

SENATE FLOOR SUBSTITUTE FOR  
SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 685, HOUSE BILL 42, HOUSE BILL 487 AND  
HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 91

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ABSENTEE VOTING IN LIEU OF  
ESTABLISHING A POLLING PLACE IN SMALL, ISOLATED PRECINCTS;  
CHANGING PROVISIONS FOR THE DELIVERY AND HANDLING OF ABSENTEE  
BALLOTS; PROVIDING STANDARDS FOR THE OPERATION OF ALTERNATE  
EARLY VOTING LOCATIONS; AMENDING REQUIREMENTS FOR ALTERNATE  
EARLY VOTING LOCATIONS ON INDIAN NATION, TRIBAL OR PUEBLO  
LANDS; CHANGING PROVISIONS FOR EARLY ABSENTEE VOTING; REMOVING  
A RESTRICTION ON THE TYPE OF BALLOT THAT MAY BE SENT TO  
ABSENTEE OVERSEAS VOTERS; PROVIDING FOR ELECTRONIC TRANSMISSION  
OF ABSENTEE BALLOTS TO AND FROM FEDERAL QUALIFIED ELECTORS AND  
OVERSEAS VOTERS; AMENDING AND REPEALING SECTIONS OF THE NMSA  
1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF  
LAW IN LAWS 2003.

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

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1 Section 1. A new section of the Election Code is enacted  
2 to read:

3 "[NEW MATERIAL] MAIL BALLOT ELECTION PRECINCT--ABSENTEE  
4 VOTING IN LIEU OF POLLING PLACE.--

5 A. Notwithstanding the provisions of Section 1-1-11  
6 NMSA 1978, a board of county commissioners may designate a  
7 precinct as a mail ballot election precinct if, upon a written  
8 request of the county clerk, it finds that the precinct has  
9 fewer than fifty voters and the nearest polling place for an  
10 adjoining precinct is more than thirty miles driving distance  
11 from the polling place designated for the precinct in question.

12 B. If a precinct is designated a mail ballot  
13 election precinct, in addition to the notice required pursuant  
14 to Section 1-3-8 NMSA 1978, the county clerk shall notify by  
15 registered mail all voters in that precinct at least forty days  
16 before an election that each voter will be sent an absentee  
17 ballot twenty-eight days before the election and that there  
18 will be no polling place for the precinct on election day.  
19 The county clerk shall include in the notice a card informing  
20 the voter that if the voter does not want to receive an  
21 absentee ballot, the voter should return the card before the  
22 date the county clerk is scheduled to mail out absentee  
23 ballots. The card shall also inform the voter that a voting  
24 system equipped for persons with disabilities will be available  
25 at all early voting sites before election day and in the office

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1 of the county clerk on election day in case the voter prefers  
2 to vote in person and not by mail.

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

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

14 Section 2. A new section of the Election Code is enacted  
15 to read:

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

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

24 B. the alternate early voting or mobile alternate  
25 voting location may operate for less than the full early voting

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1 period, to be decided upon between the Indian nation, tribe or  
2 pueblo and the county clerk;

3 C. the county clerk may limit voting to precincts  
4 on and near the Indian nation, tribe or pueblo;

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

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

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

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

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

22 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

23 A. Not later than the first Monday in November of  
24 each odd-numbered year, the board of county commissioners shall  
25 by resolution:

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

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

8 (3) create additional polling places in  
9 existing precincts as necessary pursuant to Section 1-3-7.1  
10 NMSA 1978; [~~and~~]

11 (4) divide any precincts as necessary to meet  
12 legal and constitutional requirements for redistricting; and

13 (5) designate any mail ballot election  
14 precincts.

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

22 C. 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. Any  
25 necessary precinct boundary adjustments shall be made and

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1 submitted to the secretary of state no later than the first  
2 Monday in December of [~~that~~] each odd-numbered year. Upon  
3 approval of the new or changed precincts by the secretary of  
4 state, the precincts and polling places as changed by the  
5 resolution of the boards of county commissioners and approved  
6 by the secretary of state shall be the official precincts and  
7 polling places for the next succeeding primary and general  
8 elections."

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

11 "1-3-7. POLLING PLACES.--

12 A. No less than one polling place shall be provided  
13 for each precinct that is not a mail ballot election precinct.

