

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 356

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO ELECTIONS; PROHIBITING PROXY VOTING; ALLOWING USE
OF COUNTY CLERK EMPLOYEES AS ELECTION CLERKS; REQUIRING
SUFFICIENT STAFF AND EQUIPMENT AT POLLING LOCATIONS; SETTING,
CLARIFYING AND STANDARDIZING PROCESSES, DATES AND DEADLINES;
PROVIDING DEFINITIONS; ALLOWING ACCESS BY COUNTY CLERKS TO THE
DRIVER'S LICENSE DATABASE; PERMITTING PARTY COMMITTEE
APPOINTMENTS ACCORDING TO PARTY RULES; PRESCRIBING THE ORDER OF
OFFICES ON THE BALLOT; EXEMPTING CERTAIN VOTING RECORDS FROM
THE INSPECTION OF PUBLIC RECORDS ACT UNTIL AFTER ALL RECOUNTS,
CONTESTS AND CANVASSING ARE COMPLETED; ENSURING THAT MISTAKEN
CANCELLATION OF REGISTRATION WILL NOT VOID A PROVISIONAL
BALLOT; RESTRICTING THE HOLDING OF OTHER ELECTIONS WITHIN FIFTY
DAYS OF A GENERAL ELECTION; PRESCRIBING RECOUNT PROCEDURES;
PROVIDING STANDARDS FOR CONSOLIDATED PRECINCTS; AUTHORIZING
SCHOOL BOARDS TO SET THE TIMES FOR ALTERNATE VOTING LOCATIONS;

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1 REQUIRING ELECTIONS FOR CHANGING THE NUMBER OF SCHOOL BOARD
2 MEMBERS TO BE HELD DURING A REGULAR SCHOOL ELECTION; UPDATING
3 FORMS; PROVIDING FOR A PENALTY; AMENDING, REPEALING AND
4 ENACTING SECTIONS OF THE NMSA 1978.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

15 SECTION 2. Section 1-1-22 NMSA 1978 (being Laws 2005,
16 Chapter 270, Section 1) is amended to read:

17 "1-1-22. COMPUTATION OF TIME--DEADLINES.--For the purpose
18 of the Election Code, time periods of less than eleven days
19 shall be computed as calendar days; provided, however, that if
20 an actual deadline falls on a weekend or state-recognized
21 holiday, the next business day shall be the deadline, unless
22 the deadline is expressed as a day of the week, in which case
23 that day remains the actual deadline."

24 SECTION 3. Section 1-2-12 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 32, as amended) is amended to read:

.193490.2

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

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

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

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

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

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

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

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

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

.193490.2

1 E. County clerk employees may be appointed to serve
2 as election clerks on a precinct board."

3 SECTION 4. Section 1-2-20 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 39, as amended) is amended to read:

5 "1-2-20. MESSENGERS--COMPENSATION.--

6 A. The county clerk may appoint messengers to
7 deliver ballot boxes, poll books, keys, election supplies and
8 other materials pertaining to the election. Messengers may
9 also be authorized to collect absentee ballots and removable
10 media storage devices from polling places and deliver [~~those~~
11 ~~absentee ballots~~] them to locations designated by the county
12 clerk.

13 B. Messengers shall be paid mileage as provided in
14 the Per Diem and Mileage Act each way over the usually traveled
15 route. The mileage shall be paid within thirty days following
16 the date of election if funds are available for payment."

17 SECTION 5. Section 1-3-4 NMSA 1978 (being Laws 1975,
18 Chapter 255, Section 30, as amended) is amended to read:

19 "1-3-4. CONSOLIDATION OF PRECINCTS.--

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

- 22 (1) primary and general elections;
- 23 (2) statewide special elections;
- 24 (3) countywide special elections; and
- 25 (4) elections to fill vacancies in the office

1 of [the] United States [~~house of representatives~~]
 2 representative.

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

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

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

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

18 (2) each consolidated precinct in a non-school
 19 district election shall be [~~comprised~~] composed of no more than
 20 ten precincts;

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

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

.193490.2

1 management system;

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

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

20 E. When precincts are consolidated for a municipal
21 election, school election or special county election, the
22 proclamation, in addition to the other matters required by law,
23 shall state which precincts have been consolidated and the
24 designation of the polling place. Precincts consolidated for a
25 municipal election, school election or special county election

.193490.2

1 may allow any voter to vote in any consolidated precinct in the
2 county, which shall be stated in the proclamation.

3 F. When precincts are consolidated for a statewide
4 special election or for a special election to fill a vacancy in
5 the office of [~~the~~] United States [~~house of representatives~~]
6 representative, within twenty-one days after the proclamation
7 of election is issued by the governor, the board of county
8 commissioners shall pass a resolution that, in addition to
9 other matters required by law, shall state which precincts have
10 been consolidated and the designation of the polling place.
11 Precincts consolidated for a statewide special election or for
12 a special election to fill a vacancy in the office of [~~the~~]
13 United States [~~house of representatives~~] representative may
14 allow any voter to vote in any consolidated precinct in the
15 county, which shall be stated in the resolution.

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

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

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

.193490.2

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

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

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

9 [~~5~~] (6) have a secure area for storage of
10 preprinted ballots or for storage of paper ballot stock and a
11 system designed to print ballots at a polling location;

12 [~~6~~] (7) issue a ballot to voters who have
13 provided the required voter identification after the voter has
14 signed a signature roster or an electronic equivalent approved
15 by the voting system certification committee or after the voter
16 has subscribed an application to vote on a form approved by the
17 secretary of state; and

18 [~~7~~] (8) be in a location that is accessible
19 and compliant with the requirements of the federal Americans
20 with Disabilities Act of 1990.

21 H. As a prerequisite to consolidation, the
22 authorizing resolution must find that consolidation will make
23 voting more convenient and accessible to voters of the
24 consolidated precinct and does not result in delays for voters
25 in the voting process and the consolidated precinct voting

1 location will be centrally located within the consolidated
2 precinct."

3 SECTION 6. A new section of Chapter 1, Article 3 NMSA
4 1978 is enacted to read:

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

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

15 B. Each polling place shall:

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

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

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

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

25 (2) at least one optical scan tabulator for

.193490.2

1 the precinct; and

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

6 SECTION 7. Section 1-4-5 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 63, as amended) is amended to read:

8 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
9 INFORMATION--PENALTY.--

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

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

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

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

24 (3) a toll-free number for the office of the
25 county clerk and an address for the web site of the secretary

.193490.2

1 of state.

