pursuant to Section 1-1-4 NMSA 1978;~~

13 ~~F.]~~ S. "state gross receipts tax" means the gross
14 receipts tax imposed pursuant to the Gross Receipts and
15 Compensating Tax Act, but does not include that portion
16 distributed to municipalities pursuant to Sections 7-1-6.4 and
17 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
18 NMSA 1978;

19 ~~[U.]~~ T. "sustainable development" means land
20 development that achieves sustainable economic and social goals
21 in ways that can be supported for the long term by conserving
22 resources, protecting the environment and ensuring human health
23 and welfare using mixed-use, pedestrian-oriented, multimodal
24 land use planning;

25 ~~[V.]~~ U. "tax increment development area" means the

.211327.3

underscored material = new
[bracketed material] = delete

1 land included within the boundaries of a tax increment
2 development district;

3 ~~[W.]~~ V. "tax increment development district" means
4 a district formed for the purposes of carrying out tax
5 increment development projects;

6 ~~[X.]~~ W. "tax increment development plan" means a
7 plan for the undertaking of a tax increment development
8 project;

9 ~~[Y.]~~ X. "tax increment development project" means
10 activities undertaken within a tax increment development area
11 to enhance the sustainability of the local, regional or
12 statewide economy; to support the creation of jobs, schools and
13 workforce housing; and to generate tax revenue for the
14 provision of public improvements and may include:

15 (1) acquisition of land within a designated
16 tax increment development area or a portion of that tax
17 increment development area;

18 (2) demolition and removal of buildings and
19 improvements and installation, construction or reconstruction
20 of streets, utilities, parks, playgrounds and improvements
21 necessary to carry out the objectives of the Tax Increment for
22 Development Act;

23 (3) installation, construction or
24 reconstruction of streets, water utilities, sewer utilities,
25 parks, playgrounds and other public improvements necessary to

.211327.3

underscored material = new
[bracketed material] = delete

1 carry out the objectives of the Tax Increment for Development
2 Act;

3 (4) disposition of property acquired or held
4 by a tax increment development district as part of the
5 undertaking of a tax increment development project at the fair
6 market value of such property for uses in accordance with the
7 Tax Increment for Development Act;

8 (5) payments for professional services
9 contracts necessary to implement a tax increment development
10 plan or project;

11 (6) borrowing to purchase land, buildings or
12 infrastructure in an amount not to exceed the revenue stream
13 that may be derived from the gross receipts tax increment or
14 the property tax increment estimated to be received by a tax
15 increment development district; and

16 (7) grants for public improvements essential
17 to the location or expansion of a business;

18 [~~Z.~~] Y. "taxing entity" means the governing body of
19 a political subdivision of the state, the gross receipts tax
20 increment or property tax increment of which may be used for a
21 tax increment development project; and

22 [~~AA.~~] Z. "workforce housing" means decent, safe and
23 sanitary dwellings, apartments, single-family dwellings or
24 other living accommodations that are affordable for persons or
25 families earning less than eighty percent of the median income

.211327.3

underscored material = new
[bracketed material] = delete

1 within the county in which the tax increment development
2 project is located; provided that an owner-occupied housing
3 unit is affordable to a household if the expected sales price
4 is reasonably anticipated to result in monthly housing costs
5 that do not exceed thirty-three percent of the household's
6 gross monthly income; provided that:

7 (1) determination of mortgage amounts and
8 payments [~~are~~] is to be based on down payment rates and
9 interest rates generally available to lower- and moderate-
10 income households; and

11 (2) a renter-occupied housing unit is
12 affordable to a household if the unit's monthly housing costs,
13 including rent and basic utility and energy costs, do not
14 exceed thirty-three percent of the household's gross monthly
15 income."

16 SECTION 199. Section 5-15-8 NMSA 1978 (being Laws 2006,
17 Chapter 75, Section 8) is amended to read:

18 "5-15-8. ELECTION.--

19 A. The election procedures set forth in this
20 section shall be used for:

- 21 (1) formation of a new tax increment
22 development district;
- 23 (2) election of a district board member;
- 24 (3) adoption of a property tax levy by a tax
25 increment development district;

.211327.3

underscored material = new
[bracketed material] = delete

1 (4) use of property tax increment financing by
2 a tax increment development district; or

3 (5) issuing of property tax increment bonds to
4 be repaid by funds raised by property tax increments.

5 B. An election may be waived and a tax increment
6 development district shall be formed upon the governing body's
7 adoption of a resolution to form a tax increment development
8 district if a petition is presented to a governing body in
9 accordance with the Tax Increment for Development Act and if
10 the petition contains the signatures of all owners of the real
11 property within the proposed tax increment development area and
12 states that the owners waive the right to an election.

13 C. An election pursuant to the Tax Increment for
14 Development Act shall be a nonpartisan election called, [~~by~~
15 ~~posting notices in three public places within the boundaries of~~
16 ~~the district not less than twenty days before the election.~~
17 ~~Notice shall also be published in a newspaper of general~~
18 ~~circulation once each week for two consecutive weeks before the~~
19 ~~election in the municipality or county in which the proposed~~
20 ~~district is located] conducted and canvassed pursuant to the
21 provisions of the Local Election Act.~~

22 D. In addition to the notice requirements in the
23 Election Code, the notice shall state:

24 [~~(1) the place of holding the election and~~
25 ~~provisions for voting by mail, if any;~~

underscored material = new
[bracketed material] = delete

1 ~~(2) the hours during the day during which the~~
2 ~~polls will be open;~~

3 ~~(3)~~ (1) if the election is a formation
4 election, the boundaries of the proposed tax increment
5 development district;

6 ~~(4)~~ (2) if the election is a bond election,
7 the purpose for which the bonds are to be issued and the amount
8 of the issue;

9 ~~(5)~~ (3) if the election is a property tax
10 levy election, the maximum tax rate per one thousand dollars
11 (\$1,000) of assessed valuation to be imposed, the purposes for
12 which the revenues raised will be used and the existing maximum
13 tax rate, if any;

14 ~~(6)~~ (4) that an approved tax increment
15 development plan is on file with the clerk of the governing
16 body;

17 ~~(7)~~ (5) the purposes for which property
18 taxes will be imposed and for which the revenues raised will be
19 used, including a description of the public improvements to be
20 financed with tax revenues, bond proceeds or other revenues of
21 the tax increment development district; and

22 ~~(8)~~ (6) that the imposition of property
23 taxes will result in a lien for the payment on property within
24 the district.

25 E. The district board, or, in the case of a

.211327.3

underscored material = new
[bracketed material] = delete

1 formation election, the governing body, shall determine the
2 date of the election, [~~and the polling places for the election~~
3 ~~and may consolidate county precincts.~~ The district board or
4 the governing body may establish provisions for voting by mail.

5 F. ~~Voter lists shall be used to determine the~~
6 ~~resident qualified electors.~~ If a district or proposed
7 ~~district includes land lying partly in and partly out of any~~
8 ~~county election precinct, the voter lists may contain the names~~
9 ~~of all registered voters in the precinct, and the precinct~~
10 ~~boards at these precincts shall require that a prospective~~
11 ~~elector execute an affidavit stating that the elector is also a~~
12 ~~resident qualified elector.~~

13 G. ~~For an election held pursuant to the Tax~~
14 ~~Increment for Development Act, a prospective elector who is not~~
15 ~~a resident qualified elector shall execute an affidavit stating~~
16 ~~that the elector is the owner of land in the proposed or~~
17 ~~existing district and stating the area of land in acres owned~~
18 ~~by the prospective elector.~~ If the prospective elector is not
19 ~~an individual, the affidavit shall provide that the individual~~
20 ~~casting the vote is the designated representative of the~~
21 ~~corporation, association, partnership, limited liability~~
22 ~~company or other legal entity entitled to vote in the election.~~
23 ~~Precinct board members may administer oaths or accept~~
24 ~~affirmations for those purposes.~~

25 H. ~~Except as otherwise provided by this section,~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~the election]~~ which shall comply with the ~~[general election~~
2 ~~laws of the state]~~ provisions of the Local Election Act. The
3 ballot material provided to each voter shall include:

4 (1) for a formation election, an impartial
5 description of the tax increment development plan and a brief
6 description of arguments for and against the formation of the
7 tax increment development district, if any;

8 (2) for an election concerning the imposition
9 of property taxes, an impartial description of the taxes to be
10 imposed, the method of apportionment, collection and
11 enforcement and other details sufficient to enable each
12 ~~[resident]~~ qualified elector to determine the amount of tax it
13 will be obligated to pay; a brief description of arguments for
14 and against the imposition of taxes that are the subject of the
15 election, if any; and a statement that the imposition of
16 property taxes is for the provision of certain, but not
17 necessarily all, public improvements that may be needed or
18 desirable within the tax increment development district, and
19 that other taxes, levies or assessments by other governmental
20 entities may be presented for approval by owners and ~~[resident]~~
21 qualified electors;

22 (3) for an election concerning the use of
23 property tax increment financing, an impartial description of
24 the estimated increment to be generated over the life of the
25 project and the nature and extent of the public improvements to

.211327.3

1 be constructed and maintained using such financing;

2 (4) for a formation election, the question to
3 be voted upon as "district, yes" and "district, no";

4 (5) for a property tax imposition election,
5 the question to be voted upon as "property tax, yes" and
6 "property tax, no";

7 (6) for an election to change an existing
8 maximum tax or eliminate an existing tax, the question to be
9 voted upon as "tax change, yes" and "tax change, no" and shall
10 specify the type of tax to which the proposed change pertains;
11 and

12 (7) for an election concerning the use of
13 property tax increment bonds, the ballot shall pose the
14 question to be voted upon as "bonds, yes" and "bonds, no".

15 ~~I. The governing body or, if after district~~
16 ~~formation, the district board, may provide for the returns of~~
17 ~~the election to be made in person or by mail.~~

18 ~~J. Within thirty days after an election, the~~
19 ~~governing body, or if after district formation, the district~~
20 ~~board, shall meet and canvass the returns, determining the~~
21 ~~number of votes properly cast by owners and resident qualified~~
22 ~~electors. A majority of the votes cast at the election shall~~
23 ~~be required. The canvass may be continued for an additional~~
24 ~~period not to exceed thirty days at the election of the~~
25 ~~governing body or district board for the purpose of completing~~

underscored material = new
[bracketed material] = delete

1 ~~the canvass.]~~

2 F. Failure of a majority to vote in favor of the
3 matter submitted shall not prejudice the submission of the same
4 or similar matters at a later election; provided that an
5 election on the same question shall not be held within one year
6 of the failure of a majority to vote in favor of that question.

7 ~~[K.]~~ G. If a person transfers real property located
8 in a district and the name of the successor owner becomes known
9 and is verified by recorded deed or other similar evidence of
10 transfer of ownership, the successor owner is deemed to be the
11 owner of the real property for the purposes of the Tax
12 Increment for Development Act.

13 ~~[L.]~~ H. If there are no persons registered to vote
14 within a district or proposed district within [~~fifty~~] seventy
15 days immediately preceding a scheduled election date, an
16 election required to be held pursuant to the Tax Increment for
17 Development Act shall be [~~held by vote of~~] canceled and a
18 determination made by the owners of property within the
19 district or proposed district in lieu of an election. Each
20 owner shall have the number of votes or portion of votes equal
21 to the number of acres or portion of acres rounded upward to
22 the nearest one-fifth of an acre owned in the district by that
23 owner.

24 ~~[M. In an election held pursuant to the Tax~~
25 ~~Increment for Development Act, an owner who is also a resident~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~qualified elector shall have the number of votes or portion of~~
2 ~~votes equal to the number of acres or portion of acres rounded~~
3 ~~upward to the nearest one-fifth of an acre owned in the~~
4 ~~district by that owner and shall not be entitled to an~~
5 ~~additional vote as a result of residing within the district.]"~~

6 SECTION 200. Section 5-15-9 NMSA 1978 (being Laws 2006,
7 Chapter 75, Section 9, as amended) is amended to read:

8 "5-15-9. FORMATION OF A DISTRICT.--

9 A. If the formation of the tax increment
10 development district is approved by a majority of the voters
11 casting votes at the election, or if [~~an election is held by~~
12 ~~vote of~~] a determination is made by the owners of property
13 within the district or proposed district in lieu of an
14 election, the governing body shall deliver a copy of the
15 resolution ordering formation of the tax increment development
16 district to each of the following persons or entities:

17 (1) the county assessor, the county treasurer
18 and the clerk of the county in which the district is located;

19 (2) the school district within which any
20 portion of the property located within a tax increment
21 development area lies;

22 (3) any other taxing entities within which any
23 portion of the property located within a tax increment
24 development area lies;

25 (4) the taxation and revenue department;

.211327.3

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

1 (5) the local government division of the
2 department of finance and administration; and

3 (6) the director of the legislative finance
4 committee.

5 B. A notice of the formation showing the number and
6 date of the resolution and giving a description of the land
7 included in the district shall be recorded with the clerk of
8 the county in which the district is located.

9 C. A tax increment development district shall be a
10 political subdivision of the state, separate and apart from a
11 municipality or county."

12 **SECTION 201.** Section 5-15-10 NMSA 1978 (being Laws 2006,
13 Chapter 75, Section 10, as amended) is amended to read:

14 "5-15-10. GOVERNANCE OF THE DISTRICT.--

15 A. Following formation of a tax increment
16 development district, a district board shall administer in a
17 reasonable manner the implementation of the tax increment
18 development plan as approved by the governing body.

19 B. The district shall be governed by the governing
20 body that adopted a resolution to form the district or by a
21 five-member board composed of four members appointed by that
22 governing body; provided, however, that the fifth member of the
23 five-member board is the secretary of finance and
24 administration or the secretary's designee with full voting
25 privileges.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. Two of the appointed directors shall serve an
2 initial term [~~of~~] to expire following a regular local election
3 and not to exceed six years. Two of the appointed directors
4 shall serve an initial term [~~of~~] to expire following a regular
5 local election and not to exceed four years. The resolution
6 forming the district shall state which directors shall serve
7 [~~four-year~~] the longer terms and which shall serve [~~six-year~~]
8 the shorter terms. If a vacancy occurs on the district board
9 because of the death, resignation or inability of the director
10 to discharge the duties of the director, the governing body
11 shall appoint a director to fill the vacancy, and the director
12 shall hold office for the remainder of the unexpired term until
13 a successor is appointed or elected.

14 ~~[D. A director may be a director of more than one~~
15 ~~district.]~~

16 ~~E.]~~ D. In the case of an appointed board of
17 directors that is not the governing body, at the end of the
18 appointed directors' initial terms, the board shall hold an
19 election of new directors by majority vote of [~~owners and~~]
20 qualified [~~resident~~] electors in accordance with the Local
21 Election Act and the Tax Increment for Development Act. [~~Each~~
22 ~~owner shall have the number of votes or portion of votes equal~~
23 ~~to the number of acres or portion of acres rounded upward to~~
24 ~~the nearest one-fifth of an acre owned in the district by that~~
25 ~~owner.]"~~

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 202. Section 5-15-14 NMSA 1978 (being Laws 2006,
2 Chapter 75, Section 14) is amended to read:

3 "5-15-14. PROPERTY TAX LEVY RESCISSION ELECTION.--

4 A. A property tax levy imposed by a district may be
5 rescinded within the four-year period during which a property
6 tax levy imposed by a district is effective if:

7 (1) thirty-three and one-third percent of the
8 number of persons who voted in the election for the imposition
9 of that property tax levy sign a petition to rescind the
10 property tax levy; and

11 (2) each person who signs the petition is a
12 [~~resident~~] qualified elector of the district or an owner of
13 real property within the tax increment development area.

14 B. The petition shall be filed with the district
15 board for verification of the signatures, as to both number and
16 qualifications of the persons signing. If the district board
17 verifies that the petition contains the requisite number of
18 signatures by persons qualified to sign the petition pursuant
19 to Subsection A of this section, the question of rescission of
20 the property tax levy imposed by the district shall be placed
21 on the ballot for:

22 (1) a special election held in accordance with
23 the special election procedures of the Election Code that is
24 called and held within ninety days; provided that the date does
25 not conflict with the provisions of Section 1-24-1 NMSA 1978;

.211327.3

underscored material = new
[bracketed material] = delete

1 or

2 (2) the next occurring regular local election
3 or general election if that election is to be held within less
4 than [~~ninety~~] one hundred twenty days.

5 C. A petition for rescission of a property tax levy
6 imposed by a district may be submitted only once each year
7 during the four-year period during which a property tax levy by
8 a district is effective."

9 SECTION 203. Section 5-15-18 NMSA 1978 (being Laws 2006,
10 Chapter 75, Section 18) is amended to read:

11 "5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

12 A. Subject to the limitations and in accordance
13 with Article 9 of the constitution of New Mexico and Sections
14 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and
15 dispose of property tax increment bonds for the purpose of
16 securing funds for undertaking tax increment development
17 projects within the purposes of the Tax Increment for
18 Development Act.

19 B. Before property tax increment bonds are issued,
20 the district board shall submit to a vote of the [~~registered~~]
21 qualified electors within the tax increment development area
22 [~~and the nonresident electors owning property within the tax~~
23 ~~increment development area~~] the question of issuing the
24 property tax increment bonds.

25 C. The district board shall give notice of [~~the~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~time and place of holding the election and the purpose for~~
2 ~~which the property tax increment bonds are to be issued.~~
3 ~~Notice of]~~ a property tax increment bond election [~~shall be~~
4 ~~given]~~ as required by the Local Election Act and the Tax
5 Increment for Development Act.

6 D. The ballot question shall state the purpose for
7 which the property tax increment bonds are to be issued and the
8 amount of the issue. If property tax increment bonds are to be
9 issued for more than one purpose, a separate ballot question
10 shall be submitted to the voters for each purpose to be voted
11 upon. The [~~ballots]~~ ballot question shall contain words
12 indicating the purpose of the bond issued and a place for a
13 vote in favor of or in opposition to each property tax
14 increment bond issue. [~~The ballots shall be deposited in a~~
15 ~~separate ballot box, unless voting machines are used.]~~

16 E. Except as otherwise provided in the Tax
17 Increment for Development Act, property tax increment bonds:

18 (1) may have interest, principal value or any
19 part thereof payable at intervals or at maturity, as determined
20 by the governing body;

21 (2) may be subject to a prior redemption at
22 the district's option at a time or upon terms and conditions
23 with or without payment of premium or premiums, as determined
24 by the district board;

25 (3) may mature at any time not exceeding

.211327.3

underscored material = new
[bracketed material] = delete

1 twenty-five years after the date of issuance;

2 (4) may be serial in form and maturity or may
3 consist of one bond payable at one time or in installments or
4 may be in another form, as determined by the district board;

5 (5) shall be sold for cash at, above or below
6 par and at a price that results in a net effective interest
7 rate that does not exceed the maximum permitted by the Public
8 Securities Act and the Public Securities Short-Term Interest
9 Rate Act; and

10 (6) may be sold at public or negotiated sale.

11 F. Except as otherwise provided by law, the
12 district board shall determine the denominations, places of
13 payment, terms and conditions and the form of property tax
14 increment bonds.

15 G. The secretary and treasurer of the district
16 board shall sign property tax increment bonds.

17 H. The property tax increment bonds may be executed
18 in the manner provided by the Uniform Facsimile Signature of
19 Public Officials Act."

20 **SECTION 204.** Section 5-15-25 NMSA 1978 (being Laws 2006,
21 Chapter 75, Section 25) is amended to read:

22 "5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA
23 BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

24 A. After an election to form a district, an area
25 may be eliminated from the tax increment development area only

.211327.3

underscored material = new
[bracketed material] = delete

1 following a hearing conducted upon notice given to the owners
2 of land in the tax increment development area in the manner
3 prescribed for the formation hearing, adoption of a resolution
4 of intention to do so by the district board and voter approval
5 by the [~~owners and resident~~] qualified electors as provided in
6 the Local Election Act and the Tax Increment for Development
7 Act. Real property within the tax increment development area
8 that is subject to the lien of property taxes, special levies
9 or other charges imposed pursuant to the Tax Increment for
10 Development Act shall not be eliminated from the district while
11 there are bonds outstanding that are payable by those taxes,
12 special levies or charges.

