

HOUSE LOCAL GOVERNMENT, ELECTIONS, LAND GRANTS AND  
CULTURAL AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 98

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ELECTIONS; ENACTING THE LOCAL ELECTION ACT;  
PROVIDING FOR A SINGLE ELECTION DAY AND UNIFORM PROCESSES FOR  
CERTAIN LOCAL GOVERNMENT ELECTIONS; PROVIDING THAT CERTAIN  
BALLOT MEASURE ELECTIONS THAT ARE HELD AT TIMES OTHER THAN WITH  
REGULAR LOCAL ELECTIONS ONLY BE CONDUCTED BY MAILED BALLOT;  
REQUIRING SPECIAL STATEWIDE BALLOT QUESTION ELECTIONS TO BE  
CONDUCTED BY MAILED BALLOT; PROHIBITING ADVISORY QUESTIONS ON  
THE BALLOT; UPDATING CIRCUMSTANCES CAUSING A VACANCY IN LOCAL  
OFFICE; NAMING CHAPTER 1, ARTICLE 24 NMSA 1978 THE "SPECIAL  
ELECTION ACT"; CHANGING THE LIMITS ON SOIL AND WATER

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CONSERVATION LEVIES; REPEALING THE SCHOOL ELECTION LAW, THE MAIL BALLOT ELECTION ACT, THE MUNICIPAL ELECTION CODE AND OTHER PROVISIONS OF LAW IN CONFLICT WITH THE LOCAL ELECTION ACT; MAKING CONFORMING AMENDMENTS TO OTHER SECTIONS OF LAW; MAKING AN APPROPRIATION.

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

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

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

A. The Election Code applies to the following:

- (1) general elections;
- (2) primary elections;
- (3) [~~statewide~~] special elections;
- (4) elections to fill vacancies in the office of United States representative [~~in congress; and~~];
- (5) [~~school district~~] local elections included in the Local Election Act; and
- (6) recall elections of county officers, school board members or applicable municipal officers.

B. To the extent procedures are incorporated or adopted by reference by separate laws governing such elections or to the extent procedures are not specified by such laws, certain provisions of the Election Code shall also apply to

[~~(1) municipal officer or municipal bond~~

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elections; or

~~(2) special district officer or special district bond or other]~~ special district elections not covered by the Local Election Act."

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

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

A. The attorney general shall, upon request of the secretary of state, provide legal advice, assistance, services and representation as counsel in any action to enforce the provisions of the Election Code [~~and the Municipal Election Code~~].

B. Upon the request of the secretary of state or a county clerk, the attorney general and the several district attorneys of the state shall assign investigators or lawyers to aid the secretary of state and county clerks to ensure the proper conduct of an election.

C. Each district attorney shall assign a lawyer to be the elections prosecutor for the judicial district or for each county in the judicial district. The district attorney shall communicate and maintain current the name and contact information of the assigned elections prosecutor to the secretary of state and to each county clerk in the judicial district. The assigned elections prosecutor shall receive from the county clerk in the prosecutor's county or judicial district referrals of suspected violations of the Election

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Code. The assigned elections prosecutor shall each month report in writing to the county clerk and the district attorney the status of each referral until the matter is concluded."

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

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

A. [~~Not later than the first Monday in November~~] In June or July of each odd-numbered year, the board of county commissioners shall by resolution:

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

(2) consolidate any precincts for the next succeeding primary and general elections pursuant to Section 1-3-4 NMSA 1978;

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

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

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

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

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

~~[(4)]~~ ~~consolidate any precincts pursuant to Section 1-3-4 NMSA 1978;~~

~~(5)]~~ (8) divide any precincts as necessary to meet legal and constitutional requirements for redistricting [and

~~(6)]~~ ~~designate any mail ballot election precincts].~~

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

~~[B.]~~ C. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish a copy of the map showing the current geographical boundaries, designation and word description of each new polling place and each new or changed precinct.

~~[C.]~~ D. The secretary of state shall review all new

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or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act. Any necessary precinct boundary adjustments shall be made and submitted to the secretary of state no later than the first Monday in December of each odd-numbered year. Upon approval of the new or changed precincts by the secretary of state, the precincts and polling places as changed by the resolution of the boards of county commissioners and approved by the secretary of state shall be the official precincts and polling places for the next succeeding primary and general elections and the regular local election following the next succeeding general election."