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

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

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

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

20 ~~[E. Only when the certificate of registration is~~
21 ~~properly filled out, subscribed by the qualified elector and~~
22 ~~accepted for filing by the county clerk as evidenced by the~~
23 ~~county clerk's signature or stamp and the date of acceptance~~
24 ~~thereon shall it constitute an official public record of the~~
25 ~~registration of the qualified elector.] It is unlawful for the~~

.193490.2

1 qualified elector's month and day of birth or any portion of
2 the qualified elector's social security number required on the
3 certificate of registration to be copied, conveyed or used by
4 anyone other than the person registering to vote, either before
5 or after it is filed with the county clerk, and by elections
6 administrators in their official capacity.

7 ~~[F-]~~ E. A person who unlawfully copies, conveys or
8 uses information from a certificate of registration is guilty
9 of a fourth degree felony."

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

13 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

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

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

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 the
10 registrant or any other person to the county clerk of the
11 county in which the registrant resides.

12 F. If the registrant wishes to vote in the next
13 election, the completed and signed certificate of registration
14 shall be delivered or mailed and postmarked at least twenty-
15 eight days before the election.

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

23 H. Only when the certificate of registration is
24 properly filled out, signed by the qualified elector and
25 accepted for filing by the county clerk as evidenced by the

.193490.2

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

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

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

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

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

4 (4) a statement informing the applicant that:

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

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

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

20 **SECTION 9.** Section 1-4-5.5 NMSA 1978 (being Laws 1975,
21 Chapter 255, Section 78, as amended) is amended to read:

22 "1-4-5.5. REQUESTS FOR VOTER DATA, MAILING LABELS OR
23 SPECIAL VOTER LISTS.--

24 A. The county clerk or secretary of state shall
25 furnish voter data, mailing labels or special voter lists only

.193490.2

1 upon written request to the county clerk or the secretary of
2 state and after compliance with the requirements of this
3 section; provided, however, all requesters shall be treated
4 equally in regard to the charges and the furnishing of the
5 materials.

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

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

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

19 E. As used in this section:

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

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

1 government;

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

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

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

10 SECTION 10. Section 1-4-11 NMSA 1978 (being Laws 1969,
 11 Chapter 240, Section 67, as amended) is amended to read:

12 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
 13 CERTIFICATES.--

14 A. Upon receipt of a complete certificate of
 15 registration, if the certificate of registration is in proper
 16 form, the county clerk shall determine if the qualified elector
 17 applying for registration is already registered in the
 18 registration records of the county. If the qualified elector
 19 is not already registered in the county and if the certificate
 20 of registration is received within the time allowed by law for
 21 filing certificates of registration in the county clerk's
 22 office, the county clerk shall sign or stamp, in the space
 23 provided therefor on each copy of the certificate, the
 24 qualified elector's name and the date the certificate was
 25 accepted for filing in the county registration records. Voter

.193490.2

1 information shall be handed or mailed immediately to the
2 qualified elector and to no other person.

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

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

23 [~~G.~~] D. If the qualified elector does not register
24 in person, indicates that the qualified elector has not
25 previously voted in a general election in New Mexico and does

1 not provide the registration officer with the required
2 identification, the registration officer shall indicate this on
3 the qualified elector's certificate of registration and the
4 county clerk shall note this on the appropriate precinct
5 signature roster."

6 SECTION 11. Section 1-4-12 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 68, as amended) is amended to read:

8 "1-4-12. DUTIES OF COUNTY CLERK--FILING OF
9 CERTIFICATES.--

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

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

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

17 B. The county clerk shall, on Monday of each week,
18 process all certificates of registration that are in proper
19 form and that were received in [~~his~~] the county clerk's office
20 up to 5:00 p.m. on the preceding Friday. The county clerk
21 shall not process certificates of registration when the
22 registration books are closed pursuant to Section 1-4-8 NMSA
23 1978, during the county canvass or during the period of time
24 following the county canvass when voter credit is entered into
25 the voter registration electronic management system, provided

.193490.2

1 such credit is entered for all voters no later than forty-five
2 days following an election.

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

6 SECTION 12. Section 1-5-1 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 103, as amended) is amended to read:

8 "1-5-1. SHORT TITLE.--~~[Sections 1-5-1 through 1-5-29]~~
9 Chapter 1, Article 5 NMSA 1978 may be cited as the "Voter
10 Records System Act"."

11 SECTION 13. Section 1-5-14 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 118, as amended) is amended to read:

13 "1-5-14. FILE MAINTENANCE ~~[LISTS]~~ REPORTS--VOTER FILE
14 UPDATES.--

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

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

25 C. ~~[The county clerk shall also furnish copies of~~

underscored material = new
[bracketed material] = delete

1 ~~the list to the county chairman of each of the major political~~
 2 ~~parties in the county. The copy of the chairman's list shall~~
 3 ~~indicate whether each item is an addition, deletion or change.~~
 4 ~~The file maintenance list] Upon request, the secretary of state~~
 5 ~~shall furnish an updated voter file to the state chair of each~~
 6 ~~of the qualified political parties in the state. Upon request,~~
 7 ~~the county clerk shall provide a file maintenance report or an~~
 8 ~~updated voter file to the county chair of each of the qualified~~
 9 ~~political parties in the county.~~

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

17 **SECTION 14.** Section 1-5-31 NMSA 1978 (being Laws 1989,
 18 Chapter 298, Section 2, as amended) is amended to read:

19 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary
 20 of state shall:

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

24 B. provide to each county clerk the computer
 25 software necessary for the use and maintenance of the

.193490.2

1 ~~[statewide computerized]~~ voter registration electronic
2 management system; ~~[and]~~

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

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

15 **SECTION 15.** Section 1-6-22.1 NMSA 1978 (being Laws
16 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274,
17 Section 1, as amended) is amended to read:

18 "1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING
19 IN LIEU OF POLLING PLACE.--

20 A. Notwithstanding the provisions of Sections
21 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in
22 November of each odd-numbered year, a board of county
23 commissioners may designate a precinct as a mail ballot
24 election precinct if, upon a written request of the county
25 clerk, it finds that the precinct has fewer than one hundred

.193490.2

1 voters and the nearest polling place for an adjoining precinct
 2 is more than twenty miles driving distance from the boundary
 3 for the precinct in question.

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

.193490.2

1 absentee ballot, which will be counted upon confirmation that
2 the voter has not returned the absentee ballot.

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 16. Section 1-8-1 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 151, as amended) is amended to read:

16 "1-8-1. NOMINATING PROCEDURES--MAJOR POLITICAL
17 PARTIES--MINOR POLITICAL PARTIES.--

18 A. Any major political party in New Mexico, as
19 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate its
20 candidates, other than its presidential candidates, by secret
21 ballot at the next succeeding primary election as prescribed in
22 the Primary Election Law.

23 B. Any minor political party in New Mexico, as
24 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate
25 candidates for public office in the manner prescribed in its

.193490.2

1 party rules and regulations and according to the provisions of
2 the Election Code."