13 B. At any time after adoption of a resolution
14 creating a district, an area may be added to the district upon
15 the [~~approval~~] determination of the owners of real property in
16 the proposed additional area and the [~~resident~~] approval of the
17 qualified electors residing therein, as well as a determination
18 of the owners of real property in the district and [~~resident~~]
19 approval of the qualified electors, in the same manner as
20 required for the formation of a district.

21 C. The district board, following a hearing
22 conducted upon notice given to the owners of real property
23 located in the district in the manner prescribed for the
24 formation hearing, may, subject to the approval of the
25 governing body that approved the district's tax increment

.211327.3

underscored material = new
[bracketed material] = delete

1 development plan, amend the tax increment development plan in
2 any manner that it determines will not substantially reduce the
3 benefits to be received by any land in the district from the
4 public infrastructure on completion of the work to be performed
5 under the general plan. An election shall not be required
6 solely for the purposes of this subsection."

7 SECTION 205. Section 6-21-5.1 NMSA 1978 (being Laws 1998,
8 Chapter 65, Section 1) is amended to read:

9 "6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY
10 LOANS.--The authority may issue bonds for a county to design,
11 construct, equip, furnish and otherwise improve a county
12 correctional facility pursuant to the County Correctional
13 Facility Gross Receipts Tax Act only after a majority of the
14 [~~registered~~] qualified electors of the county has voted to
15 allow the county to impose a county correctional facility gross
16 receipts tax in the amount needed to repay bonds issued by the
17 authority for the purpose of designing, constructing,
18 equipping, furnishing and otherwise improving a county
19 correctional facility."

20 SECTION 206. A new Section of Chapter 7, Article 38 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] PROCEDURES TO DELAY THE MAILING OF
23 PROPERTY TAX BILLS FOR COUNTIES FOR WHICH A PROPERTY TAX LEVY
24 IS IMPOSED AT THE NOVEMBER 2019 or 2021 REGULAR LOCAL ELECTION
25 TO PUT THE QUESTION OF IMPOSING OR RENEWING A LEVY BEFORE THE

.211327.3

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

1 VOTERS.--

2 A. In 2019 and 2021:

3 (1) if a local government desires to impose or
4 renew a property tax levy, the local government shall file a
5 resolution with the county clerk and the local government
6 division of the department of finance and administration no
7 later than July 15 calling for the imposition or renewal of a
8 property tax levy and indicate the local government's intent to
9 place the question of imposing or renewing the property tax
10 levy on the regular local election ballot in November;

11 (2) no later than September 1, and following
12 the procedures provided in Section 7-38-33 NMSA 1978, the local
13 government division of the department of finance and
14 administration shall by written order set two property tax
15 rates for the properties under the jurisdiction of the local
16 governments that submitted a resolution pursuant to Paragraph
17 (1) of this subsection. One set of rates shall assume that the
18 question of the property tax levy will be approved by the
19 voters, and a second set of rates shall assume that the
20 question of the property tax levy will not be approved by the
21 voters. A copy of the property tax rate-setting order with
22 both rates shall be sent to each board of county commissioners
23 and each county assessor of each affected county and the
24 taxation and revenue department within five days of the date
25 the order is made;

.211327.3

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

1 (3) within five days of receiving the
2 rate-setting order, the board of county commissioners of each
3 affected county shall issue a written order imposing a tax at
4 the rates set on the net taxable value of property allocated to
5 the appropriate governmental units pursuant to Section 7-38-34
6 NMSA 1978 for both of the property tax rates set pursuant to
7 Paragraph (2) of this subsection. The order shall provide
8 notice of both rates. A copy of each order shall be delivered
9 immediately to the county assessor;

10 (4) no later than October 1, and following the
11 procedures provided in Section 7-38-35 NMSA 1978, the county
12 assessor for each affected county shall prepare a property tax
13 schedule for all property subject to property taxation in the
14 county for both of the property tax rates set pursuant to
15 Paragraph (2) of this subsection;

16 (5) pursuant to Section 7-38-36 NMSA 1978, the
17 county assessor shall deliver a copy of the property tax
18 schedule prepared pursuant to Paragraph (4) of this subsection
19 to the county treasurer on October 1, with a notice that the
20 property tax bill for those properties shall be mailed pursuant
21 to Paragraph (6) of this subsection;

22 (6) after the regular local election is held
23 in November and the voters have answered the question of the
24 property tax levy, the county treasurer for each affected
25 county shall prepare and mail property tax bills no later than

.211327.3

1 November 24, notwithstanding Section 7-38-36 NMSA 1978,
2 reflecting the appropriate rate and amount due, to either the
3 owner of the property or any person other than the owner to
4 whom the tax bill is to be sent; and

5 (7) notwithstanding Section 7-38-38 NMSA 1978,
6 the first installment of property taxes is due on December 6,
7 and shall become delinquent if not paid within thirty days
8 pursuant to Section 7-38-49 NMSA 1978.

9 B. As used in this section:

10 (1) "affected county" means a county within
11 which a local government is situate that files a resolution
12 indicating the local government's intent to place the question
13 of imposing or renewing a property tax levy on the regular
14 local election ballot in November 2019 or 2021 pursuant to
15 Subsection A of this section; and

16 (2) "local government" means "local
17 government" as that term is defined in the Local Election Act."

18 **SECTION 207.** Section 8-8-3.1 NMSA 1978 (being Laws 2013,
19 Chapter 64, Section 1) is amended to read:

20 "8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

21 A. In addition to other requirements imposed by
22 law, in order to be elected or appointed as a commissioner, a
23 person must be qualified for office by:

24 (1) having at least ten years of professional
25 experience in an area regulated by the commission or in the

underscored material = new
[bracketed material] = delete

1 energy sector and involving a scope of work that includes
2 accounting, public or business administration, economics,
3 finance, statistics, engineering or law; or

4 (2) having a total of ten years of combined
5 professional experience as described in Paragraph (1) of this
6 subsection and higher education resulting in at least a
7 professional license or a baccalaureate degree from an
8 institution of higher education that has been accredited by a
9 regional or national accrediting body in an area regulated by
10 the commission, including accounting, public or business
11 administration, economics, finance, statistics, engineering or
12 law [~~or~~

13 ~~(3) holding the office of commissioner on~~
14 ~~January 1, 2013].~~

15 B. As used in this section, "professional
16 experience" means employment in which the candidate or
17 prospective appointee for commissioner regularly made decisions
18 requiring discretion and independent judgment and:

19 (1) engaged in policy analysis, research or
20 implementation in an area regulated by the commission or in the
21 energy sector;

22 (2) managed, as the head, deputy head or
23 division director, a federal, state, tribal or local government
24 department or division responsible for utilities,
25 transportation or construction; or

.211327.3

underscoring material = new
[bracketed material] = delete

1 (3) managed a business or organization
2 regulated by the commission or in the energy sector that had
3 five or more employees during the time it was managed by the
4 candidate or prospective appointee.

5 C. A candidate for election to the office of
6 commissioner shall certify by notarized affidavit that the
7 candidate meets the requirements of Subsection A of this
8 section to be filed with the declaration of candidacy. The
9 affidavit shall be on a form provided by the secretary of state
10 that shall permit a candidate to list with particularity the
11 candidate's specific professional experience or higher
12 education that meets the requirements of Subsection A of this
13 section.

14 D. A voter may challenge the candidacy for election
15 to the office of commissioner of any person seeking nomination
16 for the reason that the person seeking nomination does not meet
17 the requirements of Subsection A of this section or that the
18 affidavit of the person seeking nomination does not contain
19 sufficient information to determine if the person meets the
20 requirements of Subsection A of this section. The challenge
21 shall be made by filing a petition in the district court within
22 ten days after the last day for filing a declaration of
23 candidacy or a statement of candidacy for convention
24 designation, which petition shall be heard in the same manner
25 as provided in Subsection [F] E of Section 1-8-26 NMSA 1978."

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 208. Section 10-3-1 NMSA 1978 (being Laws 1909,
2 Chapter 36, Section 3, as amended) is amended to read:

3 "10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL OFFICE.--

4 Any office [~~belonging to the class mentioned in Section 10-4-1~~
5 ~~NMSA 1978~~] of a political subdivision of the state subject to
6 election by the qualified electors within the political
7 subdivision becomes vacant under any of the following
8 circumstances:

9 A. by resignation or death of the party in office;

10 B. removal of the officer as provided by Sections
11 10-4-1 through 10-4-29 NMSA 1978;

12 C. failure of the officer to qualify as provided by
13 law;

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

16 E. when the officer removes from the area from
17 which the officer was elected to represent and, in case of an
18 officer serving pursuant to an appointment, when the officer
19 removes from the area the officer was appointed to represent;

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

25 G. by [~~resignation of the~~] an officer accepting and

.211327.3

underscored material = new
[bracketed material] = delete

1 undertaking an employment relationship with the political
2 subdivision in which the officer serves in a position subject
3 to election; or

4 H. by an officer [~~accepting and~~] taking the oath of
5 office or undertaking to discharge the duties of another
6 incompatible office."

7 SECTION 209. Section 10-3-3 NMSA 1978 (being Laws 1907,
8 Chapter 6, Section 2, as amended) is amended to read:

9 "10-3-3. VACANCY IN COUNTY OFFICE--APPOINTMENT.--[~~Sec.~~
10 ~~158.~~] Whenever any vacancy in any county [~~or precinct~~] office
11 in any of the counties of this state, other than a vacancy in
12 the office of county commissioner, [~~shall occur~~] occurs by
13 reason of death, resignation or otherwise, it [~~shall be~~] is the
14 duty of the board of county commissioners of the county where
15 such vacancy has occurred to fill [~~said~~] the vacancy by
16 appointment, and [~~said~~] the appointee shall be entitled to hold
17 [~~said~~] the office until [~~his successor shall be duly elected~~
18 ~~and qualified according to law~~] the end of the unexpired term
19 of office."

20 SECTION 210. A new section of the Public Employees
21 Retirement Act is enacted to read:

22 "[NEW MATERIAL] ELECTED OFFICIAL--AWARD OF SERVICE CREDIT
23 FOR SHORTENED TERM OF OFFICE--LOCAL ELECTION ACT.--A member
24 shall be credited an award of service to the member's service
25 credit account:

.211327.3

underscored material = new
[bracketed material] = delete

1 A. if, but for the shortening under the Local
2 Election Act of a term in elected office served by the member,
3 the member would meet the service requirement for normal
4 retirement; and

5 B. in the minimum amount of service credit needed
6 for the member to meet the requirement for normal retirement,
7 but no more than three months."

8 SECTION 211. Section 10-16A-3 NMSA 1978 (being Laws 1993,
9 Chapter 46, Section 41, as amended) is amended to read:

10 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
11 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
12 BALLOT OR APPOINTMENT.--

13 A. ~~[At the time of filing a declaration of~~
14 ~~candidacy or nominating petition]~~ A person holding a
15 legislative or statewide office shall file with the secretary
16 of state a financial disclosure statement during the month of
17 January every year that the person holds public office.

18 B. A candidate for legislative or statewide office
19 who has not already filed a financial disclosure statement with
20 the secretary of state in the same calendar year shall file
21 with the proper filing officer, as defined in [Section 1-8-25
22 ~~NMSA 1978]~~ the Election Code, a financial disclosure statement
23 ~~[on a prescribed form. In addition, each year thereafter~~
24 ~~during the month of January, a legislator and a person holding~~
25 ~~a statewide office shall file with the proper filing officer a~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~financial disclosure statement~~ at the time of filing a
2 declaration of candidacy. If the proper filing officer is not
3 the secretary of state, the proper filing officer shall forward
4 a copy of the financial disclosure statement to the secretary
5 of state within [~~seventy-two hours~~] three days.

6 [B-] C. A state agency head, an official whose
7 appointment to a board or commission is subject to confirmation
8 by the senate or a member of the insurance nominating committee
9 shall file with the secretary of state a financial disclosure
10 statement within thirty days of appointment and during the
11 month of January every year thereafter that the person holds
12 public office.

13 [G-] D. The financial disclosure statement shall
14 include for any person identified in Subsection A, [~~or~~] B or C
15 of this section and the person's spouse the following
16 information for the prior calendar year:

17 (1) the full name, mailing address and
18 residence address of each person covered in the disclosure
19 statement, except the address of the spouse need not be
20 disclosed; the name and address of the person's and spouse's
21 employer and the title or position held; and a brief
22 description of the nature of the business or occupation;

23 (2) all sources of gross income of more than
24 five thousand dollars (\$5,000) to each person covered in the
25 disclosure statement, identified by general category

.211327.3

underscoring material = new
[bracketed material] = delete

1 descriptions that disclose the nature of the income source, in
2 the following broad categories: law practice or consulting
3 operation or similar business, finance and banking, farming and
4 ranching, medicine and health care, insurance (as a business
5 and not as payment on an insurance claim), oil and gas,
6 transportation, utilities, general stock market holdings,
7 bonds, government, education, manufacturing, real estate,
8 consumer goods sales with a general description of the consumer
9 goods and the category "other", with direction that the income
10 source be similarly described. In describing a law practice,
11 consulting operation or similar business of the person or
12 spouse, the major areas of specialization or income sources
13 shall be described, and if the spouse or a person in the
14 reporting person's or spouse's law firm, consulting operation
15 or similar business is or was during the reporting calendar
16 year or the prior calendar year a registered lobbyist under the
17 Lobbyist Regulation Act, the names and addresses of all clients
18 represented for lobbying purposes during those two years shall
19 be disclosed;

20 (3) a general description of the type of real
21 estate owned in New Mexico, other than a personal residence,
22 and the county where it is located;

23 (4) all other New Mexico business interests
24 not otherwise listed of ten thousand dollars (\$10,000) or more
25 in a New Mexico business or entity, including any position held

.211327.3

underscored material = new
[bracketed material] = delete

1 and a general statement of purpose of the business or entity;

2 (5) all memberships held by the reporting
3 individual and the individual's spouse on boards of for-profit
4 businesses in New Mexico;

5 (6) all New Mexico professional licenses held;

6 (7) each state agency that was sold goods or
7 services in excess of five thousand dollars (\$5,000) during the
8 prior calendar year by a person covered in the disclosure
9 statement; and

10 (8) each state agency, other than a court,
11 before which a person covered in the disclosure statement
12 represented or assisted clients in the course of the person's
13 employment during the prior calendar year. [~~and~~

14 ~~(9) a general category that allows the person~~
15 ~~filing the disclosure statement to provide whatever other~~
16 ~~financial interest or additional information the person~~
17 ~~believes should be noted to describe potential areas of~~
18 ~~interest that should be disclosed.~~

19 ~~D.]~~ E. A complete financial disclosure statement
20 shall be filed every year. The secretary of state shall [~~mail~~]
21 deliver to each elected official required to file a financial
22 disclosure statement a copy of any statement the person filed
23 the previous year.

24 [~~E.]~~ F. The financial disclosure statements filed
25 pursuant to this section are public records open to public

.211327.3

underscored material = new
[bracketed material] = delete

1 inspection during regular office hours and shall be retained by
2 the state for five years from the date of filing.

3 ~~[F.]~~ G. A person who files a financial disclosure
4 statement may file an amended statement at any time to reflect
5 significant changed circumstances that occurred since the last
6 statement was filed.

7 ~~[G.]~~ H. A person who files to be a candidate for a
8 legislative or statewide office who fails or refuses to file a
9 financial disclosure statement required by this section before
10 the final date for ~~[the withdrawal of candidates]~~ qualification
11 of the person as a candidate as provided for in the Election
12 Code shall not ~~[have the candidate's name printed on the~~
13 ~~election ballot]~~ be qualified by the proper filing officer as a
14 candidate.

15 ~~[H.]~~ I. For a state agency head, an official whose
16 appointment to a board or commission is subject to confirmation
17 by the senate or a member of the insurance nominating
18 committee, the filing of the financial disclosure statement
19 required by this section is a condition of entering upon and
20 continuing in state employment or holding an appointed
21 position."

22 SECTION 212. Section 21-2A-10 NMSA 1978 (being Laws 1995,
23 Chapter 224, Section 16) is amended to read:

24 "21-2A-10. PROCEDURE FOR ELECTION.--

25 A. In all elections held under the College District

.211327.3

underscored material = new
[bracketed material] = delete

1 Tax Act, the board shall issue a resolution calling for an
2 election. The resolution shall be filed with each county clerk
3 in the college district. [~~The board shall publish the~~
4 ~~resolution in a newspaper of general circulation in the college~~
5 ~~district at least once a week for three consecutive weeks, the~~
6 ~~last insertion to be not less than thirty days prior to the~~
7 ~~proposed election.~~]

8 B. All elections held under the College District
9 Tax Act shall be conducted and canvassed [~~in the same manner as~~
10 ~~municipal school elections, unless otherwise specifically~~
11 ~~provided in the College District Tax Act]~~ pursuant to the
12 provisions of the Local Election Act.

13 C. Any person or corporation may institute, in the
14 district court of any county in which the college district
15 affected lies, an action or suit to contest the validity of any
16 proceedings held under the College District Tax Act, but no
17 such suit or action shall be maintained unless it is instituted
18 within ten days after the issuance by the proper official of a
19 certificate or notification of the results of the election."

20 SECTION 213. Section 21-13-21 NMSA 1978 (being Laws 1963,
21 Chapter 17, Section 16, as amended) is amended to read:

22 "21-13-21. ADDITION OF SCHOOL DISTRICTS TO EXISTING
23 COMMUNITY COLLEGE DISTRICTS.--

24 A. The [~~qualified electors within the territorial~~
25 ~~limits]~~ school board of a school district, group of school

.211327.3

underscored material = new
[bracketed material] = delete

1 districts within a county or school districts in an adjoining
2 county, not included in the community college district as
3 originally formed, may by resolution petition the [~~commission~~
4 ~~on~~] higher education department to be added to the community
5 college district. [~~The commission shall examine the petition~~
6 ~~and, if it finds that the petition is signed by the requisite~~
7 ~~number of qualified electors as provided in Sections 21-13-4~~
8 ~~and 21-13-5 NMSA 1978, the commission shall cause a survey to~~
9 ~~be made of the petitioning district to determine the~~
10 ~~desirability of the proposed extension of the area of the~~
11 ~~community college district.] The resolution may be initiated by
12 the school board or upon presentation to the school board of a
13 petition signed by ten percent of the qualified electors of the
14 district.~~

15 B. In [~~conducting the survey, the commission on~~
16 reviewing the resolution, the higher education department shall
17 ascertain the attitude of the community college board and
18 [~~collect other information as prescribed in Section 21-13-5~~
19 ~~NMSA 1978~~] ensure that the petitioning district is not already
20 within another institution's service area. If [~~on the basis of~~
21 ~~the survey the commission~~] the department finds that the
22 proposed addition of the petitioning district [~~will promote an~~
23 ~~improved education service in the area~~] is not within another
24 institution's service area and the proposed addition is
25 acceptable to the community college district, it shall approve

.211327.3

underscored material = new
[bracketed material] = delete

1 the ~~[petition]~~ resolution. Thereafter, ~~[the commission shall~~
2 ~~proceed to call an election within]~~ the petitioning district
3 and ~~[in]~~ the established community college district shall call
4 an election pursuant to the provisions of the Local Election
5 Act on the question of the inclusion of the area in the
6 community college district. ~~[In the election, the procedure~~
7 ~~prescribed in Sections 21-13-6, 21-13-7 and 21-13-18 NMSA 1978~~
8 ~~shall be followed.]~~

9 C. If it appears on canvass of the results of the
10 election ~~[in the office of the executive director of the~~
11 ~~commission on higher education that]~~ a majority of the votes
12 cast in each of the petitioning areas and within the
13 established community college district was in favor of the
14 addition of the petitioning area, the ~~[executive director shall~~
15 ~~notify the boards of education within each school district and~~
16 ~~the community college board of the results of the election and]~~
17 secretary of higher education shall declare the extension of
18 the boundaries of the community college district to include the
19 petitioning area in which the proposed addition referendum
20 carried by a majority vote. The addition shall take effect on
21 the next succeeding July 1.