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

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

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

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

12 E. Upon application of the board of county  
 13 commissioners, the governing board of any school district shall  
 14 permit the use of any school building or a part thereof for  
 15 registration purposes and the conduct of any election, provided  
 16 [~~however~~] that the building or the part used for the election  
 17 complies with the standards set out in the federal Voting  
 18 Accessibility for the Elderly and Handicapped Act [~~(Public Law~~  
 19 ~~98-435)~~].

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

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

24 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

25 A. The county clerk shall mark each completed

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1 absentee ballot application with the date and time of receipt  
2 in the clerk's office and enter the required information in the  
3 absentee ballot register. The county clerk shall then  
4 determine if the applicant is a voter, an absent uniformed  
5 services voter or an overseas voter.

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

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

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

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1 absentee ballot must be returned with the required  
2 identification.

3 E. If the county clerk finds that the applicant is  
4 a voter other than a federal qualified elector or overseas  
5 voter, the county clerk shall mark the application "accepted"  
6 and, beginning twenty-eight days before the election, deliver  
7 an absentee ballot to the voter in the county clerk's office or  
8 mail to the applicant an absentee ballot and the required  
9 envelopes for use in returning the ballot. If the county clerk  
10 finds that the applicant is a federal qualified elector or  
11 overseas voter, the county clerk shall mark the application  
12 "accepted" and beginning forty-five days before the election,  
13 mail to the applicant an absentee ballot and the required  
14 envelopes for use in returning the ballot. Acceptance of an  
15 application of a federal qualified elector constitutes  
16 registration for the election in which the ballot is to be  
17 cast. Acceptance of an application from an overseas voter who  
18 is not an absent uniformed services voter constitutes a request  
19 for changing information on the certificate of registration of  
20 any such voter. An absent voter shall not be permitted to  
21 change party affiliation during those periods when change of  
22 party affiliation is prohibited by the Election Code. Upon  
23 delivery of an absentee ballot to a voter in the county clerk's  
24 office or mailing of an absentee ballot to an applicant who is  
25 a voter, an appropriate designation shall be made on the

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1 signature line of the signature roster next to the name of the  
2 voter who has been provided or mailed an absentee ballot.

3 F. If an application for an absentee ballot is  
4 delivered in person to the county clerk and is accepted, the  
5 county clerk shall provide the voter an absentee ballot and it  
6 shall be marked by the applicant in a voting booth of a type  
7 prescribed by the secretary of state, sealed in the proper  
8 envelopes and otherwise properly executed and returned to the  
9 county clerk or the clerk's authorized representative before  
10 the voter leaves the office of the county clerk. The act of  
11 marking the absentee ballot in the office of the county clerk  
12 shall be a convenience to the voter in the delivery of the  
13 absentee ballot and does not make the office of the county  
14 clerk a polling place subject to the requirements of a polling  
15 place in the Election Code other than is provided in this  
16 subsection. It is unlawful to solicit votes, display or  
17 otherwise make accessible any posters, signs or other forms of  
18 campaign literature whatsoever in the clerk's office or  
19 alternate voting location. In marking the absentee ballot, the  
20 voter, pursuant to the provisions of Section 1-12-15 NMSA 1978,  
21 may be assisted by one person of the voter's choice.

22 G. Absentee ballots may be marked in person at the  
23 county clerk's office during the regular hours and days of  
24 business beginning on the twenty-eighth day preceding the  
25 election and from 10:00 a.m. to 6:00 p.m. on the Saturday

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1 immediately prior to the date of the election. [~~In marking the~~  
2 ~~absentee ballot, the voter, pursuant to the provisions of~~  
3 ~~Section 1-12-15 NMSA 1978, may be assisted by one person of the~~  
4 ~~voter's choice.~~] If the county clerk establishes an additional  
5 alternate voting location near the clerk's office, absentee  
6 ballots may be marked in person at that location during the  
7 regular hours and days of business beginning on the twenty-  
8 eighth day preceding the election and during the hours for  
9 voting at alternate voting locations commencing on the third  
10 Saturday prior to the election through the Saturday immediately  
11 prior to the election.