3 SECTION 17. Section 1-8-2 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 152, as amended) is amended to read:

5 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--
6 DESIGNATED NOMINEES.--

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

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

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

22 B. The names certified to the secretary of state
23 shall be filed on the twenty-first day following the primary
24 election in the year of the general election and shall be
25 accompanied by a petition containing a list of signatures and

.193490.2

1 addresses of voters totaling not less than one percent of the
2 total number of votes cast at the last preceding general
3 election for the office of governor [~~or president of the United~~
4 ~~States, as the case may be~~]:

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 [~~state, district,~~
10 ~~county or~~] area to be represented by the office for which the
11 person being nominated is a candidate.

12 C. The names certified to the county clerk shall be
13 filed on the twenty-first day following the primary election in
14 the year of the general election and shall be accompanied by a
15 petition containing a list of signatures and addresses of
16 voters totaling not less than one percent of the total number
17 of votes cast at the last preceding general election for the
18 office of governor [~~or president of the United States, as the~~
19 ~~case may be~~]:

20 (1) in the county for countywide offices; and

21 (2) in the district for offices other than
22 countywide offices.

23 The petition shall contain a statement that the voters
24 signing the petition are residents of the [~~state, district,~~
25 ~~county or~~] area to be represented by the office for which the

1 person being nominated is a candidate.

2 D. Except in the case of a political party
 3 certified the year of the election, persons certified as
 4 nominees shall be members of that party before the day the
 5 governor issues the primary election proclamation. When a
 6 political party is certified the year of the election, persons
 7 certified as nominees shall be members of that party before the
 8 day the petition is filed pursuant to Sections 1-7-2 and 1-7-4
 9 NMSA 1978 and shall not have been a candidate in a pre-primary
 10 convention or political nominating convention in the same
 11 election cycle.

12 E. No voter shall sign a petition prescribed by
 13 this section for more persons than the number of minor party
 14 candidates necessary to fill the office at the next ensuing
 15 general election."

16 SECTION 18. Section 1-8-7 NMSA 1978 (being Laws 1969,
 17 Chapter 240, Section 157, as amended) is amended to read:

18 "1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF
 19 CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE
 20 PRIMARY.--

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

.193490.2

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

5 (2) the resignation or death of a person
6 holding a public office after the [~~date for filing a~~
7 ~~declaration of candidacy or after the date required for~~
8 ~~certification as a convention-designated nominee, and before~~
9 ~~the primary election]~~ last Friday before the first Tuesday in
10 March, when such office was not included in the governor's
11 proclamation and is required by law to be filled at the next
12 succeeding general election after the vacancy is created.

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

22 SECTION 19. Section 1-8-8 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 158, as amended) is amended to read:

24 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
25 AFTER PRIMARY.--

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

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

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

23 B. Appointments made pursuant to Subsection A of
24 this section shall qualify pursuant to Section 1-8-18 NMSA
25 1978.

.193490.2

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

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

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

14 SECTION 20. Section 1-8-14 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 163) is amended to read:

16 "1-8-14. PRIMARY ELECTION LAW--PROCLAMATION--DUTIES OF
17 SECRETARY OF STATE.--Upon the proclamation being filed, the
18 secretary of state shall immediately:

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

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

24 ~~[B.]~~ C. send ~~[by certified mail]~~ an authenticated
25 copy of the proclamation or any amended proclamation to each

1 county clerk along with a copy of the text in an editable
 2 electronic format."

3 SECTION 21. Section 1-8-16 NMSA 1978 (being Laws 1969,
 4 Chapter 240, Section 165, as amended) is amended to read:

5 "1-8-16. PRIMARY ELECTION LAW--PROCLAMATION--AMENDMENT.--
 6 The governor may amend the proclamation between the time of its
 7 issuance and the first Tuesday in March to include a newly
 8 created public office that is capable by law of being filled at
 9 the next succeeding general election, or any existing office
 10 becoming vacant by removal, resignation or death when such
 11 vacancy occurs no later than the last Friday before the first
 12 Tuesday in March, or to provide for any corrections or
 13 omissions."

14 SECTION 22. Section 1-9-5 NMSA 1978 (being Laws 1969,
 15 Chapter 240, Section 188, as amended) is amended to read:

16 "1-9-5. REQUIREMENT TO USE VOTING SYSTEMS--SUFFICIENT
 17 CHECK-IN STATIONS AND VOTING BOOTHS--

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

20 B. The secretary of state shall provide to the
 21 county clerk of each county at least one [~~voting system~~]
 22 optical scan tabulator for use in each polling location in the
 23 general and primary elections. At the request of a county
 24 clerk, the secretary of state shall provide additional optical
 25 scan tabulators for use in a polling place to accommodate the

.193490.2

1 anticipated number of voters in that polling place and to
2 preserve the secrecy of the ballot. The request shall be made
3 no later than the first Monday in November of each odd-numbered
4 year.

5 C. The secretary of state shall provide to the
6 county clerk of each county a sufficient number of check-in
7 stations for use in each polling location in the primary and
8 general elections when electronic rosters or their equivalents
9 are used. The number of check-in stations at a polling
10 location shall be capable of accommodating the number of voters
11 who appeared to vote in person on election day from the
12 precincts represented in a consolidated precinct in the same
13 election held four years earlier or the number of voters who
14 actually voted in that polling location four years earlier,
15 whichever is greater, divided by five hundred and rounded up to
16 the next whole number; provided that no polling location shall
17 be provided fewer than two check-in stations. The county clerk
18 in each county is responsible for providing the secretary of
19 state with the number of check-in stations required based on
20 the above calculation no later than the first Monday in
21 November of each odd-numbered year. Nothing in this section
22 prohibits the board of county commissioners from acquiring
23 additional check-in stations for use in an election, in
24 addition to those provided by the secretary of state.

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

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

4 SECTION 23. Section 1-9-7 NMSA 1978 (being Laws 1969,
 5 Chapter 240, Section 190, as amended) is amended to read:

6 "1-9-7. VOTING SYSTEMS--ACQUISITION.--

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

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

20 C. The additional voting systems shall be of a type
 21 certified by the secretary of state. They shall be purchased
 22 by the state board of finance. Unless paid in full by the
 23 county at the time of purchase, the cost of the voting systems,
 24 including all transportation costs, shall be paid out of the
 25 voting system revolving fund. The state board of finance shall

.193490.2

1 cause to be delivered to each county clerk the additional
2 voting systems.