22 D. The territory within each school district added
23 to any existing community college district shall automatically
24 be subject to any special levy on taxable property approved for
25 the community college district for the maintenance of

.211327.3

underscoring material = new
[bracketed material] = delete

1 facilities and services and for support of bond issues."

2 SECTION 214. Section 21-14-2 NMSA 1978 (being Laws 1963,
3 Chapter 162, Section 2, as amended) is amended to read:

4 "21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT
5 INSTITUTION--ELECTIONS.--

6 A. As used in Chapter 21, Article 14 NMSA 1978,
7 "board" means either the local school board or the combined
8 local school boards acting as a single board of the school
9 district or the board of the branch community college elected
10 pursuant to Section 21-14-2.1 NMSA 1978.

11 B. The duties of the board are to:

12 (1) enter into written agreements with the
13 board of regents of the parent institution, subject thereafter
14 to biennial review by all parties concerned and to the review
15 and commentary of the [~~commission on~~] higher education
16 department;

17 (2) act in an advisory capacity to the board
18 of regents of the parent institution in all matters relating to
19 the conduct of the branch community college;

20 (3) approve an annual budget for the branch
21 community college for recommendation to the board of regents of
22 the parent institution;

23 (4) certify to the board of county
24 commissioners the tax levy; and

25 (5) [~~conduct~~] issue the proclamation for the

underscored material = new
[bracketed material] = delete

1 election for tax levies for the branch community college if the
2 tax levies are to be presented to the voters of the district at
3 a special election, or approve the ballot question if the tax
4 levies are to be presented to the voters of the district at
5 either the general or regular local election.

6 C. The board and the board of regents of the parent
7 institution of the branch community college shall jointly
8 conduct a search for qualified candidates for director. The
9 board of regents of the parent institution, after consultation
10 with the board, shall then select a director for the branch
11 community college.

12 D. The board and the board of regents of the parent
13 institution shall enter into a written agreement, which shall
14 include provisions for:

15 (1) the higher education institution to have
16 full authority and responsibility in relation to all academic
17 matters;

18 (2) the higher education institution to honor
19 all credits earned by students as though they were earned on
20 the parent campus;

21 (3) the course of study and program offered;

22 (4) the cooperative use of physical facilities
23 and teaching staff;

24 (5) consideration of applications of local
25 qualified people before employing teachers of the local school

.211327.3

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

1 system; and

2 (6) the detailed agreement of financing and
3 financial control of the branch community college.

4 E. The agreement shall be binding upon both the
5 board and the board of regents of the parent institution;
6 however, it may be terminated by mutual consent or it may be
7 terminated by either board upon six months' notice. However,
8 if the branch community college has outstanding general
9 obligation or revenue bonds, neither the board nor the board of
10 regents may terminate the agreement until the outstanding bonds
11 are retired, except as provided by Section 21-13-24.1 NMSA
12 1978. This provision shall apply to all agreements in
13 existence between the branch community college and the board of
14 regents of the parent institution.

15 F. All taxes levied to pay for principal and
16 interest on bonds of the branch community college shall be in
17 addition to the taxes levied for operating, maintaining and
18 providing facilities for the branch community college pursuant
19 to the College District Tax Act.

20 G. For the purpose of relating branch community
21 colleges to existing laws, branch community college districts
22 or branch community colleges shall not:

23 (1) be considered a part of the uniform system
24 of free public schools pursuant to Article 12, Section 1 and
25 Article 21, Section 4 of the constitution of New Mexico;

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) benefit from the permanent school fund and
2 from the current school fund under Article 12, Sections 2 and 4
3 of the constitution of New Mexico;

4 (3) be subject, except as it relates to
5 technical and vocational education, to the control, management
6 and direction of the public education department; and

7 (4) be considered school districts insofar as
8 the restrictions of Article 9, Section 11 of the constitution
9 of New Mexico are concerned.

10 H. All elections held pursuant to the branch
11 community college laws shall be ~~[as follows:~~

12 ~~(1) the board calling the election shall give~~
13 ~~notice of the election in a newspaper of general circulation in~~
14 ~~the branch community college district at least once a week for~~
15 ~~three consecutive weeks, the last insertion to be not less than~~
16 ~~thirty days prior to the proposed election;~~

17 ~~(2) the election shall be]~~ conducted and
18 canvassed ~~[in the same manner as municipal school district~~
19 ~~elections unless otherwise provided in the branch community~~
20 ~~college laws; and]~~ pursuant to the provisions of the Local
21 Election Act.

22 I. The territory of a branch of community college
23 may be extended to include additional school districts in the
24 same manner as provided for community colleges in Section
25 21-13-21 NMSA 1978.

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~[3]~~ J. Any person or corporation may institute in
2 the district court of any county in which the branch community
3 college district affected lies an action or suit to contest the
4 validity of any proceedings held under the branch community
5 college laws, but no such suit or action shall be maintained
6 unless it is instituted within ten days after the issuance by
7 the proper officials of a certificate or notification of the
8 results of the election and the canvassing of the election
9 returns. ~~[by the board.~~

10 ~~F.~~ K. The tax rolls of the school districts
11 comprising the branch community college district shall be
12 adopted as the tax rolls of the branch community college
13 district."

14 **SECTION 215.** Section 21-14-2.1 NMSA 1978 (being Laws
15 1985, Chapter 238, Section 29) is amended to read:

16 "21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD--LOCAL
17 OPTION.--

18 A. A majority of the local board of education or
19 the combined boards of education acting as a single board may
20 cease to operate as the branch community college board and
21 provide for an elected branch community college board. In that
22 event, the majority of the local board of education or the
23 combined boards of education acting as a single board shall
24 elect five persons as members of the branch community college
25 board. ~~[The persons elected shall be assigned position numbers~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~one through five.~~ Board members shall be ~~[over twenty-one~~
2 ~~years of age]~~ qualified electors and residents of the branch
3 community college district. The members of the board shall
4 continue to serve until the next regular ~~[branch community~~
5 ~~college]~~ local election ~~[to be held on the first Tuesday of~~
6 ~~February of each odd-numbered year]~~, at which time five board
7 members shall be elected by the ~~[registered voters]~~ qualified
8 electors of the branch community college district. The
9 candidates shall file for and be elected to a particular
10 position number. ~~[The candidate receiving the highest number~~
11 ~~of votes for a particular position shall be elected.]~~ At the
12 first board meeting after the election, the five members shall
13 draw lots for the following terms: two for terms of two years
14 and three for terms of four years. Thereafter, board members
15 shall be elected for terms of four years ~~[from March 1~~
16 ~~succeeding their election]~~. All vacancies caused in any other
17 manner than by the expiration of the term of office shall be
18 filled by appointment by the remaining members.

19 B. Immediately after the election of the five
20 members by the assembled board of education members, the board
21 shall select from its members a ~~[chairman]~~ chair and secretary
22 who shall serve in these offices until the next regular ~~[branch~~
23 ~~community college board]~~ local election. In January after each
24 ~~[branch community college board]~~ regular local election, the
25 members shall proceed to reorganize.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. The duties of the board shall continue as set
2 out in Chapter 21, Article 14 NMSA 1978."

3 SECTION 216. Section 21-14A-3 NMSA 1978 (being Laws 1982,
4 Chapter 42, Section 3, as amended) is amended to read:

5 "21-14A-3. ESTABLISHMENT AUTHORIZED--BOARD--
6 DETERMINATION OF NEED--AGREEMENTS.--

7 A. An off-campus instruction program may be
8 established in a school district upon the showing of need by
9 the local board of education. An off-campus instruction
10 program may be established to include more than one school
11 district, in which instance the two or more local boards of
12 education shall act as a single board and, if the off-campus
13 instruction program is established, shall continue to act as a
14 single board.

15 B. As used in the Off-Campus Instruction Act, "off-
16 campus board" means the local board of education, or the
17 combined local boards of education acting as a single board, of
18 the school district.

19 C. The duties of the off-campus board are to:
20 (1) initiate and conduct the survey provided
21 for in Subsection D of this section;
22 (2) select one or more parent institutions,
23 which shall be one of the state educational institutions as
24 specified in Article 12, Section 11 of the constitution of New
25 Mexico or one of the state educational institutions established

.211327.3

underscored material = new
[bracketed material] = delete

1 pursuant to Chapter 21 NMSA 1978;

2 (3) request approval of the off-campus
3 instruction program by the [~~commission on~~] higher education
4 department;

5 (4) enter into written agreements with the
6 board of regents of the selected parent institution, which
7 agreements shall be subject to biennial review of all parties
8 concerned and to the review and commentary of the [~~commission~~
9 ~~on~~] higher education department;

10 (5) act in an advisory capacity to the board
11 of regents of the parent institution in all matters relating to
12 the conduct of the off-campus instruction program;

13 (6) approve an annual budget for the off-
14 campus instruction program for recommendation to the board of
15 regents of the parent institution;

16 (7) certify to the board of county
17 commissioners the tax levy; and

18 (8) [~~conduct~~] issue the proclamation for the
19 election for tax levies for the off-campus instruction program
20 if the tax levies are to be presented to the voters of the
21 district at a special election; or approve the ballot question
22 if the tax levies are to be presented to the voters of the
23 district at either the general or regular local election.

24 D. Upon evidence of a demand for an off-campus
25 instruction program, the off-campus board shall cause a survey

.211327.3

underscored material = new
[bracketed material] = delete

1 to be made. The [~~commission on~~] higher education department
2 shall develop criteria for the establishment of an off-campus
3 instruction program, and no such program shall be established
4 without the written authorization of the [~~commission~~]
5 department.

6 E. If need is established, the off-campus board, in
7 accordance with the [~~commission on~~] higher education department
8 criteria for initiating an off-campus instruction program,
9 shall consult with the board of regents of the state
10 educational institution selected to be a parent institution,
11 and, if the off-campus board and the board of regents agree to
12 conduct an off-campus instruction program in the area, they
13 shall transmit a proposal to establish an off-campus
14 instruction program to the [~~commission~~] department. The
15 [~~commission~~] department shall evaluate the need and shall
16 notify the off-campus board and the board of regents of
17 approval or disapproval of the proposal.

18 F. If the proposal is approved, the off-campus
19 board and the board of regents of the parent institution shall
20 enter into a written agreement, which shall include provisions
21 for:

22 (1) the state educational institution to have
23 full authority and responsibility in relation to all academic
24 matters;

25 (2) the state educational institution to honor

underscored material = new
[bracketed material] = delete

1 all credits earned by students as though they were earned on
2 the parent campus;

3 (3) the course of study and program approved
4 by the [~~board of educational finance~~] higher education
5 department and offered to the students;

6 (4) the cooperative use of physical facilities
7 and teaching staff; and

8 (5) the detailed agreement of financing and
9 financial control of the off-campus instruction program.

10 G. The agreement shall be binding upon both the
11 off-campus board and the board of regents of the parent
12 institution; however, it may be terminated by mutual consent or
13 it may be terminated by either board upon six months' notice.

14 H. For the purpose of relating off-campus
15 instruction programs to existing laws, off-campus instruction
16 program districts or off-campus instruction programs shall not:

17 (1) [~~shall not~~] be considered a part of the
18 uniform system of free public schools pursuant to Article 12,
19 Section 1 and Article 21, Section 4 of the constitution of New
20 Mexico;

21 (2) [~~shall not~~] benefit from the permanent
22 school fund and from the current school fund under Article 12,
23 Sections 2 and 4 of the constitution of New Mexico;

24 (3) [~~shall not~~] be subject, except as it
25 relates to technical and vocational education, to the control,

.211327.3

underscored material = new
[bracketed material] = delete

1 management and direction of the ~~[state board of]~~ public
2 education department under Article 12, Section 6 of the
3 constitution of New Mexico;

4 (4) ~~[shall not]~~ be considered school districts
5 insofar as the restrictions of Article 9, Section 11 of the
6 constitution of New Mexico are concerned; and

7 (5) ~~[shall not]~~ include the major attendance
8 center of northern New Mexico ~~[community]~~ college at Espanola.

9 I. All elections held pursuant to the Off-Campus
10 Instruction Act shall be ~~[as follows:]~~

11 ~~(1) the off-campus board calling the election~~
12 ~~shall give notice of the election in a newspaper of general~~
13 ~~circulation in the off-campus instruction program district at~~
14 ~~least once a week for three consecutive weeks, the last~~
15 ~~insertion to be not less than thirty days prior to the proposed~~
16 ~~election;~~

17 ~~(2) the election shall be] called,~~ conducted
18 and canvassed ~~[in the same manner as municipal school district~~
19 ~~elections unless otherwise provided in the Off-Campus~~
20 ~~Instruction Act; and] pursuant to the Local Election Act.~~

21 ~~[(3)]~~ J. Any person or corporation may institute in
22 the district court of any county in which the off-campus
23 instruction program district affected lies an action or suit to
24 contest the validity of any proceedings held under the Off-
25 Campus Instruction Act, but no such suit or action shall be

underscored material = new
[bracketed material] = delete

1 maintained unless it is instituted within ten days after the
2 issuance by the proper officials of a certificate or
3 notification of the results of the election and the canvassing
4 of the election returns [~~by the board~~].

5 [~~J.~~] K. The tax rolls of the school districts
6 comprising the off-campus instruction program district shall be
7 adopted as the tax rolls of the off-campus instruction program
8 district."

9 SECTION 217. Section 22-18-2 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 229, as amended) is amended to read:

11 "22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--
12 CALLING FOR BOND ELECTIONS.--

13 A. Before any general obligation bonds are issued,
14 a local school board of a school district shall submit to a
15 vote of the qualified electors of the school district the
16 question of creating a debt by issuing the bonds, and a
17 majority of those persons voting on the question shall vote for
18 issuing the general obligation bonds.

19 B. The election on the question of creating a debt
20 by issuing general obligation bonds shall be held pursuant to
21 the provisions of the Local Election Act. The question shall
22 be submitted to a vote at a district election upon the
23 initiative of a local school board or upon a petition being
24 filed with a local school board signed by qualified electors of
25 the school district. The number of signatures required on the

.211327.3

underscored material = new
[bracketed material] = delete

1 petition shall be at least ten percent of the number of votes
2 cast for governor in the school district in the last preceding
3 general election. For the purpose of determining the number of
4 votes cast for governor in the school district at the last
5 preceding general election, any portion of a voting division
6 within the school district shall be construed to be wholly
7 within the school district. A local school board shall call
8 for a bond election at the next regular local or special
9 election within ninety days following the date a properly
10 signed petition is filed with it; provided that the timing of
11 the election does not conflict with the provisions of Section
12 [~~1-12-71~~] 1-24-1 NMSA 1978."

13 SECTION 218. Section 22-18-4 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 231, as amended) is amended to read:

15 "22-18-4. BOND ELECTIONS--CONDUCT.--

16 A. A person is required to be a [~~registered~~]
17 qualified elector to vote in a bond election in a school
18 district.

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

21 SECTION 219. Section 22-25-3 NMSA 1978 (being Laws 1975
22 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

23 "22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
24 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

25 A. A local school board may adopt a resolution to

underscored material = new
[bracketed material] = delete

1 submit to the qualified electors of the school district the
2 question of whether a property tax should be imposed upon the
3 net taxable value of property allocated to the school district
4 under the Property Tax Code at a rate not to exceed that
5 specified in the resolution for the purpose of capital
6 improvements in the school district. The resolution shall:

7 (1) identify the capital improvements for
8 which the revenue proposed to be produced will be used;

9 (2) specify the rate of the proposed tax,
10 which shall not exceed two dollars (\$2.00) on each one thousand
11 dollars (\$1,000) of net taxable value of property allocated to
12 the school district under the Property Tax Code;

13 ~~[(3) specify the date an election will be held~~
14 ~~to submit the question of imposition of the tax to the~~
15 ~~qualified electors of the district; and~~

16 ~~(4)]~~ (3) limit the imposition of the proposed
17 tax to no more than six property tax years; and

18 (4) indicate the regular election on which the
19 ballot question shall appear or specify the date a special
20 election will be held to submit the question of imposition of
21 the tax to the qualified electors of the district.

22 B. ~~[On or after July 1, 2009]~~ A resolution
23 submitted to the qualified electors pursuant to Subsection A of
24 this section shall include capital improvements funding for a
25 locally chartered or state-chartered charter school located

.211327.3

underscored material = new
[bracketed material] = delete

1 within the school district if the charter school timely
2 provides the necessary information to the school district for
3 inclusion in the resolution that identifies the capital
4 improvements of the charter school for which the revenue
5 proposed to be produced will be used."

6 SECTION 220. Section 22-25-4 NMSA 1978 (being Laws 1975
7 (S.S.), Chapter 5, Section 4) is amended to read:

8 "22-25-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The
9 resolution authorized under Section [~~3 of the Public School~~
10 ~~Capital Improvements Act~~] 22-25-3 NMSA 1978 shall be adopted
11 [~~no later than May 15 in the year in which the tax is proposed~~
12 ~~to be imposed~~] within the time frames required by the Election
13 Code and pursuant to the requirements of the property tax
14 division of the taxation and revenue department."

15 SECTION 221. Section 22-25-5 NMSA 1978 (being Laws 1975
16 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

17 "22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

18 A. An election on the question of imposing a tax
19 under the Public School Capital Improvements Act shall be
20 [~~held~~] conducted as prescribed in the Local Election Act.

21 B. The proclamation [~~required to be published as~~
22 ~~notice of the election under Section 1-22-11 NMSA 1978~~]
23 authorizing the ballot question or calling for a special
24 election shall include as the question to be submitted to the
25 voters whether a property tax at a rate not to exceed the rate

.211327.3

underscored material = new
[bracketed material] = delete

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

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

11 SECTION 222. Section 22-25-6 NMSA 1978 (being Laws 1975
12 (S.S.), Chapter 5, Section 6, as amended) is amended to read:

13 "22-25-6. ELECTION RESULTS--CANVASS--CERTIFICATION.--The
14 canvass and certification of the results of an election held on
15 the question of imposition of a public school capital
16 improvements tax shall be [~~made in accordance with Section~~
17 ~~77-5-16 NMSA 1953~~] as prescribed in the Local Election Act and
18 in addition to the reporting of results as required by the
19 Election Code, and a copy of the certificate of results shall
20 be [~~mailed~~] delivered immediately to the director."

21 SECTION 223. Section 22-25-7 NMSA 1978 (being Laws 1975
22 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

23 "22-25-7. IMPOSITION OF TAX--LIMITATION ON
24 EXPENDITURES.--

25 A. If as a result of an election held in accordance

underscored material = new
[bracketed material] = delete

1 with the Public School Capital Improvements Act a majority of
2 the qualified electors voting on the question votes in favor of
3 the imposition of the tax, the tax rate shall be certified,
4 unless the local school board requests by resolution that a
5 rate be discontinued, by the department of finance and
6 administration at the rate specified in the resolution
7 authorized under Section 22-25-3 NMSA 1978 or at any lower rate
8 required by operation of the rate limitation provisions of
9 Section 7-37-7.1 NMSA 1978 upon the rate specified in the
10 resolution and be imposed at the rate certified in accordance
11 with the provisions of the Property Tax Code.

12 B. The revenue produced by the tax and, except as
13 provided in Subsection F, G or H of Section 22-25-9 NMSA 1978,
14 any state distribution resulting to the district under the
15 Public School Capital Improvements Act shall be expended only
16 for the capital improvements specified in the authorizing
17 resolution.