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

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

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

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

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1 Section 6. Section 1-6-5.1 NMSA 1978 (being Laws 1991,  
2 Chapter 105, Section 10, as amended) is amended to read:

3 "1-6-5.1. ~~[FEDERAL]~~ ABSENTEE BALLOT DISTRIBUTION TO  
4 FEDERAL QUALIFIED ELECTORS AND OVERSEAS VOTERS.--In the  
5 distribution of ~~[federal]~~ absentee ballots, ~~[A.]~~ federal  
6 qualified electors ~~[and]~~, including members of the uniformed  
7 services and overseas voters, shall receive the entire ballot  
8 ~~[and~~

9 B. ~~all other overseas voters shall receive only~~  
10 ~~ballots for federal candidates]."~~

11 Section 7. 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 secretary of state shall adopt rules to:

15 A. ensure that voters have adequate access to  
16 alternate locations for early voting in each county, taking  
17 into consideration population density and travel time to the  
18 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 early voting locations in those precincts having a  
23 majority of qualified electors who are part of a recognized  
24 language minority; and

25 D. allow for mobile alternate voting locations in

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1 rural areas of the state that may be set up temporarily in  
2 specified precincts of the county during the period when early  
3 voting is allowed at alternate voting locations [~~and~~

4 ~~E. require county clerks to provide at least one~~  
5 ~~alternate early voting location on Indian nation, tribal or~~  
6 ~~pueblo land when requested by the Indian nation, tribe or~~  
7 ~~pueblo if that Indian nation, tribe or pueblo is more than~~  
8 ~~fifteen miles from an office of the county clerk]."~~

9 Section 8. Section 1-6-5.7 NMSA 1978 (being Laws 2005,  
10 Chapter 270, Section 40) is amended to read:

11 "1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING  
12 PROCEDURES--ALTERNATE VOTING LOCATIONS.--

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

18 B. In class A counties with more than two hundred  
19 thousand registered voters, the county clerk shall establish  
20 not [~~less~~] fewer than twelve alternate voting locations as a  
21 convenience to the voters. For class A counties with two  
22 hundred thousand registered voters or fewer, the county clerk  
23 shall establish not [~~less~~] fewer than four alternate voting  
24 locations. In non-class A counties with more than ten thousand  
25 registered voters, the county clerk shall establish at least

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1 one alternate voting location. In non-class A counties with  
2 ten thousand registered voters or fewer, early voting shall be  
3 conducted in the office of the county clerk or at such  
4 ~~[alternative]~~ alternate locations as may be designated by the  
5 county clerk. ~~[Early voting may be done at an alternate~~  
6 ~~location from 12:00 p.m. to 8:00 p.m., Tuesday through Friday,~~  
7 ~~and 10:00 a.m. to 6:00 p.m., Saturday through the Saturday~~  
8 ~~immediately prior to the election.~~

9 B.] C. Not later than ninety days before each  
10 primary and general election, the county clerk shall publicly  
11 fix the hours of operation for alternate voting locations in  
12 the county, which shall open no earlier than 7:00 a.m. and  
13 shall close no later than 9:00 p.m. Within ninety days of a  
14 primary or general election, a county clerk may modify the  
15 hours of operation of alternate voting locations with the  
16 written approval of the secretary of state. Alternate voting  
17 locations shall be open each day of early voting for at least  
18 eight consecutive hours. Alternate voting locations may be  
19 closed Sundays and Mondays during the early voting period.

20 D. Each alternate voting location shall comply with  
21 the following provisions, unless the county clerk receives a  
22 written waiver from the secretary of state specifying the  
23 location and specific provision being waived:

24 (1) have ballots available for voters from  
25 every precinct in the county;

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1                   (2) have at least one optical scan tabulator  
2 programmed to read every ballot style in the county;

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

5                   (4) have a broadband internet connection;

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

9                   (6) have a secure area for storage of ballots  
10 or storage of a ballot on demand printing system; and

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

14                   E. When voting early, the voter shall provide the  
15 required voter identification to the county clerk or the  
16 clerk's authorized representative. If the voter does not  
17 provide the required voter identification, the voter shall be  
18 allowed to vote on a provisional ballot. If the voter provides  
19 the required identification, the voter shall be allowed to vote  
20 after subscribing an application to vote in accordance with  
21 secretary of state rules. The county clerk or the clerk's  
22 authorized representative shall make an appropriate designation  
23 on the signature roster next to the voter's name indicating  
24 that the voter has voted early."