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

7 SECTION 24. Section 1-10-8 NMSA 1978 (being Laws 1977,
8 Chapter 222, Section 31, as amended) is amended to read:

9 "1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF
10 OFFICES.--The ballot used in the primary and general elections
11 shall contain, when applicable, the offices to be voted on in
12 the following order:

- 13 A. president and vice president;
- 14 B. United States senator;
- 15 C. United States representative;
- 16 D. [~~candidates for~~] non-judicial state offices to
17 be voted on at large, in the order prescribed by the secretary
18 of state;
- 19 E. state senator;
- 20 F. state representative;
- 21 G. other [~~district candidates~~] districted offices,
22 in the order prescribed by the secretary of state;
- 23 H. [~~metropolitan and magistrate judges~~] judicial
24 offices in partisan contests, in the order prescribed by the
25 secretary of state;

- 1 I. county commissioners;
 2 J. county clerk;
 3 K. county treasurer;
 4 L. county assessor;
 5 M. county sheriff;
 6 N. probate judge; and
 7 O. ~~[other issues as]~~ in the order prescribed by the
 8 secretary of state:

9 (1) judicial offices in retention
 10 elections;

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

13 (3) other issues prescribed by the
 14 secretary of state."

15 SECTION 25. Section 1-10-10 NMSA 1978 (being Laws 1969,
 16 Chapter 240, Section 209, as amended) is amended to read:

17 "1-10-10. BALLOTS--SAMPLE.--

18 A. ~~[At the time of printing the official ballots]~~
 19 The county clerk shall ~~[cause to be printed]~~ make available in
 20 both English and Spanish a number of sample ballots in a
 21 quantity ~~[equal to ten percent of the number of voters in each~~
 22 ~~precinct]~~ and in a printed or electronic format as prescribed
 23 by the secretary of state.

24 B. The sample ballots shall be the same in all
 25 respects as the official ballots, except that, if printed, they

.193490.2

1 shall be printed on colored paper and shall not contain the
2 facsimile signature of the county clerk or any endorsement on
3 the back thereof. Each sample ballot shall be marked in large
4 black capital letters, "SAMPLE BALLOT".

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

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

12 SECTION 26. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 112, as amended) is amended to read:

14 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
15 VOTERS--USE DURING ELECTION.--

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

25 B. At each polling location where physical rosters

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

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

9 D. The judge or election clerk assigned to [~~the~~
10 ~~checklist of voters used for confirmation of~~] confirm
11 registration [~~and voting~~] shall determine that each person
12 offering to vote is registered and, in the case of a primary
13 election, that the voter is registered in a party designated on
14 the primary election ballot. If the person's registration is
15 confirmed [~~by the presence of the person's name on the~~
16 ~~checklist of voters~~] and the voter provides the required voter
17 identification, the judge or election clerk shall announce to
18 the judges or election clerks the list number and the name of
19 the voter as shown on the checklist of voters. If the voter
20 does not provide the required voter identification, the voter
21 shall be allowed to vote on a provisional paper ballot and
22 shall provide the required voter identification to the county
23 clerk's office before 5:00 p.m. on the second day following the
24 election, or to the precinct board before the polls close, or
25 the voter's provisional ballot shall not be qualified. If the

.193490.2

1 required voter identification is provided, the voter's
2 provisional paper ballot shall be qualified and the voter shall
3 not vote on any other type of ballot.

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

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

21 F.] G. The judge or election clerk shall follow the
22 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA
23 1978 if a person whose name does not appear on the signature
24 roster requests to vote or a person is required to vote on a
25 provisional paper ballot.

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

4 SECTION 27. Section 1-12-10.1 NMSA 1978 (being Laws 2003,
 5 Chapter 356, Section 2, as amended) is amended to read:

6 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING
 7 INFORMATION.--

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

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

21 SECTION 28. Section 1-12-12 NMSA 1978 (being Laws 1969,
 22 Chapter 240, Section 265, as amended) is amended to read:

23 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
 24 ASSISTANCE.--A voter may request assistance in voting only if
 25 the voter:

.193490.2

- 1 A. is blind;
- 2 B. is physically disabled;
- 3 C. is unable to read or write;
- 4 D. is a member of a language minority who has an
- 5 inability to read well enough to exercise the elective
- 6 franchise; or
- 7 E. requires assistance in [~~operating~~] the voting
- 8 [~~system~~] process."

9 **SECTION 29.** Section 1-12-13 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 266, as amended) is amended to read:

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

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

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

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

25 D. Any person who swears falsely in order to secure

1 assistance is guilty of [~~perjury~~] a misdemeanor."

2 SECTION 30. Section 1-12-15 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 267, as amended) is amended to read:

4 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST
5 VOTER.--

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

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

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

22 SECTION 31. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
23 Chapter 356, Section 7, as amended) is amended to read:

24 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

25 A. Upon closing of the polls, provisional paper

.193490.2

1 ballots shall be delivered to the county clerk, who shall
2 determine if the ballots will be counted prior to certification
3 of the election.

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

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

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

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

22 F. If the voter is a registered voter in the
23 county, but has voted on a provisional paper ballot at a
24 polling place other than the voter's designated polling place,
25 the county canvassing board shall ensure that only those votes

1 for the positions or measures for which the voter was eligible
2 to vote are counted.

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

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

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

18 **SECTION 32.** Section 1-12-31 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 291, as amended) is amended to read:

20 "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT
21 BOXES AND OTHER ELECTION MATERIALS.--

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

.193490.2

- 1 (1) one ballot box key in an envelope
2 addressed to the county clerk;
3 (2) one signature roster;
4 (3) one tally sheet; and
5 (4) all unused election supplies not destroyed
6 pursuant to the Election Code. [~~and~~

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

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

15 **SECTION 33.** Section 1-12-69 NMSA 1978 (being Laws 1977,
16 Chapter 222, Section 72, as amended) is amended to read:

17 "1-12-69. DISPOSITION OF PAPER BALLOTS.--

18 A. Paper ballots marked by voters and all records
19 related to voting in any election in which a federal candidate
20 appears on the ballot shall be retained and preserved for a
21 period of twenty-two months from the date of the election.

22 B. Paper ballots marked by voters and all records
23 related to voting in any election in which no federal candidate
24 appears on the ballot shall be retained and preserved for
25 forty-five days after adjournment of the state or county

1 canvassing board, whichever is later.

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

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

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

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

.193490.2

1 related to voting, the county clerk shall notify the county
2 chair of each political party participating in the election of
3 the time, place and date thereof. The chair of each political
4 party may be present or may have the chair's accredited
5 representative present.

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

14 SECTION 34. Section 1-12-71 NMSA 1978 (being Laws 1977,
15 Chapter 222, Section 7) is amended to read:

16 "1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No
17 municipal, school, county or special district election shall be
18 held within [~~forty-two~~] fifty days prior to or following any
19 statewide election. This section does not prohibit a local
20 government ballot question authorized by the board of county
21 commissioners from appearing on the general election ballot."