18 C. [~~For resolutions approved by the electors on or~~
19 ~~after July 1, 2009~~] The amount of tax revenue to be distributed
20 to each charter school that was included in the resolution
21 shall be determined each year and shall be in the same
22 proportion as the average full-time-equivalent enrollment of
23 the charter school on the [~~fortieth day~~] first reporting date
24 of the prior school year is to the total such enrollment in the
25 school district; provided that no distribution shall be made to

.211327.3

underscored material = new
[bracketed material] = delete

1 an approved charter school that had not commenced classroom
2 instruction in the prior school year [~~and, provided further,~~
3 ~~that, in determining a school district's total enrollment,~~
4 ~~students attending a state-chartered charter school within that~~
5 ~~school district shall be included~~]. Each year, the department
6 shall certify to the county treasurer of the county in which
7 the eligible charter schools in the school district are located
8 the percentage of the revenue to be distributed to each charter
9 school. The county treasurer shall distribute the charter
10 school's share of the property tax revenue directly to the
11 charter school."

12 SECTION 224. Section 22-25-8 NMSA 1978 (being Laws 1975
13 (S.S.), Chapter 5, Section 8, as amended) is amended to read:

14 "22-25-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX
15 YEARS.--A tax imposed in a school district as a result of an
16 election under the Public School Capital Improvements Act shall
17 be imposed for a specified number of property tax years not
18 exceeding six years [~~commencing with the property tax year in~~
19 ~~which the election was held~~]. The local school board may
20 discontinue, by resolution, the Public School Capital
21 Improvements Act tax levy at the end of any property tax year.
22 The local school board shall direct that the Public School
23 Capital Improvements Act tax levy be decreased by the amount
24 required for any year in which the decrease is required by
25 operation of the rate limitation provisions of Section 7-37-7.1

.211327.3

underscored material = new
[bracketed material] = delete

1 NMSA 1978."

2 SECTION 225. Section 22-26-3 NMSA 1978 (being Laws 1983,
3 Chapter 163, Section 3, as amended) is amended to read:

4 "22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
5 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

6 A. A local school board may adopt a resolution to
7 submit to the qualified electors of the school district the
8 question of whether a property tax at a rate not to exceed the
9 rate specified in the resolution should be imposed upon the net
10 taxable value of property allocated to the school district
11 under the Property Tax Code for the purpose of capital
12 improvements to public schools in the school district. The
13 resolution shall:

14 (1) identify the capital improvements for
15 which the revenue proposed to be produced will be used;

16 (2) specify the rate of the proposed tax,
17 which shall not exceed ten dollars (\$10.00) on each one
18 thousand dollars (\$1,000) of net taxable value of property
19 allocated to the school district under the Property Tax Code;

20 ~~[(3) specify the date an election will be held~~
21 ~~to submit the question of imposition of the tax to the~~
22 ~~qualified electors of the district; and~~

23 ~~(4)]~~ (3) limit the imposition of the proposed
24 tax to no more than six property tax years; and

25 (4) indicate the regular election on which the

.211327.3

underscored material = new
[bracketed material] = delete

1 ballot question shall appear or specify the date a special
2 election will be held to submit the question of imposition of
3 the tax to the qualified electors of the district.

4 B. [~~After July 1, 2007~~] A resolution submitted to
5 the qualified electors pursuant to Subsection A of this section
6 shall include capital improvements funding for a locally
7 chartered or state-chartered charter school located within the
8 school district if:

9 (1) the charter school timely provides the
10 necessary information to the school district for inclusion on
11 the resolution that identifies the capital improvements of the
12 charter school for which the revenue proposed to be produced
13 will be used; and

14 (2) the capital improvements are included in
15 the five-year facilities plan:

16 (a) of the school district, if the
17 charter school is a locally chartered charter school; or

18 (b) of the charter school, if the
19 charter school is a state-chartered charter school."

20 SECTION 226. Section 22-26-4 NMSA 1978 (being Laws 1983,
21 Chapter 163, Section 4) is amended to read:

22 "22-26-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The
23 resolution authorized under Section [~~3 of the Public School~~
24 ~~Buildings Act~~] 22-26-3 NMSA 1978 shall be adopted [~~no later~~
25 ~~than May 15 in the year in which the tax is proposed to be~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~imposed~~] within the time frames required by the Election Code
2 and pursuant to the requirements of the property tax division
3 of the taxation and revenue department."

4 SECTION 227. Section 22-26-5 NMSA 1978 (being Laws 1983,
5 Chapter 163, Section 5, as amended) is amended to read:

6 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

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

10 B. The resolution [~~required to be published as~~
11 ~~notice of the election under Section 1-22-11 NMSA 1978~~]
12 authorizing the ballot question or calling for a special
13 election shall include as the question to be submitted to the
14 voters whether a property tax at a rate not to exceed the rate
15 specified in the authorizing resolution should be imposed for
16 the specified number of property tax years not exceeding six
17 years upon the net taxable value of all property allocated to
18 the school district for capital improvements.

19 C. The ballot shall include the information
20 specified in Subsection B of this section and shall present the
21 voter the choice of voting "for the public school buildings
22 tax" or "against the public school buildings tax"."

23 SECTION 228. Section 22-26-6 NMSA 1978 (being Laws 1983,
24 Chapter 163, Section 6, as amended) is amended to read:

25 "22-26-6. ELECTION RESULTS--CERTIFICATION.--The

underscored material = new
[bracketed material] = delete

1 certification of the results of an election held on the
2 question of imposition of a public school buildings tax shall
3 be ~~[made in accordance with the School Election Law]~~ as
4 prescribed in the Local Election Act, and in addition to the
5 reporting of results required by the Election Code, a copy of
6 the certificate of results shall be ~~[mailed]~~ delivered
7 immediately to the ~~[state superintendent]~~ secretary."

8 SECTION 229. Section 22-26-8 NMSA 1978 (being Laws 1983,
9 Chapter 163, Section 8, as amended) is amended to read:

10 "22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--
11 A tax imposed in a school district as a result of an election
12 under the Public School Buildings Act shall be imposed for one,
13 two, three, four, five or six years ~~[commencing with the~~
14 ~~property tax year in which the election was held]~~. The local
15 school board may direct that such levy be decreased or not made
16 for any year if, in its judgment, the total levy is not
17 necessary for such year and shall direct that the levy be
18 decreased by the amount required if a decrease is required by
19 operation of the rate limitation provisions of Section 7-37-7.1
20 NMSA 1978."

21 SECTION 230. Section 22-26-9 NMSA 1978 (being Laws 2007,
22 Chapter 366, Section 23, as amended) is amended to read:

23 "22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX
24 REVENUE.--If ~~[in an election held after July 1, 2007]~~ the
25 qualified electors of a school district have voted in favor of

.211327.3

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

1 the imposition of a property tax as provided in Section 22-26-3
2 NMSA 1978, the amount of tax revenue to be distributed to each
3 charter school that was included in the resolution shall be
4 determined each year and shall be in the same proportion as the
5 average full-time-equivalent enrollment of the charter school
6 on the first reporting date of the prior school year is to the
7 total such enrollment in the district; provided that, in the
8 case of an approved charter school that had not commenced
9 classroom instruction in the prior school year, the estimated
10 full-time-equivalent enrollment in the first year of
11 instruction, as shown in the approved charter school
12 application, shall be used, subject to adjustment after the
13 first reporting date. Each year, the department shall certify
14 to the county treasurer of the county in which the eligible
15 charter schools in the school district are located the
16 percentage of the revenue to be distributed to each charter
17 school. The county treasurer shall distribute the charter
18 school's share of the property tax revenue directly to the
19 charter school."

20 SECTION 231. Section 36-1-8.3 NMSA 1978 (being Laws 1981,
21 Chapter 25, Section 2, as amended) is amended to read:

22 "36-1-8.3. DISTRICT ATTORNEYS--ELECTION--RESIDENCE.-- The
23 district attorney in division 1 shall be elected by the
24 ~~[registered]~~ qualified electors of San Juan county and the
25 district attorney in division 2 shall be elected by the

.211327.3

underscored material = new
[bracketed material] = delete

1 [registered] qualified electors in McKinley county. Each
2 district attorney shall have all the duties and powers vested
3 in a district attorney."

4 SECTION 232. Section 60-5A-1 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 15, as amended) is amended to read:

6 "60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality
7 containing ~~over~~ more than five thousand persons according to
8 the latest United States census, whether the county in which
9 that municipality is situated has adopted the local option
10 provisions of the Liquor Control Act or any former act or not,
11 or any county in the state may adopt local option in the county
12 or municipality upon the following terms and conditions:

13 A. ~~[at any time after the effective date of the~~
14 ~~Liquor Control Act]~~ the [registered] qualified electors of a
15 proposed local option district may petition the governing body
16 by filing ~~[one or more petitions]~~ a petition in the appropriate
17 office to hold an election for the purpose of determining
18 whether the county or municipality shall adopt the local option
19 provisions of the Liquor Control Act. If the ~~[aggregate]~~
20 number of the signatures of ~~[such]~~ the electors on ~~[all]~~ the
21 ~~[petitions]~~ petition equals or exceeds five percent of the
22 number of ~~[registered voters]~~ qualified electors of the
23 district, the governing body shall call an election within
24 ~~[seventy-five]~~ ninety days of the verification of the petition;
25 provided that the date is not in conflict with the provisions

.211327.3

underscored material = new
[bracketed material] = delete

1 of Section 1-24-1 NMSA 1978. The ~~[date of the filing of the~~
2 ~~petition shall be the date of the filing of the last petition~~
3 ~~that brings the number of signatures up to the required five~~
4 ~~percent; provided, however, that the]~~ governing body shall
5 refuse to recognize the petition if more than three months have
6 elapsed between the date of the first signature and the filing
7 of the ~~[last]~~ petition. ~~[necessary to bring the number of~~
8 ~~signatures on the petition up to five percent]~~ The election
9 also may be initiated by a resolution adopted by the governing
10 body of the proposed local option district without a petition
11 having been submitted;

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 within~~
15 ~~the municipality, except as otherwise provided in this section;~~

16 C. ~~the votes at the election shall be counted,~~
17 ~~returned and canvassed as provided for in the case of general~~
18 ~~elections within the county or special elections within the~~
19 ~~municipality]~~ pursuant to the provisions of the Local Election
20 Act;

21 ~~[D.]~~ C. except as otherwise provided in this
22 section, 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 contests,

.211327.3

underscored material = new
[bracketed material] = delete

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

4 ~~[E.]~~ D. 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 by
8 order entered upon the records of the county or municipality
9 that the county or municipality has adopted the local option
10 provisions of the Liquor Control Act and shall notify the
11 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 election.~~
14 ~~If within sixty days from the verification of a petition as~~
15 ~~provided in Subsection A of this section a primary or general~~
16 ~~election is held, the governing body may call an election for a~~
17 ~~day not less than sixty days after the primary or general~~
18 ~~election;~~

19 ~~G.]~~ E. if an election is held under the provisions
20 of 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 separate
25 or different vote on the question of adopting the local option

.211327.3

underscored material = new
[bracketed material] = delete

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

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

21 ~~[I.]~~ G. nothing in this section shall invalidate
22 any local option election held pursuant to any former act prior
23 to July 1, 1981."

24 **SECTION 233.** Section 60-6A-4 NMSA 1978 (being Laws 1981,
25 Chapter 39, Section 21, as amended) is amended to read:

.211327.3

1 "60-6A-4. RESTAURANT LICENSE.--

2 A. ~~[At any time after the effective date of the~~
3 ~~Liquor Control Act]~~ A local option district may approve the
4 issuance of restaurant licenses for the sale of beer and wine
5 by holding an election on that question pursuant to the
6 procedures set out in Section 60-5A-1 NMSA 1978. The election
7 also may be initiated by a resolution adopted by the governing
8 body of the local option district without a petition from
9 ~~[registered]~~ qualified electors having been submitted.

10 B. After the approval of restaurant licenses by the
11 ~~[registered]~~ qualified electors of the local option district
12 and upon completion of all requirements in the Liquor Control
13 Act for the issuance of licenses, a restaurant located or to be
14 located within the local option district may receive a
15 restaurant license to sell, serve or allow the consumption of
16 beer and wine subject to the following requirements and
17 restrictions:

18 (1) the applicant shall submit evidence to the
19 department that ~~[he]~~ the applicant has a current valid food
20 service establishment permit;

21 (2) the applicant shall satisfy the director
22 that the primary source of revenue from the operation of the
23 restaurant will be derived from meals and not from the sale of
24 beer and wine;

25 (3) the director shall condition renewal upon

.211327.3

underscored material = new
[bracketed material] = delete

1 a requirement that no less than sixty percent of gross receipts
2 from the preceding twelve months' operation of the licensed
3 restaurant was derived from the sale of meals;

4 (4) upon application for renewal, the licensee
5 shall submit an annual report to the director indicating the
6 annual gross receipts from the sale of meals and from beer and
7 wine sales;

8 (5) restaurant licensees shall not sell beer
9 and wine for consumption off the licensed premises;

10 (6) all sales, services and consumption of
11 beer and wine authorized by a restaurant license shall cease at
12 the time [~~meals~~] meal sales and services cease or at 11:00
13 p.m., whichever time is earlier;

14 (7) if Sunday sales have been approved in the
15 local option district, a restaurant licensee may serve beer and
16 wine on Sundays until the time [~~meals~~] meal sales and services
17 cease or 11:00 p.m., whichever time is earlier; and

18 (8) a restaurant license shall not be
19 transferable from person to person or from one location to
20 another.

21 C. The provisions of Section 60-6A-18 NMSA 1978
22 shall not apply to restaurant licenses.

23 D. Nothing in this section shall prevent a
24 restaurant licensee from receiving other licenses pursuant to
25 the Liquor Control Act."

.211327.3

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

1 SECTION 234. Section 60-7A-1 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 47, as amended) is amended to read:

3 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--
4 CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED
5 PREMISES--ELECTIONS.--

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

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

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

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

19 B. Except as provided in Subsection C of this
20 section, alcoholic beverages may be sold by a dispenser or a
21 retailer in unbroken packages, for consumption off the licensed
22 premises and not for resale, only on Mondays through Saturdays
23 from 7:00 a.m. until midnight, except as provided in
24 Subsections E and G of this section.

25 C. The governing body of a local option district

.211327.3

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

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

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

22 Alcoholic beverages may be sold, served and consumed from 11:00
23 a.m. until midnight as set forth in the licensee's Sunday sales
24 permit, and in those years when December 31 falls on a Sunday,
25 from 11:00 a.m. until 2:00 a.m. of the following day, except as

.211327.3

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

1 otherwise provided for a restaurant licensee in Section 60-6A-4
2 NMSA 1978. The Sunday sales permit shall expire on June 30 of
3 each year and may be renewed from year to year upon application
4 for renewal and payment of the required fee. The permit fee
5 shall not be prorated. Sales made pursuant to this subsection
6 or Subsection H of this section shall be called "Sunday sales".

7 E. Retailers, dispensers, canopy licensees that
8 were replaced by dispenser's licensees pursuant to Section
9 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
10 governmental licensees or their lessees shall not sell, serve,
11 deliver or allow the consumption of alcoholic beverages on the
12 licensed premises from 2:00 a.m. on Christmas day until 7:00
13 a.m. on the day after Christmas, except as permitted pursuant
14 to Subsection G of this section.

15 F. Sunday sales pursuant to the provisions of
16 Subsection D of this section are permitted in a local option
17 district that voted to permit them. If in that election a
18 majority of the voters in a local option district voted "no" on
19 the question "Shall Sunday sales of alcoholic beverages by the
20 drink for consumption on the licensed premises of licensees be
21 allowed in this local option district?", Sunday sales are
22 unlawful in that local option district upon certification of
23 the election returns unless the provisions of Subsection K of
24 this section apply. The question shall not again be placed on
25 the ballot in that local option district until [~~(+)~~] at least

.211327.3

underscored material = new
[bracketed material] = delete

1 one year has passed and:

2 (1) the local governing body of the local
3 option district passes a resolution calling for the question to
4 be placed on a regular election ballot or adopts a proclamation
5 calling for the question to be placed before the voters in a
6 special local election; or

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

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

.211327.3

underscored material = new
[bracketed material] = delete

1 consumption on Christmas day. An election shall be held on the
2 question of whether to continue to allow the sale, service or
3 consumption of alcoholic beverages by the drink on licensed
4 premises from noon until 10:00 p.m. on Christmas day in a local
5 option district, if a petition requesting the governing body of
6 that district to call the election is signed by at least ten
7 percent of the registered voters of the district and is filed
8 with the clerk of the governing body of the district. Upon
9 verification by the clerk that the petition contains the
10 required number of signatures of registered voters, the
11 governing body shall pass a resolution calling for the question
12 to be placed on a regular election ballot or adopt a
13 [resolution] proclamation calling [an election on] for the
14 question of allowing the sale, service or consumption of
15 alcoholic beverages by the drink on licensed premises from noon
16 until 10:00 p.m. on Christmas day to be placed before the
17 voters in a special local election. The election may also be
18 initiated by a resolution adopted by the governing body of the
19 local option district without a petition from qualified
20 electors having been submitted. The election [may] shall be
21 held [in conjunction with a regular election of the governing
22 body or a regular local or special election held] pursuant to
23 the Local Election Act. [The election shall be called,
24 conducted, counted and canvassed in substantially the same
25 manner as provided for general elections in the county under

.211327.3

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

1 ~~the Election Code or for special elections in a municipality~~
2 ~~under the Local Election Act.]~~ If a majority of the voters
3 voting on the question votes against continuing the sale,
4 service or consumption of alcoholic beverages by the drink on
5 licensed premises from noon until 10:00 p.m. on Christmas day,
6 then such sales and consumption shall be prohibited. If a
7 majority of the voters voting on the question votes to allow
8 continued sale, service and consumption of alcoholic beverages
9 by the drink on licensed premises from noon until 10:00 p.m. on
10 Christmas day, then such sales and consumption shall be allowed
11 to continue. The question then shall not be submitted again to
12 the voters within two years of the date of the last election on
13 the question.

14 H. Notwithstanding the provisions of Subsection F
15 of this section, any Indian nation, tribe or pueblo whose lands
16 are wholly situated within the state that has, by statute,
17 ordinance or resolution, elected to permit the sale, possession
18 or consumption of alcoholic beverages on lands within the
19 territorial boundaries of the Indian nation, tribe or pueblo
20 may, by statute, ordinance or resolution of the governing body
21 of the Indian nation, tribe or pueblo, permit Sunday sales by
22 the drink on the licensed premises of licensees on lands within
23 the territorial boundaries of the Indian nation, tribe or
24 pueblo; provided that a certified copy of such enactment is
25 filed with the office of the director and with the secretary of

.211327.3

underscored material = new
[bracketed material] = delete

1 state.

2 I. Subject to the provisions of Subsection J of
3 this section, a dispenser or retailer, upon payment of an
4 additional fee of one hundred dollars (\$100), may obtain a
5 permit to sell alcoholic beverages in unbroken packages for
6 consumption off the licensed premises on Sundays from noon
7 until midnight, and in those years when December 31 falls on a
8 Sunday, from noon on December 31 until 2:00 a.m. of the
9 following day. The permit shall expire on June 30 of each year
10 and may be renewed from year to year upon application for
11 renewal and payment of the required fee. The permit fee shall
12 not be prorated. Sales made pursuant to the provisions of this
13 subsection shall be called "Sunday package sales".

14 J. If a petition requesting the governing body of a
15 local option district to call an election on the question of
16 continuing to allow sales of alcoholic beverages in unbroken
17 packages for consumption off the licensed premises on Sundays
18 is filed with the clerk of the governing body and that petition
19 is signed by at least ten percent of the number of registered
20 voters of the local option district and the clerk of the
21 governing body verifies the petition signatures, the governing
22 body shall ~~[adopt a resolution calling an election on the~~
23 ~~question]~~ pass a resolution calling for the question to be
24 placed on a regular election ballot or adopt a proclamation
25 calling for the question to be placed before the voters in a

.211327.3

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

1 special local election on the question. The election may also
2 be initiated by a resolution adopted by the governing body of
3 the local option district without a petition from qualified
4 electors having been submitted. The election shall be held
5 within ~~[sixty]~~ ninety days of the date that the petition is
6 verified ~~[or it may be held in conjunction with a regular~~
7 ~~election of the governing body, if the regular election occurs~~
8 ~~within sixty days of the petition verification. The election~~
9 ~~shall be called, conducted, counted and canvassed substantially~~
10 ~~in the manner provided by law for general elections within a~~
11 ~~county or for special elections within a municipality]~~ pursuant
12 to the provisions of the Local Election Act; provided that the
13 date of the election is not in conflict with the provisions of
14 Section 1-24-1 NMSA 1978. If a majority of the voters of the
15 local option district voting in the election votes to allow the
16 sale of alcoholic beverages in unbroken packages for
17 consumption off the licensed premises, then those sales shall
18 continue to be allowed. If a majority of the voters of the
19 local option district voting in the election votes not to allow
20 the Sunday package sales, then those Sunday package sales shall
21 be prohibited commencing the first Sunday after the results of
22 the election are certified. Following the election, the
23 question of allowing the Sunday package sales shall not be
24 submitted again to the voters within two years of the date of
25 the last election on the question.