25                   Section 9. Section 1-6-6 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 132, as amended by Laws 2003, Chapter 356,  
2 Section 21 and by Laws 2003, Chapter 357, Section 3) is amended  
3 to read:

4 "1-6-6. ABSENTEE BALLOT REGISTER.--

5 A. For each election, the county clerk shall keep  
6 an "absentee ballot register", in which [~~he~~] the county clerk  
7 shall enter:

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

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

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

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

17 (5) the applicant's precinct;

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

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

23 (8) the date and time the completed absentee  
24 ballot was received from the applicant by the county clerk or  
25 the absent voter voted early in person in the county clerk's

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1 office or at an alternate location.

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

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

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

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1 containing the same information as the lists to the absent  
2 voter precinct board.

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

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

17 Section 10. Section 1-6-9 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 135, as amended) is amended to read:

19 "1-6-9. MANNER OF VOTING--ALTERNATE DELIVERY METHODS.--

20 A. Except as provided in Subsection B of this  
21 section or Section 1-6-5.7 NMSA 1978, a person voting pursuant  
22 to the Absent Voter Act shall secretly mark the absentee ballot  
23 in the manner provided in the Election Code for marking paper  
24 ballots, place it in the official inner envelope and securely  
25 seal the envelope. The voter shall then place the official

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1 inner envelope inside the official mailing envelope and  
2 securely seal the envelope. The voter shall then complete the  
3 form on the reverse of the official mailing envelope, which  
4 shall include ~~[an affirmation]~~ a statement by the voter under  
5 penalty of perjury that the facts stated in the form are true  
6 and the voter's name, registration address and year of birth.  
7 Voters shall either deliver or mail the official mailing  
8 envelope to the county clerk of their county of residence.

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

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

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

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

25 (3) the transmission of the absentee ballot

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1 and statement are received by the county clerk no later than  
2 7:00 p.m. on election day."

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

5 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
6 PRECINCT BOARDS.--

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

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

21 C. A lawfully appointed challenger may examine the  
22 official mailing envelope and may challenge the ballot of any  
23 absent voter for the following reasons:

24 (1) the official mailing envelope has been  
25 opened prior to being received by the absent voter precinct

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1 board; or

2 (2) the person offering to vote is not a  
3 federal voter, federal qualified elector, overseas voter or  
4 voter as provided in the Election Code.

5 Upon the challenge of an absentee ballot, the election  
6 judges and the presiding election judge shall follow the same  
7 procedure as when ballots are challenged when a person attempts  
8 to vote in person. If a challenge is upheld, the official  
9 mailing envelope shall not be opened but shall be placed in an  
10 envelope provided for challenged ballots. The same procedure  
11 shall be followed in canvassing and determining the validity of  
12 challenged absentee ballots as with other challenged ballots.

13 D. If the official mailing envelope has been  
14 properly subscribed and the voter has not been challenged:

15 (1) the election clerks shall enter the absent  
16 voter's name and residence address as shown on the official  
17 mailing envelope in the signature rosters and shall mark the  
18 notation "AB" opposite the voter's name in the "Notations"  
19 column of the signature rosters; and

20 (2) only between 8:00 a.m. and ~~[5:00]~~ 10:00  
21 p.m. on the five days preceding election day, including  
22 Saturday and Sunday, and beginning at 7:00 a.m. on election  
23 day, under the personal supervision of the presiding election  
24 judge, shall the election judges open the official mailing  
25 envelope and the official inner envelope and insert the

.178541.2

underscored material = new  
[bracketed material] = delete

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1 enclosed ballot into an electronic voting machine to be  
2 registered and retained until votes are counted and canvassed  
3 following the closing of the polls on election night.

4 E. It is unlawful for a person to disclose the  
5 results of a count and tally or the registration on a voting  
6 machine of absentee ballots prior to the closing of the polls.

7 F. Absentee ballots shall be counted and tallied on  
8 an electronic voting machine as provided in the Election Code.

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

13 H. If an absentee ballot does not contain the  
14 identification required pursuant to Subsection D of Section  
15 1-6-5 NMSA 1978, it shall be handled as a provisional paper  
16 ballot in accordance with the Election Code."

17 Section 12. Section 1-12-18 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 270) is amended to read:

19 "1-12-18. CONDUCT OF ELECTION--DISCLOSURE OF VOTE.--An  
20 election official, a member of the precinct board, a watcher or  
21 a challenger shall not disclose the name of any candidate for  
22 whom any voter has voted."

23 Section 13. REPEAL.--Section 1-6-7 NMSA 1978 (being Laws  
24 1969, Chapter 240, Section 133, as amended) is repealed.