22 SECTION 35. Section 1-13-9 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 312, as amended) is amended to read:

24 "1-13-9. POST-ELECTION DUTIES--COUNTY CANVASS--VOTING
25 MACHINE RECHECK.--

1 A. During the official canvass of an election, the
 2 county canvassing board, upon written request of any candidate
 3 in the election or upon receipt of a written petition of
 4 twenty-five voters of the county, shall make, in the presence
 5 of the district judge, a recheck and comparison of the results
 6 shown on the official returns being canvassed with the results
 7 appearing [~~and registered~~] on the [~~counter dials~~] alphanumeric
 8 printout of the contest, candidates and vote totals of each
 9 voting machine used in the election.

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

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

19 **SECTION 36.** Section 1-13-13 NMSA 1978 (being Laws 1969,
 20 Chapter 240, Section 316, as amended) is amended to read:

21 "1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--
 22 CERTIFYING RESULTS.--

23 A. The county canvassing board shall complete the
 24 canvass of the returns and declare the results within ten days
 25 from the date of the election. A county canvassing board in a

.193490.2

1 county with more than two hundred fifty thousand voters shall
2 complete the canvass of the returns and declare the results
3 within thirteen days from the date of the election.

4 B. On the thirty-first day after any primary,
5 general or district special election, the county canvassing
6 board shall issue to those candidates entitled by law election
7 certificates, or certificate of nomination in the case of the
8 primary election, to all county officers, magistrates and to
9 members of the legislature elected from districts wholly within
10 the county. In addition, the county canvassing board shall
11 declare the results, immediately after completion of the
12 canvass, of the election and of all questions affecting only
13 the county.

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

22 SECTION 37. Section 1-13-14 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 317) is amended to read:

24 "1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT BOX.--
25 Once the ballot box has been locked by the precinct board after

1 its first count and tally, no person shall open the ballot box
2 or remove its contents except [~~as~~] by court order or as
3 otherwise provided by the Election Code."

4 SECTION 38. Section 1-13-21 NMSA 1978 (being Laws 1971,
5 Chapter 317, Section 21, as amended) is amended to read:

6 "1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING
7 BALLOTS.--

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

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

18 C. Beginning forty-five days after the adjournment
19 of the state or county canvassing board, whichever is later, or
20 forty-five days after completion of a recount or judicial
21 inquiry, the county clerk may transfer ballots from the locked
22 ballot boxes for disposition pursuant to Section 1-12-69 NMSA
23 1978."

24 SECTION 39. Section 1-14-13.2 NMSA 1978 (being Laws 2009,
25 Chapter 233, Section 1) is amended to read:

.193490.2

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

2 A. At least ninety days prior to each general
3 election, the secretary of state shall contract with an auditor
4 qualified by the state auditor to audit state agencies to
5 oversee a check on the accuracy of precinct electronic vote
6 tabulators, alternate voting location electronic vote
7 tabulators and absent voter precinct electronic vote
8 tabulators. The voting system check shall be conducted for all
9 federal offices, for governor and for the statewide elective
10 office, other than the office of the governor, for which the
11 winning candidate won by the smallest percentage margin of all
12 candidates for statewide office in New Mexico.

13 B. For each selected office, the auditor shall
14 publicly select a random sample of precincts from a pool of all
15 precincts in the state no later than twelve days after the
16 election. The random sample shall be chosen in a process that
17 will ensure, with at least ninety percent probability for the
18 selected offices, that faulty tabulators would be detected if
19 they would change the outcome of the election for a selected
20 office. The auditor shall select precincts starting with the
21 statewide office with the largest winning margin and ending
22 with the precincts for the statewide office with the smallest
23 winning margin and then, in the same manner, select precincts
24 from each congressional district. The size of the random
25 sample for each office shall be determined as provided in Table

.193490.2

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

1 1 of this subsection. When a precinct is selected for one
 2 office, it shall be used in lieu of selecting a different
 3 precinct when selecting precincts for another office in the
 4 same congressional district, or for any statewide office. If
 5 the winning margin in none of the offices for which a voting
 6 system check is required is less than fifteen percent, a voting
 7 system check for that general election shall not be required.

8 Table 1

9	Winning margin between top	Number of precincts in the
10	two candidates for the	state to be tested for that
11	office according to the	office
12	county canvasses	
13	Percent	
14	greater than 15	no precincts for that office
15	greater than 14	
16	but less than or equal to 15	4
17	greater than 13	
18	but less than or equal to 14	4
19	greater than 12	
20	but less than or equal to 13	5
21	greater than 11	
22	but less than or equal to 12	5
23	greater than 10	
24	but less than or equal to 11	6
25	greater than 9.0	

.193490.2

SJC/SB 356

1	but less than or equal to 10	6
2	greater than 8.0	
3	but less than or equal to 9.0	7
4	greater than 7.0	
5	but less than or equal to 8.0	9
6	greater than 6.0	
7	but less than or equal to 7.0	10
8	greater than 5.5	
9	but less than or equal to 6.0	11
10	greater than 5.0	
11	but less than or equal to 5.5	13
12	greater than 4.5	
13	but less than or equal to 5.0	14
14	greater than 4.0	
15	but less than or equal to 4.5	16
16	greater than 3.5	
17	but less than or equal to 4.0	18
18	greater than 3.0	
19	but less than or equal to 3.5	22
20	greater than 2.5	
21	but less than or equal to 3.0	26
22	greater than 2.0	
23	but less than or equal to 2.5	32
24	greater than 1.8	
25	but less than or equal to 2.0	37

.193490.2

1	greater than 1.6	
2	but less than or equal to 1.8	42
3	greater than 1.4	
4	but less than or equal to 1.6	47
5	greater than 1.2	
6	but less than or equal to 1.4	54
7	greater than 1.1	
8	but less than or equal to 1.2	59
9	greater than 1.0	
10	but less than or equal to 1.1	65
11	greater than 0.9	
12	but less than or equal to 1.0	73
13	greater than 0.8	
14	but less than or equal to 0.9	82
15	greater than 0.7	
16	but less than or equal to 0.8	93
17	greater than 0.6	
18	but less than or equal to 0.7	109
19	greater than 0.5	
20	but less than or equal to 0.6	130
21	0.5 or less	automatic recount
22		for that office.

23 C. The auditor shall notify the appropriate county
 24 clerks of the precincts that are to be included in the voting
 25 system check upon their selection. The auditor shall direct

.193490.2

1 the appropriate county clerks to open the locked ballot boxes,
2 remove ballots from the selected precincts and compare the
3 original machine count precinct vote totals, including early
4 absentee and absentee by mail machine count vote totals, for
5 candidates for offices subject to the voting system check from
6 the selected precincts for each office with the respective vote
7 totals of a hand recount of the paper ballots from those
8 precincts. The county clerks shall report their results to the
9 auditor within ten days of the notice to conduct the voting
10 system check unless a county clerk is aware of a recount in any
11 office that includes one or more precincts in the county, in
12 which case the county clerk shall report the results of the
13 post-election audit to the auditor within ten days following
14 the conclusion of the recount.