.211327.3

underscored material = new
[bracketed material] = delete

1 K. Sunday sales of alcoholic beverages shall be
2 permitted at resorts and at horse racetracks statewide pursuant
3 to the provisions of Section 60-7A-2 NMSA 1978."

4 SECTION 235. Section 72-18-3 NMSA 1978 (being Laws 1981,
5 Chapter 377, Section 3) is amended to read:

6 "72-18-3. DEFINITIONS.--As used in the Flood Control
7 District Act:

8 A. "acquisition" or "acquire" includes the opening,
9 laying out, establishment, purchase, construction, securing,
10 installation, reconstruction, lease, gift or grant from the
11 federal government, any public body or person or any endowment,
12 bequest, devise, condemnation, transfer, assignment, option to
13 purchase, other contract or other acquirement of facilities,
14 other property, any project or an interest [~~therein~~] authorized
15 by the Flood Control District Act;

16 B. "board" means the board of directors of a
17 district, which board shall consist of five directors;

18 C. [~~"chairman"~~] "chair" means the [~~chairman~~] chair
19 of the board and president of a district;

20 D. "cost" or "cost of the project" means all or any
21 part of the cost designated by the board of any facilities,
22 project or interest [~~therein~~] in any facilities or project
23 being acquired, and of all or any property, rights, easements,
24 privileges, agreements and franchises deemed by the district to
25 be necessary or useful and convenient in connection [~~therewith~~]

.211327.3

underscored material = new
[bracketed material] = delete

1 with the facilities or project, which cost, at the option of
2 the board, may include all or any part of the incidental costs
3 pertaining to the project and all other expenses necessary or
4 desirable and appertaining to any project, as estimated by the
5 board;

6 E. "director" means a member of the board of a
7 district;

8 F. "disposal" or "dispose" includes the sale,
9 destruction, razing, loan, lease, gift, grant, transfer,
10 assignment, mortgage, option to sell, other contract or other
11 disposition of facilities, other property or any project or an
12 interest [~~therein~~] in any facilities, property or project
13 authorized by the Flood Control District Act;

14 G. "district" means a flood control district
15 created pursuant to the Flood Control District Act;

16 H. "equipment" or "equip" includes the furnishing
17 of all necessary or desirable, related or appurtenant
18 facilities appertaining to any facilities, property, project or
19 interest [~~therein~~] in any facilities, property or project
20 authorized by the Flood Control District Act;

21 I. "facility" includes any of the sewer facilities
22 or other property appertaining to the flood control system of
23 any district;

24 J. "federal government" means the United States [~~of~~
25 ~~America~~] or any agency, instrumentality or corporation thereof;

.211327.3

underscored material = new
[bracketed material] = delete

1 K. "federal securities" means bills, certificates
2 of indebtedness, notes, bonds or other obligations [~~which~~] that
3 are direct obligations of, or the principal and interest of
4 which obligations are unconditionally guaranteed by, the United
5 States [~~of America~~];

6 L. "improvement" or "improve" means the extension,
7 widening, lengthening, betterment, alteration, reconstruction,
8 repair or other improvement of facilities, other property or
9 any project, or any interest [~~therein~~] in any facilities,
10 property or project, authorized by the Flood Control District
11 Act;

12 M. "person" means an individual, association,
13 partnership, firm or corporation, excluding a public body and
14 excluding the federal government;

15 N. "president" means the president of a district
16 and the [~~chairman~~] chair of the board of the district;

17 O. "project" includes any structure, facility or
18 system relating to the flood control system [~~which~~] that a
19 district is authorized by the Flood Control District Act to
20 acquire, improve, equip, maintain or operate, which may be
21 located within and without the district's boundaries;

22 P. "publication" or "publish" means publication in
23 at least one newspaper published in the district or proposed
24 district in the English language at least once a week and of
25 general circulation in the district or proposed district or, if

underscored material = new
[bracketed material] = delete

1 no such newspaper is published in the district or proposed
2 district, then in a newspaper published in the state in the
3 English language at least once a week and of general
4 circulation in the district or proposed district, which
5 publication shall be at least once a week for three consecutive
6 weeks by three weekly insertions. It is not necessary that
7 publication be made on the same day of the week in each of the
8 three calendar weeks, but not less than fourteen days shall
9 intervene between the first publication and the last
10 publication;

11 Q. "public body" means the state or any agency,
12 instrumentality or corporation [~~thereof~~] or any political
13 subdivision of the state, excluding districts and excluding the
14 federal government;

15 [~~R. "qualified registered elector" means any person~~
16 ~~who at the designated time or event is qualified to vote under~~
17 ~~the provisions of the constitution of New Mexico and the~~
18 ~~constitution of the United States, who is registered to vote~~
19 ~~under the provisions of the Election Code in and resides in the~~
20 ~~district or proposed district;~~

21 ~~S.]~~ R. "revenues" means income, other than tax
22 proceeds, of a district;

23 [~~F.]~~ S. "secretary" means the secretary of a
24 district;

25 [~~U.]~~ T. "securities" means any notes, warrants,

underscored material = new
[bracketed material] = delete

1 bonds or interim debentures or other obligations of a district
2 authorized by the Flood Control District Act;

3 ~~[V.]~~ U. "sewer facilities" includes any one or more
4 of the various devices used in the collection, channeling,
5 impounding or disposition of storm, flood or surface drainage
6 waters, including all inlets, collection, drainage or disposal
7 lines, canals, intercepting sewers, outfall sewers, all
8 pumping, power and other equipment and appurtenances, all
9 extensions, improvements, remodeling, additions and alterations
10 ~~[thereof]~~ and any ~~[and all]~~ rights or interest in ~~[such]~~ the
11 sewer facilities; and

12 ~~[W.]~~ V. "treasurer" means the treasurer of a
13 district."

14 SECTION 236. Section 72-18-5 NMSA 1978 (being Laws 1981,
15 Chapter 377, Section 5) is amended to read:

16 "72-18-5. PETITION.--

17 A. The organization of a district shall be
18 initiated by a petition filed in the office of the clerk of the
19 district court in a county in which all or a part of the real
20 property in the proposed district is located. The petition
21 shall be signed by qualified ~~[registered]~~ electors of the
22 proposed district numbering not less than ten percent of those
23 voting in the preceding general election in the state in voting
24 precincts partially or wholly included in the area of the
25 proposed district. The petition and all other instruments

.211327.3

underscored material = new
[bracketed material] = delete

1 relating to the formation of the district shall be filed with
2 the county clerk of the county in which there is the court
3 [~~which~~] that accepted the petition. Any municipality or county
4 in which all or a portion of the proposed district is located
5 may, upon proper action of its governing body alone, file the
6 petition required by this section.

7 B. The petition shall set forth:

8 (1) the name of the proposed district,
9 consisting of a chosen name preceding the words "flood control
10 district";

11 (2) a general description of the facilities to
12 be acquired or improved within and for the district;

13 (3) a general description of the boundaries of
14 the district, with such certainty as to enable a property owner
15 to determine whether [~~his~~] the owner's property is within the
16 proposed district; and

17 (4) a prayer for the organization of the
18 district.

19 C. No petition with the requisite number of valid
20 signatures shall be declared void on account of alleged
21 defects, but the court may at any time permit the petition to
22 be amended to conform to the facts by correcting any errors in
23 the description of the territory or in any other particular.
24 Similar petitions or duplicate copies of the same petition for
25 the organization of the same district may be filed and shall

.211327.3

underscored material = new
[bracketed material] = delete

1 together be regarded as one petition. All [~~such~~] petitions
2 filed before the hearing on the first petition filed shall be
3 considered by the court the same as though filed with the first
4 petition."

5 SECTION 237. Section 72-18-8 NMSA 1978 (being Laws 1981,
6 Chapter 377, Section 8) is amended to read:

7 "72-18-8. HEARING.--

8 A. Upon the hearing, if the court finds that no
9 petition has been signed and presented in conformity with the
10 Flood Control District Act or that the material facts are not
11 as set forth in the petition filed, it shall dismiss the
12 proceedings and adjudge the costs against the signers of the
13 petition in the proportion as it deems just and equitable.

14 B. Upon the hearing, if it appears that a valid
15 petition for the organization of the district has been signed
16 and presented in conformity with the requirements of the Flood
17 Control District Act and that the allegations of the petition
18 are true, the court shall order that the question of the
19 organization of the district be submitted to the qualified
20 [~~registered~~] electors of the proposed district at an election
21 to be held for that purpose [~~The order shall designate one or~~
22 ~~more polling places within the district and for each polling~~
23 ~~place so designated shall appoint three qualified registered~~
24 ~~electors of the district as judges of the election and two~~
25 ~~qualified registered electors of the district as clerks of the~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~election. The order shall also designate the clerk of the~~
2 ~~court or a qualified registered elector of the proposed~~
3 ~~district to receive applications for and to disburse and~~
4 ~~collect absentee ballots] pursuant to the provisions of the~~
5 Local Election Act."

6 SECTION 238. Section 72-18-9 NMSA 1978 (being Laws 1981,
7 Chapter 377, Section 9) is amended to read:

8 "72-18-9. NOMINATIONS FOR INITIAL BOARD.--A nomination
9 for director may be made by petition signed by not less than
10 five qualified [~~registered~~] electors and filed with the
11 district court having jurisdiction not less than [~~twenty-five~~]
12 ninety days before the date of the organizational election.

13 Any petition so filed shall designate the name of each nominee
14 and shall state that the petitioners and the nominee or
15 nominees designated in the petition are qualified [~~registered~~]
16 electors of the proposed district. No qualified [~~registered~~]
17 elector shall nominate more than one person for director. The
18 name of each nominee so designated shall appear on the
19 organizational ballot."

20 SECTION 239. Section 72-18-10 NMSA 1978 (being Laws 1981,
21 Chapter 377, Section 10) is amended to read:

22 "72-18-10. ORGANIZATIONAL ELECTION.--

23 [~~A. The clerk of the court shall give notice by~~
24 ~~publication of the date, time and polling places of the~~
25 ~~election, the boundaries or other description of the election~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~precincts, the names of the nominees for director and the place~~
2 ~~where absentee ballots can be obtained. The election shall be~~
3 ~~held not less than forty-five days after the first publication~~
4 ~~of the notice.~~

5 ~~B.]~~ A. At the election, the qualified [registered]
6 electors may vote for or against the organization of the
7 district and for up to five qualified [registered] electors of
8 the district who shall constitute the board of directors of the
9 district.

10 ~~[G. The judges of election shall certify the~~
11 ~~returns of the election to the district court having~~
12 ~~jurisdiction.]~~

13 B. If a majority of the votes cast at the election
14 are in favor of the organization, the district court shall
15 declare the district organized and give it a corporate name by
16 which in all proceedings it shall thereafter be known and shall
17 designate the first board of directors elected, and thereupon
18 the district shall be a political subdivision of the state.
19 The certificate shall be conclusively presumed correct as to
20 the facts stated therein."

21 **SECTION 240.** Section 72-18-14 NMSA 1978 (being Laws 1981,
22 Chapter 377, Section 14, as amended) is amended to read:

23 "72-18-14. ELECTION OF DIRECTORS.--Flood control district
24 elections shall be held pursuant to the Local Election Act. At
25 each local election after organization of the district, there

.211327.3

underscoring material = new
[bracketed material] = delete

1 shall be elected by the qualified [~~registered~~] electors of the
2 district one or two members of the board to serve for a term of
3 six years. Except for the initial board of directors and
4 except for any director chosen to fill an unexpired term, the
5 term of each director runs for six years. Each director shall
6 serve until a successor has been duly chosen and qualified."

7 SECTION 241. Section 72-18-20 NMSA 1978 (being Laws 1981,
8 Chapter 377, Section 20, as amended) is amended to read:

9 "72-18-20. ADDITIONAL POWERS.--The board of the district
10 may:

11 A. adopt, have and use a corporate seal and alter
12 the same at pleasure;

13 B. sue and be sued and be a party to suits, actions
14 and proceedings;

15 C. acquire, improve, equip, maintain and operate
16 any project or facility;

17 D. protect the watercourses, watersheds, public
18 highways, life and property in the district from floods or
19 storm waters;

20 E. exercise the right of eminent domain within the
21 district as provided in the Eminent Domain Code and take any
22 property necessary to carry out any of the objects or purposes
23 of the Flood Control District Act;

24 F. commence, maintain, intervene in, defend,
25 compromise, terminate by settlement or otherwise and otherwise

.211327.3

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

1 participate in and assume the cost and expense of any and all
2 actions and proceedings appertaining to the district, its
3 board, its officers, agents or employees; or any of the
4 district's duties, privileges, immunities, rights, liabilities
5 and disabilities; or the district's flood control system, other
6 property of the district or any project;

7 G. enter into contracts and agreements, including
8 ~~[but not limited to]~~ contracts with the federal government and
9 any public body;

10 H. borrow money and issue securities evidencing any
11 loan to or amount due by the district, provide for and secure
12 the payment of any securities and the rights of the holders
13 thereof and purchase, hold and dispose of securities;

14 I. refund any loan or obligation of the district
15 and issue refunding securities to evidence such loan or
16 obligation without an election;

17 J. purchase, trade, exchange, encumber and
18 otherwise acquire, maintain and dispose of real and personal
19 property and interests therein;

20 K. levy and cause to be collected a property tax on
21 all property subject to property taxation within the district.
22 The total tax levy for any fiscal year for general purposes
23 shall not exceed an aggregate total of fifty cents (\$.50), or
24 any lower maximum amount required by operation of the rate
25 limitation provisions of Section 7-37-7.1 NMSA 1978 upon this

.211327.3

underscoring material = new
[bracketed material] = delete

1 tax levy, on each one thousand dollars (\$1,000) of net taxable
2 value, as that term is defined in the Property Tax Code, unless
3 the qualified [~~registered~~] electors approve a greater tax not
4 to exceed two dollars (\$2.00) on each one thousand dollars
5 (\$1,000) of net taxable value; provided that any tax levy
6 approved in excess of fifty cents (\$.50) on each one thousand
7 dollars (\$1,000) of net taxable value shall be subject to the
8 rate limitation provisions of Section 7-37-7.1 NMSA 1978. The
9 rate of levy for the payment of any debt of the district
10 authorized by the qualified [~~registered~~] electors of the
11 district shall be without limitation as to rate or amount. The
12 board shall certify on or before July 15 of each year in which
13 the board determines to levy a tax, to the board of county
14 commissioners of each county wherein the district has any
15 territory, the rate so fixed, with directions that at the time
16 and in the manner required by law for levying taxes for other
17 purposes, the board of county commissioners shall levy a tax
18 upon the net taxable value of all property subject to property
19 taxation within the district;

20 L. hire and retain officers, agents, employees,
21 engineers, attorneys and any other persons, permanent or
22 temporary, necessary or desirable to effect the purposes of the
23 Flood Control District Act; defray any expenses incurred
24 thereby in connection with the district; and acquire office
25 space, equipment, services, supplies, fire and extended

.211327.3

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

1 coverage insurance, use and occupancy insurance, [~~workmen's~~
2 workers' compensation insurance, property damage insurance,
3 public liability insurance for the district and its officers,
4 agents and employees and other types of insurance as the board
5 may determine; provided, however, that no provision authorizing
6 the acquisition of insurance shall be construed as waiving any
7 immunity of the district or any director, officer or agent of
8 the district otherwise existing under the laws of the state;

9 M. acquire, improve, equip, hold, operate, maintain
10 and dispose of a flood control system, project and appurtenant
11 works;

12 N. pay or otherwise defray the cost of any project;

13 O. deposit any money of the district in any banking
14 institution within or without the state and secured in such
15 manner and subject to such terms and conditions as the board
16 may determine;

17 P. invest any surplus money in the district
18 treasury, including money in any sinking or reserve fund
19 established for the purpose of retiring any securities of the
20 district, which is not required for the immediate necessities
21 of the district in its own securities or in federal securities,
22 by direct purchase of any issue of such securities, or part
23 thereof, at the original sale of the same or by the subsequent
24 purchase of such securities;

25 Q. sell any securities purchased and held pursuant

.211327.3

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

1 to Subsection P of this section;

2 R. accept contributions or loans from the federal
3 government for the purpose of financing the planning,
4 acquisition, improvement, equipment, maintenance and operation
5 of any enterprise in which the district is authorized to
6 engage, and enter into contracts and cooperate with, and accept
7 cooperation and participation from, the federal government for
8 these purposes;

9 S. enter, without an election, into joint operating
10 or service contracts and agreements, acquisition, improvement,
11 equipment or disposal contracts or other arrangements, for any
12 term not exceeding fifty years, with the federal government,
13 any public body or any person concerning sewer facilities or
14 any project, whether acquired by the district or by the federal
15 government, any public body or any person, and accept grants
16 and contributions from the federal government, any public body
17 or any person in connection therewith;

18 T. cooperate and act in conjunction with a public
19 body, the federal government or any person in the acquisition,
20 improvement or equipment of any project for the controlling of
21 flood or storm waters of the district, or for the protection of
22 life or property therein, or for any other works, acts or
23 purposes provided for in the Flood Control District Act, and
24 adopt and carry out any definite plan or system of work for any
25 such purpose; and

.211327.3

underscored material = new
[bracketed material] = delete

1 U. make all contracts, execute all instruments and
2 do all things necessary or convenient in the exercise of the
3 powers granted by the Flood Control District Act, or in the
4 performance of the district's covenants or duties, or in order
5 to secure the payment of its securities; provided no
6 encumbrance, mortgage or other pledge of property, excluding
7 any money, of the district is created thereby and provided no
8 property, excluding money, of the district is liable to be
9 forfeited or taken in payment of the securities."

10 SECTION 242. Section 72-18-30 NMSA 1978 (being Laws 1981,
11 Chapter 377, Section 30) is amended to read:

12 "72-18-30. DISSOLUTION--HEARINGS--COURT POWERS.--

13 A. No application for dissolution shall be declared
14 void on account of alleged defects, but the court may at any
15 time permit the petition to be amended to conform to the facts
16 by correcting any errors in the description of the territory or
17 in any other particular.

18 B. The court shall order an election in the
19 district on the question of dissolution if it finds the
20 application for dissolution to be in order and finds that the
21 district has no outstanding securities or other financial
22 obligations or that the district's securities and other
23 financial obligations will be adequately provided for before
24 dissolution by means of escrow funds or federal securities to
25 secure payment thereof.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. If the district has outstanding securities or
2 other financial obligations and no escrow plan, the court shall
3 determine whether the continuation of functions provided for in
4 the plan for dissolution adequately provides for payment of the
5 securities and other financial obligations of the district. If
6 the court determines that the application and the plan for
7 dissolution are sufficient and that an agreement exists for
8 continuation of functions, the court shall order an election of
9 the qualified [~~registered~~] electors of the district pursuant to
10 the provisions of the Local Election Act on the question of
11 dissolving the district or, if there is a plan for dissolution,
12 on the question of dissolving the district in accordance with
13 the plan for dissolution. If, at any time after the filing of
14 an application for dissolution, the court determines that no
15 agreement can be reached concerning the plan for dissolution or
16 that the other requirements of Section [~~28 of the Flood Control~~
17 ~~District Act~~] 72-18-28 NMSA 1978 cannot be met, it shall
18 dismiss the dissolution proceedings."