15 D. Based on the results of the voting system check
16 and any other auditing results, the auditor shall determine the
17 error rate in the sample for each office. If the winning
18 margin decreases and the error rate based on the difference
19 between the vote totals of hand recounts of the paper ballots
20 and the original precinct vote totals exceeds ninety percent of
21 the winning margin for an office, another sample equal in size
22 to the original sample shall be selected and the original
23 precinct vote totals compared to the vote totals of hand
24 recounts. The error rate based on the first and second sample
25 shall be reported, and if it exceeds ninety percent of the

.193490.2

1 winning margin for the office, the state canvassing board shall
2 order that a full hand recount of the ballots for that office
3 be conducted.

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

8 F. Persons designated as county canvass observers
9 may observe the hand recount described in Subsection C of this
10 section. Observers shall comply with the procedures governing
11 county canvass observers as provided in Section 1-2-31 NMSA
12 1978.

13 G. If a recount for an office selected for a voting
14 system check is conducted pursuant to the provisions of Chapter
15 1, Article 14 NMSA 1978, the vote totals from the hand count of
16 ballots for that office in precincts selected for the voting
17 system check may be used in lieu of recounting the same ballots
18 for the recount.

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

22 **SECTION 40.** Section 1-14-16 NMSA 1978 (being Laws 2008,
23 Chapter 41, Section 3) is amended to read:

24 "1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

25 A. Immediately after filing of the application for
.193490.2

underscored material = new
[bracketed material] = delete

1 recount or recheck, or notice of an automatic recount, the
2 appropriate canvassing board shall issue an order to the county
3 clerk of each county where a precinct specified in the
4 application or notice is located commanding the county clerk to
5 convene [~~the absent voter~~] a recount precinct board at the
6 county seat on a day specified in the order, which date shall
7 not be more than ten days after the filing of the application
8 for a recount or recheck or notice of an automatic recount.

9 B. Upon receipt of the order, the county clerk
10 shall appoint a recount precinct board pursuant to the
11 provisions of Section 1-2-12 NMSA 1978 and shall send notices
12 by [~~registered~~] mail with delivery confirmation of the names of
13 the recount precinct board members and the date fixed for the
14 recount or recheck to the district judge for the county [~~the~~
15 ~~absent voter precinct board members~~] and the county chair of
16 each of the political parties that participated in the election
17 for the office in question. Presiding judges and election
18 judges on the recount precinct board shall be appointed from
19 among those persons who served as precinct board members in the
20 most recent election.

21 C. The [~~absent voter~~] recount precinct board,
22 district judge and county clerk shall meet on the date fixed
23 for the recount or recheck, and the ballot boxes and ballot
24 containers or voting machines of the precincts involved in the
25 recount or recheck shall be opened. The [~~absent voter~~] recount

1 precinct board shall recount and retally the ballots, or
 2 recheck the votes cast on the voting machines, as the case may
 3 be, for the office in question in the presence of the county
 4 clerk, district judge [~~or person designated to act for the~~
 5 ~~district judge~~] and any other person who may desire to be
 6 present.

7 D. After completion of the recount or recheck, the
 8 [~~absent voter~~] recount precinct board shall replace the ballots
 9 in the ballot boxes and ballot containers and lock them, or the
 10 voting machines shall be locked and resealed, and the precinct
 11 board shall certify to the [~~secretary of state~~] proper
 12 canvassing board the results of the recount or recheck. The
 13 district judge [~~or the person designated to act for the~~
 14 ~~district judge~~] and the county clerk shall also certify that
 15 the recount or recheck was made in their presence."

16 SECTION 41. Section 1-14-18 NMSA 1978 (being Laws 1969,
 17 Chapter 240, Section 347, as amended) is amended to read:

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

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

25 B. In making the recanvass, the proper canvassing

.193490.2

1 board shall be bound by the certificates of recount or recheck
2 from the [~~absent voter~~] recount precinct boards instead of the
3 original returns from the precinct boards.

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

15 SECTION 42. Section 1-14-19 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 348, as amended) is amended to read:

17 "1-14-19. RECOUNT--RECHECK--CANDIDATE FOR DISTRICT
18 JUDGE.--If a recount or recheck is demanded on the election of
19 a district judge and the judge of the district was a candidate
20 for partisan office at the election, the chief justice of the
21 supreme court shall designate a district judge who shall act in
22 such proceedings."

23 SECTION 43. Section 1-14-23 NMSA 1978 (being Laws 2007,
24 Chapter 337, Section 2) is amended to read:

25 "1-14-23. RECOUNT PROCEDURES.--

1 A. To ensure the accuracy of electronic vote
2 tabulating systems, [~~the secretary of state shall issue rules~~
3 ~~to implement the recount procedures provided for in Subsections~~
4 ~~B and C of this section.~~

5 ~~B.]~~ in a recount, the votes from a random selection
6 of ballots shall be tallied by hand, and the votes from the
7 same ballots shall be tabulated by [~~an~~] the electronic vote
8 tabulating system to be used in the recount. For statewide and
9 federal office, the number of ballots to be tallied and
10 tabulated shall be equal to at least two percent of the ballots
11 cast in each county. For all other offices, the number of
12 ballots to be tallied and tabulated shall be equal to the
13 greater of one hundred, or five percent, of the ballots cast
14 for the office, distributed by county where applicable. If
15 more than one electronic vote tabulating system is to be used
16 in a county, the ballots to be recounted shall be divided among
17 the electronic vote tabulating systems to be used, and the
18 above process shall be performed on each electronic vote
19 tabulating system based on the number of votes to be recounted
20 on each individual electronic vote tabulating system.

21 ~~[G. For a statewide or federal office]~~ B. If the
22 results of the hand tally and the electronic vote tabulating
23 system tabulation do not differ [~~by one-fourth of one percent~~
24 ~~or less~~], the remaining ballots shall be recounted using that
25 electronic vote tabulating [~~systems. Otherwise, the remaining~~

1 ~~ballots shall be recounted by hand.~~

2 ~~D. For offices other than statewide or federal~~
3 ~~offices, if the results of the hand tally and the electronic~~
4 ~~vote tabulating system tabulation differ by the greater of one~~
5 ~~percent or less, or two votes, the remaining ballots shall be~~
6 ~~recounted using electronic vote tabulating systems. Otherwise,~~
7 ~~the remaining ballots shall be recounted by hand.~~

8 E.] system. If the results of the hand tally and
9 the electronic vote tabulating system differ, the electronic
10 vote tabulating system shall not be used in the recount and the
11 remaining ballots shall be recounted by hand or on a different
12 electronic vote tabulating system in which the results did not
13 differ.