19 SECTION 243. Section 72-18-32 NMSA 1978 (being Laws 1981,
20 Chapter 377, Section 32) is amended to read:

21 "72-18-32. DISSOLUTION--LIMITATION ON ELECTIONS.--The
22 question of dissolution of a district may be resubmitted to the
23 qualified [~~registered~~] electors of the district after the same
24 or similar question has previously been rejected by the
25 electors, but no such question shall be submitted at any

underscored material = new
[bracketed material] = delete

1 election held less than twelve months after a previous
2 submission of such question."

3 SECTION 244. Section 72-18-35 NMSA 1978 (being Laws 1981,
4 Chapter 377, Section 35, as amended) is amended to read:

5 "72-18-35. ELECTION.--Wherever in the Flood Control
6 District Act an election of the qualified [~~registered~~] electors
7 of a district is permitted or required, the election shall be
8 held pursuant to the Local Election Act."

9 SECTION 245. Section 72-18-48 NMSA 1978 (being Laws 1981,
10 Chapter 377, Section 48) is amended to read:

11 "72-18-48. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--A
12 district is authorized to borrow money in anticipation of taxes
13 or other revenues and to issue bonds to evidence the amount so
14 borrowed. No bonded indebtedness nor any other indebtedness
15 not payable in full within one year, except for interim
16 debentures as provided in Sections [~~49 and 63 through 65 of the~~
17 ~~Flood Control District Act~~] 72-18-49 and 72-18-63 through
18 72-18-65 NMSA 1978, shall be created by the district without
19 first submitting the proposition of issuing the bonds to the
20 qualified [~~registered~~] electors of the district, which
21 proposition shall be approved by a majority of the qualified
22 [~~registered~~] electors voting at an election held for that
23 purpose in accordance with Sections [~~35 through 40 of that act~~]
24 72-18-35 and 72-18-35.1 NMSA 1978. Bonds so authorized may be
25 issued in one series or more and may mature at such time, [~~or~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~times~~] not exceeding forty years from their issuance, as the
2 board may determine. The total of all outstanding indebtedness
3 at any one time shall not exceed four percent of the value of
4 the taxable property in the district as shown by the last
5 preceding assessment for county taxes for each county in which
6 the district is located."

7 SECTION 246. Section 72-18-63 NMSA 1978 (being Laws 1981,
8 Chapter 377, Section 63) is amended to read:

9 "72-18-63. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF
10 BONDS AS COLLATERAL SECURITY.--Whenever a majority of the
11 qualified [~~registered~~] electors of a district voting on a
12 proposal to issue bonds has authorized the district to issue
13 bonds for an authorized purpose, the district may borrow money
14 without any other election in anticipation of taxes, the
15 proceeds of the bonds or any other revenues of the district,
16 and may issue interim debentures to evidence the amount so
17 borrowed. Interim debentures may mature at such time [~~or~~
18 ~~times~~] not exceeding a period of time equal to the estimated
19 time needed to effect the purpose for which the bonds are so
20 authorized to be issued, plus two years, as the board may
21 determine. Except as otherwise provided in this section and in
22 Sections [~~64 and 65 of the Flood Control District Act~~] 72-18-64
23 and 72-18-65 NMSA 1978, interim debentures shall be issued as
24 provided for securities in Sections [~~49 through 61 of that act~~]
25 72-18-49 through 72-18-61 NMSA 1978. Taxes, other revenues of

.211327.3

underscored material = new
[bracketed material] = delete

1 the district, including without limiting the generality of the
2 foregoing proceeds of bonds to be thereafter issued or reissued
3 or bonds issued for the purpose of securing the payment of
4 interim debentures, may be pledged for the purpose of securing
5 the payment of the interim debentures. Bonds pledged as
6 collateral security for the payment of any interim debentures
7 shall mature at such time [~~or times~~] as the board may
8 determine, not exceeding forty years from the date of either
9 any of such bonds or any such interim debentures, whichever
10 date is earlier. Any such bonds pledged as collateral security
11 shall not be issued in an aggregate principal amount exceeding
12 the aggregate principal amount of the interim debentures
13 secured by a pledge of such bonds."

14 SECTION 247. Section 72-20-8 NMSA 1978 (being Laws 2007,
15 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 any
22 directors-at-large who are serving at the time that single-
23 member districts are created:

24 (1) each director shall reside within and
25 represent a specified district; and

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) if a director no longer resides within the
2 district that the director represents, the director's position
3 shall be deemed vacant and a successor shall be appointed to
4 serve the unexpired term pursuant to Section 72-20-12 NMSA
5 1978.

6 B. All powers, rights, privileges and duties vested
7 in or imposed upon the authority are exercised and performed by
8 and through the board of directors; provided that the exercise
9 of any executive, administrative and ministerial powers may be,
10 by the board, delegated and redelegated to officers and
11 employees of the authority or to any officer or employee
12 contracted by agreement to manage and administer the operations
13 of the authority. Except for the first directors appointed as
14 provided for in Section 72-20-9 NMSA 1978 or elected as
15 provided in Section 72-20-10 NMSA 1978 and except for any
16 director chosen to fill an unexpired term, and except for the
17 first directors serving after the authority is divided into
18 single-member districts, the term of each director runs for six
19 years. Each director, subject to such exceptions, shall serve
20 a six-year term, and each director shall serve until a
21 successor has been duly chosen and qualified."

22 SECTION 248. Section 73-20-1 NMSA 1978 (being Laws 1957,
23 Chapter 210, Section 1) is amended to read:

24 "73-20-1. SHORT TITLE.--~~[This act]~~ Sections 73-20-1
25 through 73-20-24 NMSA 1978 may be cited as the "Watershed

.211327.3

underscored material = new
[bracketed material] = delete

1 District Act".

2 SECTION 249. Section 73-20-9 NMSA 1978 (being Laws 1957,
3 Chapter 210, Section 9, as amended) is amended to read:

4 "73-20-9. REFERENDUM.--After the board of supervisors has
5 made and recorded a determination that there is need, in the
6 interest of the public health, safety and welfare, for creation
7 of the proposed watershed district, it shall consider the
8 question whether the operation of a district within the
9 proposed boundaries with the powers conferred upon such
10 districts in Section [~~45-5-31 NMSA 1953~~] 73-20-13 NMSA 1978 is
11 administratively practicable and feasible. To assist the board
12 of supervisors in this determination, the board shall, within a
13 reasonable time after entry of the finding that there is need
14 for the organization of the district and the determination of
15 the boundaries of the district, hold a referendum within the
16 proposed district upon the proposition of the creation of the
17 district. Due notice of the referendum shall be given as
18 provided in [~~Section 45-5-26 NMSA 1953, except that notice sent~~
19 ~~to absentee landowners shall also inform them of their right to~~
20 ~~request a ballot. Such notice shall state the date of holding~~
21 ~~the referendum, the hours of opening and closing the polls and~~
22 ~~shall designate one or more places within the proposed district~~
23 ~~as polling places. The board shall appoint a polling~~
24 ~~superintendent and other necessary polling officers giving~~
25 ~~equal representation to the proponents and opponents of the~~

.211327.3

underscoring material = new
[bracketed material] = delete

1 ~~question involved. Ballots shall be sent to all absentee~~
2 ~~landowners upon request and they may vote by return ballot by~~
3 ~~first class mail] the Local Election Act."~~

4 SECTION 250. Section 73-20-11 NMSA 1978 (being Laws 1957,
5 Chapter 210, Section 11, as amended) is amended to read:

6 "73-20-11. VOTES--RESULTS.--~~[The votes shall be counted~~
7 ~~by the election officers at the close of the polls and report~~
8 ~~of the results along with the ballots delivered to the polling~~
9 ~~superintendent, who shall certify the results to the board of~~
10 ~~supervisors.]~~ If a majority of the votes cast [~~favor~~] favours
11 creation of the district, the county canvassing board [~~of~~
12 ~~supervisors~~] shall certify the results to the county clerk in
13 the county involved. Upon proper recording of the action, the
14 watershed district shall be duly created. After recording, the
15 certification shall be filed with the New Mexico department of
16 agriculture."

17 SECTION 251. Section 73-20-12 NMSA 1978 (being Laws 1957,
18 Chapter 210, Section 12, as amended) is amended to read:

19 "73-20-12. DIRECTORS--ELECTION.--

20 A. [~~Within thirty days~~] At the next regular local
21 election held pursuant to the Local Election Act after a
22 watershed district is created, the board of supervisors of the
23 soil and water conservation district involved shall cause an
24 election to be held for the election of a board of directors of
25 the watershed district. The board shall consist of five

.211327.3

underscored material = new
[bracketed material] = delete

1 members. The first board shall determine by lot from among its
2 membership two members to serve terms of two years [~~two~~] and
3 three members to serve terms [~~of three years and one member to~~
4 ~~serve a term~~] of four years. Thereafter, as these initial
5 terms expire, their replacements shall be elected for terms of
6 four years. Vacancies occurring before the expiration of a
7 term shall be filled by the remaining members of the board for
8 the unexpired term. Two or more vacancies occurring
9 simultaneously shall be filled by appointment by the board of
10 supervisors. The board of directors shall, under the
11 supervision of the board of supervisors, be the governing body
12 of the watershed district.

13 B. If the territory embraced within a watershed
14 district lies within more than one soil and water conservation
15 district, each additional soil and water conservation district
16 having a minority of the land involved in the watershed shall
17 be entitled to elect three additional directors. These
18 additional directors after their election shall determine by
19 lot one of their number to serve a term of two years [~~one a~~
20 ~~term of three years~~] and [~~one~~] two a term of four years.
21 Thereafter, their successors shall be elected for terms of four
22 years. The representatives of each of these minority districts
23 shall fill vacancies in the district's membership for the
24 unexpired term.

25 C. The board of directors shall annually elect from

underscored material = new
[bracketed material] = delete

1 its membership a [~~chairman~~] chair, secretary and treasurer.
2 The treasurer shall execute an official bond for the faithful
3 performance of the duties of [~~his~~] office to be approved by the
4 board of directors. The bond shall be executed with at least
5 three solvent personal sureties whose solvency shall exceed the
6 amount of the bond, or by a surety company authorized to do
7 business in this state, and shall be in an amount determined by
8 the board of directors. If the treasurer is required to
9 execute a surety company bond, the premium of the bond shall be
10 paid by the board of directors.

11 D. The board of directors shall prepare and submit
12 to the department of finance and administration such reports as
13 it may require from among those required to be submitted by
14 other political subdivisions.

15 E. Each person desiring to be a director of a
16 watershed district shall file a nominating petition with the
17 [~~board of supervisors~~] proper filing office in accordance with
18 the provisions of the Local Election Act, signed by ten or more
19 [~~landowners within the watershed districts of the county~~
20 ~~involved, or, if less than fifty landowners are involved, a~~
21 ~~majority of such landowners. If the candidates nominated do~~
22 ~~not exceed the positions available, they shall be declared~~
23 ~~elected. No person shall be eligible to be a director of a~~
24 ~~watershed district who is not a landowner in the district in~~
25 ~~which he seeks election] qualified electors."~~

.211327.3

underscored material = new
[bracketed material] = delete

1 SECTION 252. Section 73-20-14 NMSA 1978 (being Laws 1957,
2 Chapter 210, Section 14, as amended) is amended to read:

3 "73-20-14. BONDS.--

4 A. Bonds authorized by Section 73-20-13 NMSA 1978
5 shall not be issued until proposed by order or resolution of
6 the board of directors, specifying the purpose for which the
7 funds are to be used, and the proposed undertaking, the amount
8 of bonds to be issued, the rate of interest they are to bear
9 and the amount of any necessary assessment levy in excess of
10 the maximum authorized in Section 73-20-17 NMSA 1978 to
11 establish a sinking fund for the liquidation of bonds as
12 provided in Section 73-20-17 NMSA 1978. A copy of the order or
13 resolution shall be certified to the board of supervisors.

14 B. The board of supervisors shall conduct a hearing
15 on the proposal after notice given pursuant to Section 73-20-8
16 NMSA 1978. If it appears that the proposal is within the scope
17 and purpose of the Watershed District Act and meets all other
18 requirements of the law, the proposal shall be submitted to the
19 [~~landowners of the district by referendum under supervision of~~
20 ~~the board of supervisors.~~

21 C. ~~Provisions of Sections 73-20-8 through 73-20-11~~
22 ~~NMSA 1978 as to notice, qualifications of voters and manner of~~
23 ~~holding referendum election in organizing a watershed district~~
24 ~~shall apply to the referendum held under this section]~~
25 qualified electors of the district at an election held pursuant

.211327.3

underscored material = new
[bracketed material] = delete

1 to the Local Election Act.

2 ~~[D-]~~ C. If two-thirds of the [~~landowners~~] qualified
3 electors voting on the ballot question favor the proposal, the
4 bonds may be issued."

5 **SECTION 253.** Section 73-20-21 NMSA 1978 (being Laws 1957,
6 Chapter 210, Section 20, as amended) is amended to read:

7 "73-20-21. ADDITION OF LAND.--

8 A. Any one or more owners of land may petition the
9 board of supervisors to have their lands added to a watershed
10 district. The petition shall define the boundaries of the land
11 desired to be annexed, the number of acres of land involved and
12 other information pertinent to the proposal. When the boundary
13 described embraces lands of others than the petitioners, the
14 petition shall so state and shall be signed by twenty-five or
15 more of the landowners in the territory described, if fifty or
16 more such owners are involved, or by a majority if [~~less~~] fewer
17 than fifty landowners are involved.

18 B. Within thirty days after the petition is filed,
19 the board shall cause due notice to be given as provided in
20 Section 73-20-8 NMSA 1978 of a hearing on the petition. All
21 interested parties shall have a right to attend the hearing and
22 be heard. The board shall determine whether the lands
23 described in the petition or any portion of them shall be
24 included in the district. If all the landowners in the
25 territory involved are not petitioners, a referendum shall be

.211327.3

underscored material = new
[bracketed material] = delete

1 held within the territory [~~as provided in Sections 73-20-8~~
2 ~~through 73-20-11 NMSA 1978 before making a final determination]~~
3 in accordance with the provisions of the Local Election Act.

4 If it is determined by the qualified electors of the district
5 that the land should be added, this fact shall be certified by
6 the board of supervisors to the county clerk in the county
7 involved. After recording, the certification shall be filed
8 with the New Mexico department of agriculture."

9 SECTION 254. Section 73-20-23 NMSA 1978 (being Laws 1957,
10 Chapter 210, Section 22, as amended by Laws 2013, Chapter 17,
11 Section 2 and by Laws 2013, Chapter 169, Section 2) is amended
12 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 of
19 the district have been met. The petition shall state the
20 reasons for discontinuance and demonstrate that all obligations
21 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.

.211327.3

underscored material = new
[bracketed material] = delete

1 C. Within [~~sixty~~] ninety days after petition is
2 filed, [~~a referendum~~] an election shall be held [~~under the~~
3 ~~supervision of the board of supervisors as provided in Section~~
4 ~~73-20-14 NMSA 1978. No informalities in the conduct of the~~
5 ~~referendum or in any matters relating to the referendum shall~~
6 ~~invalidate it or its result if notice of the referendum has~~
7 ~~been given substantially as provided in Subsection B of this~~
8 ~~section~~] pursuant to the provisions of the Local Election Act;
9 provided that the date of the election is not in conflict with
10 the provisions of Section 1-24-1 NMSA 1978.

11 D. If a majority of the votes cast in the
12 referendum [~~favor~~] favours the discontinuance of the district
13 and it is found that all obligations have been met, the board
14 of supervisors shall make a determination that the watershed
15 district shall be discontinued. A copy of the determination
16 shall be certified by the clerk of the county involved for
17 recording. After recording, the certification shall be filed
18 with the New Mexico department of agriculture."

19 SECTION 255. A new section of the Soil and Water
20 Conservation District Act is enacted to read:

21 "[NEW MATERIAL] ASSESSMENTS--LIMITATIONS.--A levy approved
22 by the voters of a district and authorized by the commission
23 pursuant to Section 73-20-46 NMSA 1978 prior to July 1, 2018
24 shall continue to be assessed pursuant to the laws in effect at
25 the time the levy was initially approved; provided that the

.211327.3

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

1 aggregate of all levies in a district approved prior to July 1,
2 2018 that continue in effect and any levies in the same
3 district approved on or after July 1, 2018 shall not exceed the
4 maximum allowable levy in a district pursuant to Subsection A
5 of Section 73-20-46 NMSA 1978."

6 SECTION 256. Section 73-21-4 NMSA 1978 (being Laws 1943,
7 Chapter 80, Section 3, as amended) is amended to read:

8 "73-21-4. DEFINITIONS.--As used in the Water and
9 Sanitation District Act:

10 A. "board" means the board of directors of a
11 district;

12 B. "district" means a water and sanitation district
13 that is established pursuant to the Water and Sanitation
14 District Act and that is either entirely within or partly
15 within and partly without one or more counties; provided those
16 parts or parcels of the district lying in two or more counties
17 are contiguous with one another, and further provided, a
18 district created pursuant to a petition signed by the board of
19 county commissioners of a county shall be entirely within that
20 county;

21 C. "fee-for-service system" means a garbage or
22 refuse collection system established by a district to fully
23 implement the purposes for which the district is created and
24 for which a service is offered, a fee is established by the
25 board and the fee is paid by the customers of the district;

.211327.3

underscored material = new
[bracketed material] = delete

1 D. "proponents and opponents" means residents or
2 nonresidents of a district who pay or are liable for paying
3 rates, tolls, fees and charges assessed by that district;

4 E. "publication" means giving notice once a week
5 for three consecutive weeks in at least one newspaper of
6 general circulation in the county in which all or the major
7 portion of the district is located; however, it is not
8 necessary that publication be made on the same day of the week
9 in each of the three weeks, but not less than fourteen days,
10 excluding the day of first publication, shall intervene between
11 the first publication and the last publication, and publication
12 shall be complete on the date of the last publication;

13 F. "sewage system" includes all constructions for
14 collection, transportation, pumping, treatment and final
15 disposition of sewage; and

16 ~~[G. "taxpaying elector of a district", "qualified~~
17 ~~elector" or "elector" means a person who is registered to vote~~
18 ~~in any precinct in the state and who:~~

19 ~~(1) is a resident of the district;~~

20 ~~(2) is a nonresident of the district who pays,~~
21 ~~or will be liable for paying, rates, tolls or charges set by~~
22 ~~the board; or~~

23 ~~(3) is a nonresident of the district who~~
24 ~~either has paid or incurred a general tax liability on real~~
25 ~~property within the district in the twelve months immediately~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~preceding a designated time or event or who is purchasing real~~
2 ~~property within the district under a real estate contract where~~
3 ~~a property tax has been paid or incurred on the real property~~
4 ~~in the twelve months immediately preceding a designated time or~~
5 ~~event; and~~

6 H.] G. "utility" means a water system, sewer system
7 or other fee-for-service system implemented by the district."

8 SECTION 257. Section 73-21-6 NMSA 1978 (being Laws 1943,
9 Chapter 80, Section 5, as amended) is amended to read:

10 "73-21-6. PETITION.--

11 A. The organization of a district shall be
12 initiated by a petition filed in the office of the clerk of the
13 court vested with jurisdiction in a county in which all or part
14 of the real property in the proposed district is situated. The
15 petition shall be signed by not less than twenty-five percent
16 of the ~~[taxpaying]~~ qualified electors of the district, none of
17 whom shall be an officer, director or shareholder of any
18 business entity with an economic interest in the subdivision
19 and sale of land within the district; provided that at the
20 option of a county and, after adoption of a resolution by the
21 county authorizing the filing of a petition, that county may
22 file a petition ~~[which]~~ that shall be signed by the ~~[chairman]~~
23 chair of the board of county commissioners. The petition and
24 all other instruments relating to the formation of such
25 districts shall be filed ~~[with]~~ in the office of the county

.211327.3

underscored material = new
[bracketed material] = delete

1 clerk of the county or counties in which [~~all or the major~~
2 ~~portion of~~] the proposed district is located.