14 C. When using an electronic vote tabulating system
15 for a recount, a county clerk may permit a visual inspection of
16 the ballots prior to tabulation by the optical scan tabulating
17 system for the purpose of permitting a representative of a
18 candidate to identify individual ballots to be selected for
19 hand tally by the precinct board. Nothing in this section
20 prohibits a candidate from [requesting a] demanding a full hand
21 recount [in accordance with the provisions of Section 1-14-15
22 NMSA 1978]."

23 SECTION 44. Section 1-14-24 NMSA 1978 (being Laws 2008,
24 Chapter 41, Section 1) is amended to read:

25 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND

.193490.2

1 FEDERAL OFFICES--PROCEDURES.--

2 A. An automatic recount of the vote is required
3 when the canvass of returns for a federal or state office in a
4 primary or general election indicates that the margin between
5 the two candidates receiving the greatest number of votes for
6 the office is less than one-half of one percent of the total
7 votes cast for that office in that election.

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

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

23 D. For the purposes of this section, "state office"
24 means the office of governor, lieutenant governor, state
25 auditor, state treasurer, attorney general, secretary of state,

.193490.2

1 supreme court justice, court of appeals judge, district judge,
2 magistrate judge, public regulation commissioner, commissioner
3 of public lands, state senator or state representative."

4 SECTION 45. Section 1-22-2 NMSA 1978 (being Laws 1985,
5 Chapter 168, Section 4, as amended) is amended to read:

6 "1-22-2. DEFINITIONS.--As used in the School Election
7 Law:

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

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

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

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

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

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

25 SECTION 46. Section 1-22-3 NMSA 1978 (being Laws 1985,

.193490.2

1 Chapter 168, Section 5, as amended) is amended to read:

2 "1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF
3 CANDIDATES.--

4 A. A school district election shall be held in each
5 school district to elect qualified persons to membership on a
6 [~~local school~~] board. No person shall become a candidate for
7 membership on a board unless [~~his~~] the person's record of voter
8 registration shows that [~~he~~] the person is a qualified elector
9 of the state, physically resides in the school district in
10 which [~~he~~] the person is a candidate and [~~physically resided~~]
11 was registered to vote in the district on the date [~~of~~] the
12 [~~school~~] board's proclamation calling a regular school district
13 election is filed in the office of the county clerk.

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

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

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

25 SECTION 47. Section 1-22-5 NMSA 1978 (being Laws 1985,
.193490.2

1 Chapter 168, Section 7, as amended) is amended to read:

2 "1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

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

9 B. The proclamation shall specify:

10 (1) the date on which the special election
11 will be held;

12 [~~(2) the positions on the board to be filled;~~

13 [~~(3) the date on which declarations of
14 candidacy are to be filed;~~

15 [~~(4) the date on which declarations of intent
16 to be a write-in candidate are to be filed;~~

17 [~~(5)~~] (2) the questions to be submitted to the
18 voters;

19 [~~(6)~~] (3) the precincts in each county in
20 which the election is to be held and the location of each
21 polling place;

22 [~~(7)~~] (4) the hours each polling place will be
23 open; and

24 [~~(8)~~] (5) the date and time of the closing of
25 the registration books by the [~~county clerk of record~~] proper

1 filing officer as required by law.

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

10 SECTION 48. Section 1-22-6 NMSA 1978 (being Laws 1985,
11 Chapter 168, Section 8, as amended) is amended to read:

12 "1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

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

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

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

23 B. In the event that only one candidate has filed a
24 declaration of candidacy for each position to be filled at an
25 election and no declared write-in candidates have filed for any

.193490.2

1 position and there are no questions or bond issues on the
2 ballot, only one polling place for the election shall be
3 designated and it shall be in the office of the county clerk or
4 a designated polling place in the school district of the county
5 in which the school district is located.

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

13 SECTION 49. Section 1-22-7 NMSA 1978 (being Laws 1985,
14 Chapter 168, Section 9, as amended) is amended to read:

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

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

24 [~~B. A candidate for a school board position that~~
25 ~~will be filled at a special school district election shall file~~

1 ~~a declaration of candidacy with the proper filing officer~~
 2 ~~during the period commencing at 9:00 a.m. on the forty-eighth~~
 3 ~~day before the election and ending at 5:00 p.m. on the same~~
 4 ~~day.~~

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

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

11 **SECTION 50.** Section 1-22-8 NMSA 1978 (being Laws 1985,
 12 Chapter 168, Section 10, as amended) is amended to read:

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

17 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

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

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

.193490.2

1 Chapter 168, Section 21, as amended) is amended to read:

2 "1-22-19. ABSENTEE VOTING.--

3 A. A voter may vote in a school district election
4 by absentee ballot for all candidates and on all questions
5 appearing on the ballot in [~~his~~] the voter's precinct as if
6 [~~he~~] the voter were casting [~~his~~] the ballot in person at the
7 polling place on election day.

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

22 C. A regular precinct board may be designated to
23 serve as the absent voter precinct board. A member of the
24 absent voter precinct board shall receive the same compensation
25 as a regular precinct board member. A regular precinct board

.193490.2

1 member who also serves as a member of the absent voter precinct
2 board shall not be entitled to extra compensation for serving
3 on the absent voter precinct board."

4 SECTION 52. Section 22-5-3 NMSA 1978 (being Laws 1969,
5 Chapter 103, Section 2, as amended) is amended to read:

6 "22-5-3. SCHOOL BOARD MEMBERSHIP--OPTIONAL FORM.--

7 A. The local school board of any school district in
8 this state may by resolution provide for the local board of
9 that district to be composed of seven qualified electors of the
10 state who reside within the district. The resolution shall
11 provide that the board consist of seven separate positions, and
12 each such position shall be designated by number. Qualified
13 electors seeking election to the school board shall file and
14 run for only one of the numbered positions.

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

24 C. Upon receipt and verification of the petition,
25 the local school board shall within thirty days call a special

1 school election to vote upon the question of increasing the
2 membership of the local school board in that district to seven
3 members.

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

7 E. A resolution adopted pursuant to Subsection A of
8 this section shall conform to the requirements of Section
9 1-22-5 NMSA 1978 and shall provide for the election of two
10 additional school board members at ~~[a special]~~ the next regular
11 school district election. One new member shall be elected to
12 serve until the ~~[second]~~ first regular school board election
13 following the ~~[special school district]~~ member's election. The
14 second new member shall be elected to serve until the ~~[third]~~
15 second regular school board election following ~~[such special~~
16 ~~school district]~~ the member's election. Thereafter, persons
17 elected to fill the additional new positions on the board shall
18 be elected for terms as provided by law."

19 SECTION 53. Section 22-5-3.1 NMSA 1978 (being Laws 1981,
20 Chapter 302, Section 1) is amended to read:

21 "22-5-3.1. LOCAL SCHOOL BOARDS--REVERSION TO FIVE
22 MEMBERS.--

23 A. Any seven-member local school board of a school
24 district in the state may by resolution provide for the local
25 school board of that school district to be composed of five

.193490.2

1 qualified electors of the state who reside within the school
2 district.

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

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

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

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

21 C. Any resolution adopted pursuant to the
22 provisions of this section shall be effective thirty days after
23 its adoption unless a petition signed by the qualified electors
24 of the school district in a number equal to at least twenty
25 percent of all voters in the school district voting at the last

1 regular school board election is presented to the local school
 2 board on or before the thirtieth day asking that an election be
 3 held on the question of decreasing the membership of the local
 4 school board to five members.

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

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

15 SECTION 54. Section 22-5-9 NMSA 1978 (being Laws 1967,
 16 Chapter 16, Section 32, as amended) is amended to read:

17 "22-5-9. LOCAL SCHOOL BOARD VACANCIES.--

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

23 B. A qualified [~~person~~] elector appointed to fill a
 24 vacancy occurring in the membership of a local school board
 25 shall hold that office until the next regular school district

.193490.2

1 election when an election shall be held to fill the vacancy for
2 the unexpired term.

3 C. If a qualified [~~person~~] elector is not appointed
4 to fill the vacancy within forty-five days from the date the
5 vacancy occurred, the [~~state board~~] department shall appoint a
6 qualified [~~person~~] elector to fill the vacancy until the next
7 regular school district election.

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

15 SECTION 55. Section 22-7-13 NMSA 1978 (being Laws 1977,
16 Chapter 308, Section 13, as amended) is amended to read:

17 "22-7-13. SPECIAL RECALL ELECTION.--

18 A. The date of the special recall election shall be
19 set no later than [~~ninety~~] one hundred twenty days after the
20 date of the determination by the county clerk but in no event
21 shall the election be held within the period of time prohibited
22 for local government elections pursuant to Section 1-12-71 NMSA
23 1978.

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

1 member shall be recalled.

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

5 D. Whenever a special recall election is called,
6 the county clerk shall give public notice of the special recall
7 election by publishing information regarding the election once
8 each week for four consecutive weeks. The first publication of
9 the information shall be made between forty-five and sixty days
10 before the date of the special recall election. Information
11 regarding the election shall be in compliance with the federal
12 Voting Rights Act of 1965, as amended, and shall include the
13 date when the special recall election will be held, the
14 question to be submitted to the voters, a brief description of
15 the boundaries of each precinct, the location of each polling
16 place, the hours each polling place will be open and the date
17 and time of the closing of the registration books by the county
18 clerk as required by law.

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

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

.193490.2

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

4 **SECTION 56.** Section 27-5-9 NMSA 1978 (being Laws 1965,
5 Chapter 234, Section 9, as amended) is amended to read:

6 "27-5-9. TAX LEVIES AUTHORIZED.--

7 A. Subject to the provisions of Subsection B of
8 this section, the board of county commissioners, upon the
9 certification of the board as to the amount needed in the fund,
10 shall impose a levy against the net taxable value, as that term
11 is defined in the Property Tax Code, of the property in the
12 county sufficient to raise the amount certified by the board.

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

18 C. Upon finding by the board of county
19 commissioners that an election will be necessary, the board of
20 county commissioners shall meet and order an election to be
21 held at a designated time in the county upon the question of
22 imposing an indigent hospital levy for the purpose of the
23 Indigent Hospital and County Health Care Act in the county. If
24 the question is to be voted upon at a special election, the
25 election shall be held not less than thirty nor more than fifty

.193490.2

1 days after the finding, but in no event shall the election be
 2 held within [~~five~~] fifty days preceding or succeeding any
 3 general election held in the county. The order for the
 4 election shall be made a part of the official minutes of the
 5 board of county commissioners. A copy of the order shall be
 6 published in a newspaper of general circulation in the county
 7 at least fifteen days before the date set for the election, and
 8 an affidavit of publication shall be obtained. At least five
 9 days prior to the date for holding the election, the board of
 10 county commissioners shall publish in a newspaper of general
 11 circulation in the county and post in five conspicuous places
 12 in the county a notice of election, which shall be in
 13 substantially the following form:

14 "NOTICE OF ELECTION ON SPECIAL INDIGENT HOSPITAL LEVY

15 Notice is given on the _____ day of
 16 _____, [~~19~~] 20 ____, there will be held in
 17 _____ county of New Mexico an election on
 18 the question of imposing an indigent hospital levy for the
 19 purposes of the Indigent Hospital and County Health Care Act,
 20 such levy to be made annually against the taxable value of the
 21 property in the county and limited to an amount sufficient to
 22 provide funds necessary to pay claims pursuant to such act.

23 _____
 24 Official Title of the Authority".

25 The election shall be held on the date specified in the notice

1 and shall be, if a special election, conducted and canvassed in
2 substantially the same manner as general elections are
3 conducted and canvassed in the county; provided that the ballot
4 used in any election shall be a special and separate ballot and
5 shall be in substantially the following form:

6 "BALLOT

7 On the question of imposing an indigent hospital
8 levy for the purposes of the Indigent Hospital and County
9 Health Care Act, such levy to be made annually against the
10 taxable value of the property in _____ county of
11 New Mexico, and limited to an amount sufficient to provide
12 funds budgeted and certified as necessary to pay claims
13 pursuant to such act:

14 FOR THE LEVY....._____

15 AGAINST THE LEVY....._____".

16 D. If the electors vote in favor of an indigent
17 hospital levy, the levy shall become effective in the same
18 manner prescribed by law for all levies upon property within
19 that county, and a levy for those purposes in such an amount as
20 will provide sufficient money for the fund shall be made for
21 each year thereafter.

22 E. Any board of county commissioners that has,
23 prior to the effective date of this section, made a valid
24 imposition of a property tax for the purpose of the Indigent
25 Hospital and County Health Care Act shall not be required to

.193490.2

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

1 hold an election on the existing tax, and that tax may be
2 imposed and continue to be imposed in accordance with the
3 provisions of law existing at the time of its imposition.
4 However, if any such tax is not imposed in a given property tax
5 year or if the authorization for its imposition terminates or
6 expires, the election requirements of Subsections B and C of
7 this section shall apply to any subsequent proposed imposition
8 of a property tax for the purpose of the Indigent Hospital and
9 County Health Care Act."

10 SECTION 57. REPEAL.--Section 1-10-11 NMSA 1978 (being
11 Laws 1969, Chapter 240, Section 210, as amended) is repealed.

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underscoring = new
~~bracketed material~~ = delete