3 B. The petition shall set forth:

4 (1) the name of the proposed district
5 consisting of a chosen name preceding the words "water and
6 sanitation district";

7 (2) a general description of the improvements
8 to be constructed or installed within and for the district;

9 (3) the estimated overall cost of the proposed
10 improvements to be constructed or installed within and for the
11 district;

12 (4) an estimated time table for the completion
13 of all intended improvements;

14 (5) the need for the creation of the district
15 and the construction or installation of improvements, stating
16 the nature and extent of the anticipated use of the
17 improvements by persons presently residing on land within the
18 district and the nature and extent of the anticipated use of
19 the improvements due to future development;

20 (6) a general description of the boundaries of
21 the district or the territory to be included in it, with such
22 certainty as to enable a property owner to determine whether or
23 not [~~his~~] the owner's property is within the district;

24 (7) the salary, if any, that the members of
25 the board shall receive for their services [~~provided, however,~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~that no member of the board shall receive a salary in excess of~~
2 ~~five dollars (\$5.00) per day for each day while in actual~~
3 ~~attendance upon his duties]; and~~

4 (8) a request for the organization of the
5 district.

6 C. No petition with the requisite signatures shall
7 be declared void on account of alleged defects, but the court
8 may at any time permit the petition to be amended to conform to
9 the facts by correcting any errors in the description of the
10 territory or in any other particular. Similar petitions or
11 duplicate copies of the same petition for the organization of
12 the same district may be filed and shall together be regarded
13 as one petition. ~~[All such petitions filed prior to the~~
14 ~~hearing on the first petition filed shall be considered by the~~
15 ~~court the same as though filed with the first petition placed~~
16 ~~on file.]"~~

17 SECTION 258. Section 73-21-9 NMSA 1978 (being Laws 1943,
18 Chapter 80, Section 8, as amended) is amended to read:

19 "73-21-9. HEARING ON PETITIONS--ELECTION FOR ORGANIZATION
20 AND OFFICERS.--

21 ~~[A. On the day fixed for the hearing or at an~~
22 ~~adjournment of it, the court shall ascertain from the tax rolls~~
23 ~~of the county in which the district is located or into which it~~
24 ~~extends, from the last official registry list and from any~~
25 ~~other evidence that may be adduced, the total number of~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~taxpaying electors of the proposed district.~~

2 ~~B. If the court finds that no petition has been~~
3 ~~signed and presented in conformity with the Water and~~
4 ~~Sanitation District Act, or that the material facts are not as~~
5 ~~set forth in the petition filed, it shall dismiss the~~
6 ~~proceedings and adjudge the costs against the signers of the~~
7 ~~petition or, if applicable, the board of county commissioners~~
8 ~~of a county, in the proportion as it deems just and equitable.~~
9 ~~No appeal or suit of error shall lie from an order dismissing~~
10 ~~the proceedings; but nothing in that act shall prevent the~~
11 ~~filing of a subsequent petition for similar improvements or for~~
12 ~~a similar district, and the right to renew the proceeding is~~
13 ~~expressly granted and authorized.~~

14 ~~G.]~~ A. At any time after the filing of the petition
15 for the organization of a district and before the day fixed for
16 the hearing on it, the owner of any taxable property within the
17 proposed district may file a petition with the court stating
18 reasons why the property should not be included in the district
19 and requesting that the property be excluded from it. The
20 petition shall be verified and shall describe the property
21 sought to be excluded. The court shall hear the petition and
22 all objections to it at the time of the hearing on the petition
23 for organization and shall determine whether the property
24 should be excluded or included in the district.

25 ~~[D.]~~ B. In determining whether or not the petition

.211327.3

1 for the creation of a water and sanitation district shall be
2 granted, the district court shall consult and request an
3 opinion from:

4 (1) the state engineer to determine whether
5 the proposed district has adequate water rights to implement
6 the proposed improvements; and

7 (2) the environmental improvement division of
8 the department of environment to determine, as to the
9 technological feasibility of the proposed improvements, whether
10 the water proposed to be supplied is of an acceptable quality
11 to conform with the state regulations and whether the liquid
12 and solid waste disposal proposals can conform with state
13 regulations.

14 ~~[E-]~~ C. The court may deny the petition or may
15 order the petition to be modified if the court, after hearing
16 on the petition, finds that:

17 (1) the proposed water and sewage improvements
18 cannot conform with the state regulations;

19 (2) the water and sewage improvements cannot
20 be implemented within a reasonable time taking into
21 consideration applications for state and federal grants;

22 (3) there is lacking an actual or impending
23 need for the water and sewage improvements proposed; or

24 (4) the boundaries of the proposed district
25 contain land that has no actual or impending need for the water

underscored material = new
[bracketed material] = delete

1 and sewage improvements or cannot be reasonably expected to
2 utilize the water and sewage improvements, unless the land is
3 otherwise required to be included in the proposed district by
4 rule or regulation of a federal agency.

5 ~~[F.]~~ D. Upon the hearing, if it appears that a
6 petition for the organization of a district has been properly
7 signed and presented and that the allegations of the petition
8 are true, the court shall order that the question of the
9 organization of the district be submitted to the ~~[taxpaying]~~
10 qualified electors of the district as set forth in the
11 petition, as the boundaries were modified by the court in
12 determining that only property to be benefited by the proposed
13 improvements should be included within the boundaries of the
14 district, at an election to be held for that purpose and ~~[the~~
15 ~~order shall designate one or more polling places within the~~
16 ~~district, and for each polling place so designated, shall~~
17 ~~appoint three taxpaying electors of the district as judges of~~
18 ~~the election and two taxpaying electors of the district as~~
19 ~~clerks of the election. The clerk of the court having~~
20 ~~jurisdiction shall give published notice of the time and place~~
21 ~~of an election to] conducted pursuant to the provisions of the~~
22 Local Election Act. The election shall be held in the district
23 not less than ~~[twenty]~~ ninety days after the ~~[first publication~~
24 ~~of the notice.~~

25 ~~G. The election shall be held and conducted as~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~nearly as possible in the same manner as general elections in~~
2 ~~this state. No special registration for the election is~~
3 ~~required, but for the purpose of determining qualifications of~~
4 ~~electors, the judges may use official records, and, in~~
5 ~~addition, they may require the execution of an affidavit~~
6 ~~concerning the qualifications of any elector] order is entered~~
7 in accordance with the Local Election Act; provided that the
8 date does not conflict with the provisions of Section 1-24-1
9 NMSA 1978.

10 [H.] E. At the election, the [~~taxpaying~~] qualified
11 electors of the district shall vote for or against the
12 organization of the district. [~~and if in favor thereof, shall~~
13 ~~vote for three taxpaying electors of the district who shall~~
14 ~~constitute the board of directors of the district, one to act~~
15 ~~until the first biennial election, one until two years and one~~
16 ~~until four years after the election, except that at the~~
17 ~~election in a county where the petition for the district was~~
18 ~~signed by the chairman of the board of county commissioners,~~
19 ~~the taxpaying electors of the district shall vote only for or~~
20 ~~against the organization of the district.~~

21 ~~I.~~ The judges of election shall certify the returns
22 ~~of the election to the district court having jurisdiction.] If~~
23 a majority of the votes cast at the election are in favor of
24 the organization, the district court shall declare the district
25 organized and give it a corporate name by which in all

.211327.3

underscored material = new
[bracketed material] = delete

1 proceedings it shall thereafter be known [~~and designate the~~
2 ~~first board of directors elected, except that a district~~
3 ~~created pursuant to a petition signed by the chairman of the~~
4 ~~board of county commissioners of a county shall appoint the~~
5 ~~first board of directors as provided in Section 73-21-15.1 NMSA~~
6 ~~1978~~]. Thereupon the district shall be a governmental
7 subdivision of the state, except a district created pursuant to
8 a petition signed by the [~~chairman~~] chair of the board of
9 county commissioners of a county, which district shall be a
10 subdivision of the county. Every district shall be a body
11 corporate with all the powers of a public or quasi-municipal
12 corporation.

13 [~~J. If an order is entered establishing the~~
14 ~~district, the order is final and no appeal or writ of error~~
15 ~~shall lie therefrom, and the entry of the order shall finally~~
16 ~~and conclusively establish the regular organization of the~~
17 ~~district against all persons except the state, in an action in~~
18 ~~the nature of a writ of quo warranto, commenced by the attorney~~
19 ~~general within thirty days after the decree declaring the~~
20 ~~district organized. The organization of the district shall not~~
21 ~~be directly or collaterally questioned in any suit, action or~~
22 ~~proceeding except as expressly authorized in the Water and~~
23 ~~Sanitation District Act.]"~~

24 SECTION 259. Section 73-21-13 NMSA 1978 (being Laws 1943,
25 Chapter 80, Section 12, as amended) is amended to read:

.211327.3

underscored material = new
[bracketed material] = delete

1 "73-21-13. MEETINGS.--The board shall meet once each
2 month at a time and place to be designated by the board.
3 Special meetings may be held as often as the needs of the
4 district require on notice to each member of the board. A
5 majority of the board shall constitute a quorum at any meeting.
6 Any vacancy on a board elected by [~~taxpaying~~] qualified
7 electors of the district shall be filled by the remaining
8 members or member of the board, the appointee to act until the
9 next biennial election when the vacancy shall be filled by
10 election. Any vacancy on a board appointed by a board of
11 county commissioners shall be filled in the same manner as
12 original appointments, in accordance with Section 73-21-15.1
13 NMSA 1978, the appointee to act until the end of the term of
14 the member creating the vacancy. If the board or a board of
15 county commissioners fails to fill any vacancy within thirty
16 days after it occurs, the court having jurisdiction shall fill
17 the vacancy."

18 SECTION 260. Section 73-21-15.1 NMSA 1978 (being Laws
19 1985, Chapter 155, Section 8, as amended) is amended to read:

20 "73-21-15.1. APPOINTMENT OF FIRST BOARD [~~DISTRICT CREATED~~
21 ~~BY A BOARD OF COUNTY COMMISSIONERS~~].-- [~~Notwithstanding any~~
22 ~~other provision of the Water and Sanitation District Act~~
23 ~~relating to election of the board, all~~] Members of the first
24 board of any district [~~created pursuant to a petition signed by~~
25 ~~the chairman of the board of county commissioners of a county~~]

.211327.3

underscored material = new
[bracketed material] = delete

1 shall be appointed by the board of county commissioners. In a
2 district consisting of multiple counties, the district judge
3 shall designate how many members of the board will be appointed
4 by each board of county commissioners. The first board shall
5 consist of five directors who are [~~taxpaying~~] qualified
6 electors of the district appointed for staggered terms so that
7 the terms of two directors expire [~~in one year~~] within two
8 years and the terms of three directors expire [~~in two~~] within
9 four years. Thereafter, all directors shall be elected to
10 [~~two-year~~] terms of office pursuant to the provisions of the
11 Water and Sanitation District Act. Any director appointed by
12 any board of county commissioners shall be eligible for
13 election; provided that no member of a board shall serve more
14 than two consecutive terms."

15 SECTION 261. Section 73-21-26 NMSA 1978 (being Laws 1943,
16 Chapter 80, Section 24, as amended) is amended to read:

17 "73-21-26. BONDS--INTEREST--FORM.--To carry out the
18 purposes of the Water and Sanitation District Act, the board
19 may issue bonds of the district upon approval of the majority
20 of the [~~taxpaying~~] qualified electors of the district voting on
21 the question pursuant to the provisions of the Local Election
22 Act. Bonds shall bear interest payable semiannually and shall
23 be due and payable serially, either annually or semiannually,
24 commencing not later than three years and extending not more
25 than twenty years from date. The form and terms of the bonds,

.211327.3

underscored material = new
[bracketed material] = delete

1 including provisions for their payment and redemption, shall be
2 determined by the board. If the board so determines, the bonds
3 may be redeemable prior to maturity upon payment of a premium,
4 not exceeding three percent of the principal thereof. The
5 bonds, except for bonds issued in book entry or similar form
6 without the delivery of physical securities, shall be executed
7 in the name of and on behalf of the district and signed by the
8 [~~chairman~~] chair of the board, with the seal of the district
9 affixed thereto, and attested to by the secretary of the board.
10 The bonds shall be sold and shall be in such denominations as
11 the board determines, and the bonds and the attached coupons,
12 if any, shall be payable to the bearer or registered as to
13 principal or as to principal and interest. Interest coupons,
14 if any, shall bear the original or facsimile signature of the
15 [~~chairman~~] chair of the board."

16 SECTION 262. Section 73-21-28 NMSA 1978 (being Laws 1943,
17 Chapter 80, Section 25, as amended) is amended to read:

18 "73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--
19 Whenever the board shall, by resolution, determine that the
20 interest of the district and the public interest or necessity
21 demand the acquisition, construction, installation or
22 completion of any works or other improvements or facilities, or
23 the making of any contract with the United States or other
24 persons or corporations, to carry out the objects or purposes
25 of the district, requiring the creation of a general obligation

.211327.3

underscored material = new
[bracketed material] = delete

1 indebtedness of five thousand dollars (\$5,000) or more, secured
2 by property tax revenue from within the district, the board
3 shall order the submission of the proposition of issuing the
4 obligations or bonds or creating other indebtedness to the
5 qualified electors of the district at a district election held
6 in accordance with the provisions of the Local Election Act.
7 The declaration of public interest or necessity required in
8 this section and the provision for the holding of the election
9 may be included within one and the same resolution. The
10 resolution, in addition to the declaration of public interest
11 or necessity, shall recite the objects and purposes for which
12 the indebtedness is proposed to be incurred, the estimated cost
13 of the works or improvements, as the case may be, the amount of
14 principal of the indebtedness to be incurred and the maximum
15 rate of interest to be paid on the indebtedness. The
16 resolution shall also announce the date upon which the election
17 shall be held; provided that the date is not in conflict with
18 the provisions of Section ~~[1-12-71]~~ 1-24-1 NMSA 1978."

19 **SECTION 263.** Section 73-21-31 NMSA 1978 (being Laws 1943,
20 Chapter 80, Section 28) is amended to read:

21 "73-21-31. EFFECT OF ELECTION--SUBSEQUENT ELECTIONS.--In
22 the event that it ~~[shall appear]~~ appears from ~~[said]~~ the
23 returns that a majority of ~~[said]~~ the qualified ~~[taxpaying]~~
24 electors of the district ~~[who shall]~~ have voted ~~[on any~~
25 ~~proposition submitted hereunder at such election voted]~~ in

.211327.3

underscored material = new
[bracketed material] = delete

1 favor of [~~such proposition~~] the ballot question, the district
2 shall [~~thereupon~~] then be authorized to incur [~~such~~] the
3 indebtedness or the obligations, enter into [~~such~~] the contract
4 or issue and sell [~~such~~] the bonds of the district, as the case
5 may be, [~~all~~] for the purpose [~~or purposes~~] and object [~~or~~
6 ~~objects~~] provided for in the proposition submitted [~~here~~] under
7 the provisions of the Water and Sanitation District Act and in
8 the resolution [~~there~~] for them and in the amount so provided
9 and at a rate of interest not exceeding the rate of interest
10 recited in [~~such~~] the resolution. Submission of the
11 proposition of incurring such obligations or bonded or other
12 indebtedness at [~~such~~] an election shall not prevent or
13 prohibit submission of [~~the same~~] it or other propositions at
14 subsequent [~~election or~~] elections called for [~~such~~] that
15 purpose."

16 SECTION 264. Section 73-26-1 NMSA 1978 (being Laws 2009,
17 Chapter 100, Section 1, as amended) is amended to read:

18 "73-26-1. LOWER RIO GRANDE PUBLIC WATER WORKS
19 AUTHORITY.--

20 A. The "Lower Rio Grande public water works
21 authority" is created. The authority is a political
22 subdivision of the state and shall be an independent public
23 body. The authority is composed of Berino mutual domestic
24 water consumers and mutual sewage works association, Desert
25 Sands mutual domestic water consumers association, La Mesa

.211327.3

underscored material = new
[bracketed material] = delete

1 mutual domestic water consumers association, Mesquite mutual
2 domestic water consumers and mutual sewage works association
3 and Vado mutual domestic water consumers association, all
4 serving unincorporated communities within Dona Ana county. The
5 voting community membership of the five founding entities
6 [~~have~~] has approved by resolution the development of the
7 authority.

8 B. The authority may adopt rules and resolutions,
9 governance policies and procedures necessary to exercise the
10 powers conferred pursuant to this section.

11 C. All functions, appropriations, money, records
12 and equipment and all personal property and real property,
13 including water rights, easements, permits and infrastructure,
14 as well as all encumbrances, debts and liabilities pertaining
15 to or owned by the founding entities shall be transferred to
16 the authority.

17 D. The authority's service area shall consist of
18 the founding entities' existing place of use on file with and
19 approved by the state engineer and shall be filed in the public
20 records of Dona Ana county. An application shall be filed with
21 the state engineer to combine and commingle water rights and to
22 combine the existing entities' place of use into the
23 authority's service area. In the event that another entity
24 elects to merge into the authority, the authority's service
25 area shall be amended to include that entity's place of use and

.211327.3

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

1 shall be filed with the state engineer. The authority's
2 initial service area and any subsequent amendments to its
3 service area shall be designated in a plat filed in the public
4 records of Dona Ana county. If the service area of the merging
5 entity is contiguous with the service area of the authority,
6 the merger shall include the combining and commingling of water
7 rights with the authority by application filed with the state
8 engineer.

9 E. The authority may provide for water and
10 wastewater services, road improvements for the protection of
11 the authority's infrastructure or renewable energy projects
12 that are integral to the operation and maintenance of the
13 authority's facilities or any combination or parts thereof.

14 F. The authority shall exercise all powers allowed
15 pursuant to law, including:

16 (1) regulating, supervising and operating the
17 authority's facilities;

18 (2) establishing rates and imposing
19 assessments, fees and charges and taking action necessary for
20 the enforcement thereof;

21 (3) assessing a standby charge for the
22 privilege of connection into the authority's service at some
23 date in the future if the property line is within three hundred
24 feet of the authority's service lines and the property line is
25 located within the boundaries of the authority. This section

.211327.3

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

1 applies to new connections after the enactment of this act;

2 (4) acquiring, from a willing seller only,
3 holding and using water rights in an amount necessary to meet
4 its reasonable needs not to exceed forty years pursuant to
5 Section 72-1-9 NMSA 1978;

6 (5) shutting off, after notice, unauthorized
7 connections, illegal connections or a connection for which
8 charges are delinquent in payment;

9 (6) entering into contracts for services with
10 private entities, the state, municipalities, counties and the
11 federal government and other public bodies to further its
12 public purposes;

13 (7) entering into joint powers agreements with
14 other governmental entities;

15 (8) acquiring and disposing of real property,
16 personal property and rights of way;

17 (9) condemning property pursuant to the
18 Eminent Domain Code as the last resort and only for the
19 purposes of construction, maintenance and operations of the
20 authority's infrastructure;

21 (10) hiring and retaining agents, employees
22 and consultants, as needed;

23 (11) adopting and using a governmental seal;

24 (12) placing a lien on property for unpaid
25 assessments, charges and fees and enforcing the lien in a

.211327.3

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

1 manner pursuant to this section;

2 (13) suing and being sued and being a party to
3 suits, actions and proceedings; and

4 (14) having and exercising all rights and
5 powers necessary, incidental to or implied from the specific
6 powers granted in this section.

7 G. As a political subdivision of the state and a
8 member-owned community water system, the authority shall be
9 subject to the:

10 (1) applicable rules and regulations of the
11 department of environment, and in its discretion the department
12 may:

13 (a) conduct periodic reviews of the
14 operation of the authority;

15 (b) require the authority to submit
16 information to the department;

17 (c) upon department of environment
18 discretion or upon a petition of twenty-five percent of the
19 members of the authority, conduct an investigation as it deems
20 necessary to ensure the authority's compliance with all
21 applicable statutes, rules, regulations and reporting
22 requirements; and

23 (d) after a hearing, set and collect
24 rates and fees and use the same for the proper operation and
25 management of the authority;

.211327.3

underscored material = new
[bracketed material] = delete

1 (2) applicable rules and regulations of the
2 department of finance and administration, local government
3 division and budget and finance bureau;

4 (3) Open Meetings Act;

5 (4) Inspection of Public Records Act;

6 (5) Audit Act;

7 (6) Procurement Code;

8 (7) Governmental Conduct Act;

9 ~~[(8) special election procedures pursuant to~~
10 ~~Chapter 1, Article 24 NMSA 1978;~~

11 ~~(9)]~~ (8) Chapter 72 NMSA 1978; and

12 ~~[(10)]~~ (9) applicable rules and regulations of
13 the state engineer.

14 H. The authority is a political subdivision of the
15 state and a member-owned community water system and shall not
16 be subject to the jurisdiction of the public regulation
17 commission or the provisions of the Public Utility Act.

18 I. The authority may issue utility system revenue
19 bonds and obligations for acquiring real and personal property
20 needed for the utility system and for extending, enlarging,
21 renovating, repairing or otherwise improving its facilities.

22 The authority may issue revenue anticipation notes with
23 maturities and terms to be approved by the board of directors
24 of the authority. The authority may pledge irrevocably net
25 revenues from the operation of the utility system for payment

.211327.3

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

1 of the principal, premiums and interest on the bonds. The
2 utility system revenue bonds:
3 (1) may have interest, appreciated principal
4 value or any part thereof payable at intervals or at maturity
5 as the authority determines;
6 (2) may be subject to prior redemption at the
7 authority's option at such time and upon such terms and
8 conditions, with or without the payment of a premium, as
9 determined by the authority;
10 (3) may mature at any time not exceeding forty
11 years after the date of issuance;
12 (4) may be serial in form and maturity, may
13 consist of one bond payable at one time or in installments or
14 may be in another form as determined by the authority;
15 (5) shall be sold for cash at, above or below
16 par and at a price that results in a net effective interest
17 rate that does not exceed the maximum permitted by the Public
18 Securities Act; and
19 (6) may be sold at a public or negotiated
20 sale.
21 J. The authority's board of directors may adopt a
22 resolution declaring the necessity for the issuance of utility
23 system revenue bonds or other obligations and may authorize the
24 issuance of utility system revenue bonds or other obligations
25 by an affirmative vote of a majority of all members of the

.211327.3

underscored material = new
[bracketed material] = delete

1 authority's board of directors. Utility revenue bonds and the
2 resolution authorizing their issuance shall be subject to voter
3 approval with oversight from the department of finance and
4 administration and the New Mexico finance authority. The bonds
5 authorized by the authority and their income shall be exempt
6 from taxation by the state and its political subdivisions.

7 K. Except for the purpose of refunding previous
8 utility system revenue bond issues, the authority shall not
9 sell utility system revenue bonds payable from pledged revenues
10 after the expiration of three years from the date of the
11 resolution authorizing their issuance. Any period of time
12 during which a utility system revenue bond is in litigation
13 shall not count toward the determination of the expiration date
14 of that issue.

15 L. The authority shall be governed by a board of
16 directors. ~~[The directors of the initial board shall consist~~
17 ~~of five directors representing each of the founding entities.~~
18 ~~The directors of the initial board shall serve until their~~
19 ~~successors are elected. After the terms of the initial~~
20 ~~directors are completed, the succeeding] The board of directors
21 shall be elected by districts from a minimum of five and a
22 maximum of seven electoral districts. Each director ~~[at the~~
23 ~~time of election]~~ shall reside within and be a qualified
24 elector of the electoral district of the authority from which
25 that member is elected. The boundaries and the number of~~

.211327.3

underscored material = new
[bracketed material] = delete

1 electoral districts shall be established by the initial board
2 within two years of the creation of the authority. The board
3 may in its governance document provide for redistricting upon
4 any change in the authority's boundary and following each
5 decennial census. The elected board of directors shall serve
6 staggered terms to be established in the governance document
7 developed by the [initial] board. [~~Elections shall be~~
8 ~~conducted in accordance with the special election procedures~~
9 ~~pursuant to Chapter 1, Article 24 NMSA 1978 and may be~~
10 ~~conducted by the Dona Ana county elections bureau.~~]

11 M. All elections of the authority shall be
12 conducted pursuant to the provisions of the Local Election Act
13 and voted upon by the qualified electors registered to vote
14 within the boundaries of the authority. Board members shall be
15 elected at the regular local election. Vacancies on the board
16 shall be filled by the remaining board members and a person
17 appointed to fill a vacancy shall serve until the next regular
18 local election. A person appointed to fill a vacancy shall be
19 a qualified elector of the districted area the person is
20 appointed to represent.

21 [~~M.~~] N. If the authority places a lien on property
22 for nonpayment of money owed, the authority shall file in the
23 office of the county clerk of the county or counties in which
24 the property is located a notice of lien, which shall include:

25 (1) identification of the outstanding debt to

underscored material = new
[bracketed material] = delete

- 1 the authority;
- 2 (2) the fact that a lien is established;
- 3 (3) the general purpose of the lien;
- 4 (4) the name of the owner of the property
- 5 against which the lien is established as determined from the
- 6 records of the county assessor;
- 7 (5) a description of the property against
- 8 which the lien is established;
- 9 (6) the amount of the lien; and
- 10 (7) if the lien is for more than one period of
- 11 time, the date for which the lien is established.

12 ~~[N-]~~ O. A lien for multiple charges or assessments
13 on a property owner may be included in the same notice of lien,
14 and it shall not be necessary to file separate liens against
15 the separate properties. The lien shall be attested in the
16 name of the authority. The principal amount of any lien
17 imposed for a charge or assessment shall bear interest at the
18 rate of twelve percent per year from the date of filing the
19 notice of lien unless otherwise provided by law.

20 ~~[O-]~~ P. After the filing of the notice of lien in
21 the office of the county clerk, the authority shall have a lien
22 upon the property described in the notice of lien. The filing
23 of the notice of lien shall be notice to all the world of the
24 existence of the lien and of the contents of the notice of
25 lien. No such lien shall affect the title or rights to or in

.211327.3

1 any real estate, of any purchaser, mortgagee in good faith or
2 judgment lien creditor, without knowledge of the existence of
3 such lien, unless the notice of lien is filed in accordance
4 with this section in the office of the county clerk of the
5 county in which the real estate is situated. All authority
6 liens shall be first and prior liens on the property subject
7 only to the lien of federal, state and county taxes. The
8 authority may release a lien against any specific property by:

9 (1) entering and signing a receipt of payment
10 upon the notice of lien filed in the office of the county
11 clerk; or

12 (2) issuing a separate receipt that recites
13 that payment of the lien with any accrued interest and penalty
14 has been made.

15 ~~[P-]~~ Q. The authority may, in a single suit,
16 foreclose the liens against all persons named in the notice of
17 liens or against the property if the owners are unknown. The
18 complaint filed shall:

19 (1) expressly name each defendant, if known;
20 (2) describe the property against which the
21 lien is established; and
22 (3) set forth the amount of the lien.

23 ~~[Q-]~~ R. The judgment or decree rendered in said
24 cause shall be several against the named defendants and against
25 the several properties for the amounts decreed to be due by

underscored material = new
[bracketed material] = delete

1 each. A lien against real estate may be foreclosed in the same
2 manner that mortgages or other liens against real estate are
3 foreclosed with like rights of redemption. In the foreclosure
4 of any lien created by the authority, reasonable attorney fees
5 may be ordered by the court as part of the costs in favor of
6 the prevailing party.

7 [R-] S. The authority shall prepare and sign a
8 notice of foreclosure, which shall also bear the signature and
9 mailing address of an attorney representing the authority. The
10 proceeds of the sale of the property by the authority pursuant
11 to a foreclosure sale on a lien shall be applied as follows:

12 (1) first, to the payment of costs in giving
13 notice of the sale and of conducting the sale;

14 (2) second, to the indebtedness claimed under
15 a lien on the property for federal, state, county, municipal or
16 ad valorem taxes;

17 (3) third, to the indebtedness claimed under
18 the lien of the authority;

19 (4) fourth, to all other special assessments
20 having a lien on the property; and

21 (5) fifth, after all such costs, liens,
22 assessments and taxes are paid, to the former owner, mortgage
23 holder or parties having an interest in the tract or parcel,
24 upon such persons providing satisfactory proof to the court of
25 such interest and upon approval of the court.

.211327.3

underscored material = new
[bracketed material] = delete

1 [~~S-~~] T. As used in this section, "public water
2 works authority" means a utility organized as a political
3 subdivision of the state for the purposes of constructing
4 infrastructure and furnishing water and wastewater services for
5 domestic, commercial or industrial uses, road improvements for
6 the protection of the authority's infrastructure and renewable
7 energy projects; and entering into agreements with other
8 entities for the provision of other services, including water
9 conservation and reclamation, source water protection,
10 drainage, flood control, solid waste, planning and zoning."

11 SECTION 265. Section 74-10-12 NMSA 1978 (being Laws 1993,
12 Chapter 319, Section 12) is amended to read:

13 "74-10-12. BOARD OF DIRECTORS.--The governing body of the
14 authority is a board of directors consisting of seven qualified
15 electors of the authority. All powers, rights, privileges and
16 duties vested in or imposed upon the authority are exercised
17 and performed by and through the board of directors; provided
18 that the exercise of any executive, administrative and
19 ministerial powers may be, by the board, delegated and
20 redelegated to officers and employees of the authority. Except
21 for the first directors appointed as provided for in Section [5
22 ~~of the Solid Waste Authority Act or elected as provided in~~
23 ~~Section 13 of the Solid Waste Authority Act and except for any~~
24 ~~director chosen to fill an unexpired term]~~ 74-10-5 NMSA 1978,
25 the term of each director commences on the first day of January

underscored material = new
[bracketed material] = delete

1 next following a ~~[general]~~ regular local election in the state
2 and runs for six years. ~~[Each director, subject to such~~
3 ~~exceptions, shall serve a six-year term ending on the first day~~
4 ~~of January next following a general election, and each director~~
5 ~~shall serve until his successor has been duly chosen and~~
6 ~~qualified.]"~~

7 SECTION 266. Section 74-10-13 NMSA 1978 (being Laws 1993,
8 Chapter 319, Section 13) is amended to read:

9 "74-10-13. ELECTION OF DIRECTORS.--Each biennial
10 nonpartisan election of directors shall be conducted at the
11 time of the ~~[general]~~ regular local election under the
12 direction of the county clerk and in accordance with the
13 election laws of New Mexico. Any other election of the
14 authority, including an election to seek approval for the
15 issuance of bonds, shall be conducted ~~[at any time approved by~~
16 ~~the board in accordance with the election laws of New Mexico]~~
17 pursuant to the provisions of the Local Election Act."

18 SECTION 267. Section 74-10-14 NMSA 1978 (being Laws 1993,
19 Chapter 319, Section 14) is amended to read:

20 "74-10-14. ELECTION RESOLUTION.--The board shall call any
21 election by resolution ~~[adopted at least one hundred eighty~~
22 ~~days prior to the election]~~ as prescribed in the Local Election
23 Act. The resolution shall recite the objects and purposes of
24 the election and ~~[the date upon which the election shall]~~
25 indicate the general or regular local election on which the

underscored material = new
[bracketed material] = delete

1 ballot question shall appear or specify the date a special
2 election will be held."

3 SECTION 268. Section 74-10-15 NMSA 1978 (being Laws 1993,
4 Chapter 319, Section 15) is amended to read:

5 "74-10-15. CONDUCT OF ELECTION.--An election held
6 pursuant to the Solid Waste Authority Act shall be conducted
7 [~~in the manner provided by the laws of the state for the~~
8 ~~conduct of general elections]~~ pursuant to the provisions of the
9 Local Election Act."

10 SECTION 269. Section 74-10-19 NMSA 1978 (being Laws 1993,
11 Chapter 319, Section 19) is amended to read:

12 "74-10-19. APPROVAL OF PROPOSALS AT ELECTION [RETURNS].--
13 [~~The authority shall appoint an authority precinct board at the~~
14 ~~authority's expense for each polling place. For authority~~
15 ~~elections held at the time of the general election, the~~
16 ~~authority shall be provided space in the polling places where~~
17 ~~the general election is being conducted. Paper ballots shall~~
18 ~~be used in the conduct of any authority election, and the~~
19 ~~authority precinct board shall conduct the election as provided~~
20 ~~in the Election Code where paper ballots are used. The~~
21 ~~separate authority precinct board shall certify the results of~~
22 ~~the election in that precinct to the secretary within twelve~~
23 ~~hours after the close of the polls. The secretary shall~~
24 ~~canvass the results of the authority election as certified by~~
25 ~~each of the separate authority precinct boards and shall~~

.211327.3

underscored material = new
[bracketed material] = delete

1 ~~declare the results of the election at any regular or special~~
2 ~~meeting held not less than five days following the date of the~~
3 ~~election.]~~ Except as otherwise provided, any proposal submitted
4 at any election held pursuant to the Solid Waste Authority Act
5 shall not carry unless the proposal has been approved by a
6 majority of the qualified electors of the authority voting on
7 the proposal."

8 SECTION 270. TEMPORARY PROVISION--COMPILER'S
9 INSTRUCTION.--The New Mexico compilation commission shall
10 rename in tables of contents and headings:

11 A. Chapter 1, Article 16 NMSA 1978 as "Ballot
12 Questions"; and

13 B. Chapter 1, Article 24 NMSA 1978 as "Special
14 Elections".

15 SECTION 271. TEMPORARY PROVISION--POLLING PLACES FOR 2019
16 REGULAR LOCAL ELECTION.--Polling places for the 2019 regular
17 local election shall be the same polling places that were used
18 in the 2018 general election, unless the board of county
19 commissioners amends the 2017 polling place resolution no later
20 than July 1, 2019.

21 SECTION 272. TEMPORARY PROVISION--DISTRICTS--EXPIRATION
22 OF MEMBER TERMS.--

23 A. The term of a branch community college district,
24 special hospital district, solid waste authority district,
25 lower Rio Grande public water works authority or watershed

.211327.3

underscored material = new
[bracketed material] = delete

1 district board member that was set to expire on or before June
2 30, 2020 shall expire on December 31, 2019, and that member's
3 successor shall be elected in the regular local election held
4 on the first Tuesday after the first Monday of November 2019
5 for a term beginning on January 1, 2020.

6 B. The term of a branch community college district,
7 special hospital district, solid waste authority district,
8 lower Rio Grande public water works authority or watershed
9 district board member that was set to expire on or after July
10 1, 2020 but on or before June 30, 2022 shall expire on December
11 31, 2021, and that member's successor shall be elected in the
12 local election held on the first Tuesday after the first Monday
13 of November 2021 for a term beginning on January 1, 2022.

14 C. The term of a special hospital district or
15 watershed district board member that was set to expire on or
16 after July 1, 2022 shall expire on December 31, 2023, and that
17 member's successor shall be elected in the local election held
18 on the first Tuesday after the first Monday of November 2023
19 for a term beginning on January 1, 2024.

20 SECTION 273. TEMPORARY PROVISION--EXPIRATION OF DISTRICT
21 COURT JUDGE TERMS.--

22 A. The term of a district court judge in any
23 judicial district serving in a division numbered 2 or every
24 third number thereafter that was set to expire on December 31,
25 2020 shall expire on December 31, 2022, subject to the

.211327.3

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

1 provisions of the Nonpartisan Judicial Retention Act and
2 Article 6 of the constitution of New Mexico.

3 B. The term of a district court judge in any
4 judicial district serving in a division numbered 3 or every
5 third number thereafter that was set to expire on December 31,
6 2020 shall expire on December 31, 2024, subject to the
7 provisions of the Nonpartisan Judicial Retention Act and
8 Article 6 of the constitution of New Mexico.

9 SECTION 274. TEMPORARY PROVISION--EXPIRATION OF
10 METROPOLITAN COURT JUDGE TERMS.--The term of a metropolitan
11 court judge serving in a division numbered 2 or every second
12 number thereafter that was set to expire on December 31, 2022
13 shall expire on December 31, 2024, subject to the provisions of
14 the Nonpartisan Judicial Retention Act and Article 6 of the
15 constitution of New Mexico.

16 SECTION 275. TEMPORARY PROVISION--SECRETARY OF STATE.--
17 The secretary of state shall ensure that the public regulation
18 commission, public education commission, magistrate judges and
19 county officers are aligned with the offices listed for
20 election in Section 1-10-8 NMSA 1978. The secretary of state
21 shall provide a process to renumber district numbers so that
22 offices are aligned with the offices listed for election in
23 Section 1-10-8 NMSA 1978 and, where necessary, shall provide
24 for an extended term to the general election in 2022 or 2024
25 only as required to align offices and positions to the offices

.211327.3

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

1 listed for election in Section 1-10-8 NMSA 1978; provided that
2 where one member of a local governing body must receive an
3 extended term pursuant to this section, the secretary of state
4 shall have the members whose terms expire the same year draw
5 lots to make the determination.

6 SECTION 276. TEMPORARY PROVISION--ELECTION FUND.--In
7 fiscal years 2019 and 2020, if sufficient funding is deemed
8 available by the secretary of state no later than May 1, 2019
9 and May 1, 2020, money in the election fund may be expended to
10 reimburse local governments for transitional costs associated
11 with implementation of the Local Election Act, based on written
12 guidance provided by the secretary of state and posted on the
13 secretary's website no later than May 1, 2019 and May 1, 2020.

14 SECTION 277. TEMPORARY PROVISION--ELECTION BOARD.--
15 References in the Election Code to "precinct board", shall be
16 deemed to be references to "election board", as that term is
17 defined in Section 1-1-13 NMSA 1978."

18 SECTION 278. REPEAL.--

19 A. Sections 1-2-8, 1-2-10, 1-3-3, 1-4-26, 1-4-33,
20 1-6-5.4, 1-8-9, 1-8-25, 1-8-43, 1-12-71, 1-13-3, 1-16-5,
21 1-16-6, 1-16-10 through 1-16-13, 1-22-9, 1-22-10.1 through
22 1-22-15, 3-30-1 through 3-30-4, 4-38-20 through 4-38-23,
23 4-44-36 through 4-44-45, 6-15-23 through 6-15-28, 22-4A-1
24 through 22-4A-3, 22-7-2, 22-7-15, 22-7-16, 73-20-10, 73-21-15
25 and 74-10-16 through 74-10-18 NMSA 1978 (being Laws 1975,

.211327.3

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

1 Chapter 255, Sections 14 and 16, Laws 1969, Chapter 240,
2 Sections 52, 82 and 89, Laws 1999, Chapter 267, Section 3, Laws
3 1975, Chapter 255, Section 104, Laws 1969, Chapter 240,
4 Sections 170 and 180, Laws 1977, Chapter 222, Section 7, Laws
5 1969, Chapter 240, Sections 305, 378, 379, 383 and 384, Laws
6 1975, Chapter 287, Section 1, Laws 2018, Chapter 79, Sections
7 23 and 25 through 28, Laws 1965, Chapter 300, Sections 14-29-1,
8 14-29-2, 14-29-3 and 14-29-4, Laws 1969, Chapter 90, Section 1,
9 Laws 1876, Chapter 1, Sections 15, 28 and 32, Laws 1953,
10 Chapter 167, Sections 1 through 8, 11 and 12, Laws 1970,
11 Chapter 6, Sections 1 through 3, Laws 1971, Chapter 132,
12 Section 3, Laws 1970, Chapter 6, Sections 5 and 6, Laws 1987,
13 Chapter 191, Sections 1 through 3, Laws 1977, Chapter 308,
14 Sections 2, 15 and 16, Laws 1957, Chapter 210, Section 10, Laws
15 1977, Chapter 326, Section 2 and Laws 1993, Chapter 319,
16 Sections 16 through 18, as amended) are repealed.

17 B. Laws 2018, Chapter 79, Sections 160, 161 and 163
18 through 165 are repealed.

19 SECTION 279. EFFECTIVE DATE.--The effective date of the
20 provisions of Section 141 of this act is July 1, 2022.

21 SECTION 280. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect immediately.