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

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

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

- (1) primary and general elections; and
- (2) [~~statewide special~~] local elections.
- ~~[(3) countywide special elections; and~~
- ~~(4) elections to fill vacancies in the office~~

~~of United States representative.~~

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

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

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

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

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

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

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

~~(4)~~ (5) each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system;

~~(5)~~ (6) the county clerk may maintain any alternative voting locations previously used in the same election open for voting on election day for any voter in the county, in addition to the polling location established in each

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consolidated precinct; and

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

~~[E. When precincts are consolidated for a municipal election, school election or special county election, the proclamation, in addition to the other matters required by law, shall state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a municipal election, school election or special county election may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the proclamation.~~

~~F. When precincts are consolidated for a statewide special election or for a special election to fill a vacancy in the office of United States representative, within twenty-one~~

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~~days after the proclamation of election is issued by the governor, the board of county commissioners shall pass a resolution that, in addition to other matters required by law, shall state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a statewide special election or for a special election to fill a vacancy in the office of United States representative may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the resolution.~~

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

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

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

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

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

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

(6) have a secure area for storage of

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preprinted ballots or for storage of paper ballot stock and a system designed to print ballots at a polling location;

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

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

[H.] D. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more convenient and accessible to voters of the consolidated precinct and ~~does~~ will not result in delays for voters in the voting process and that the consolidated precinct voting location will be centrally located within the consolidated precinct."

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

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

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

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polling place and use a single precinct board.

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

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

D. If, in a precinct that is not a mail ballot election precinct or a consolidated precinct, there is no public building or public school building available in the precinct, and there is no other suitable place obtainable in the precinct, the board of county commissioners may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained. No polling place shall be designated outside the boundary of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

E. Upon application of the board of county commissioners, the governing board of any school district shall permit the use of any school building or a part thereof for registration purposes and the conduct of any election; provided

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that the building or the part used for the election complies with the standards set out in the federal Voting Accessibility for the Elderly and Handicapped Act.

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

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

"1-6-1. ABSENT VOTER ACT--SHORT TITLE.--~~[Sections 3-6-1 through 3-6-17 NMSA 1953]~~ Chapter 1, Article 6 NMSA 1978 may be cited as the "Absent Voter Act"."

SECTION 7. Section 1-6B-1 NMSA 1978 (being Laws 2015, Chapter 145, Section 25) is amended to read:

"1-6B-1. SHORT TITLE.--~~[Sections 25 through 41 of this act]~~ Chapter 1, Article 6B NMSA 1978 may be cited as the "Uniform Military and Overseas Voters Act"."

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

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

A. "appropriate clerk" means ~~[a]~~ the county clerk ~~[for elections conducted pursuant to the Election Code and a municipal clerk for elections conducted pursuant to the Municipal Election Code]~~ of the county in which the federal qualified elector is eligible to vote;

B. "federal postcard application" means the

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application prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act;

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

D. "military-overseas ballot" means:

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

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

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

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

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

A. The procedures in the Uniform Military and Overseas Voters Act apply to elections conducted pursuant to the Election Code [~~and the Municipal Election Code~~].

B. A federal qualified elector may vote for all

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candidates and on all questions as if the voter were able to cast a ballot in person.

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

D. To receive the benefits of the Uniform Military and Overseas Voters Act, a federal qualified elector shall inform the appropriate clerk that the individual is a federal qualified elector. Methods of informing the appropriate clerk include:

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

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

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

(4) the inclusion on a certificate of registration or an absentee ballot application or other information sufficient to identify the voter as a federal

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qualified elector."

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

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

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

B. The secretary of state shall establish an electronic transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk [~~or municipal clerk~~].

C. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from federal qualified electors shall be in the same form as those used in the jurisdiction where the voter is registered except as modified to comply with the Uniform Military and Overseas Voters Act or federal law. The secretary of state may, to the extent reasonably possible, coordinate with other states to develop standardized absentee-voting materials, including privacy and transmission envelopes and

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their electronic equivalents, authentication materials and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state.

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

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

- (1) official inner envelopes for use in sealing the completed absentee ballot;
- (2) official mailing envelopes for use in returning the official inner envelope to the appropriate clerk; provided that only the official mailing envelope for absentee

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ballots in a primary election shall contain a designation of party affiliation;

(3) absentee ballot instructions describing the proper methods for completion and return of the ballot, including instructions for those federal qualified electors returning a ballot electronically;

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

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

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

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

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

(1) using an absentee ballot application pursuant to the Absent Voter Act [~~or Municipal Election Code~~];

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

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

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

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

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

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

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

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

B. The appropriate clerk shall transmit a ballot

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and balloting materials as soon as practicable when the ballot application from a federal qualified elector arrives after the forty-fifth day before the election and before absentee ballots are transmitted to other voters pursuant to the Absent Voter Act [~~or the provisions of the Municipal Election Code~~].

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

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

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

"1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No municipal, [~~school~~] county or special district election or special local election shall be held within [~~fifty~~] seventy

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days prior to or following any statewide election HJC→**and no municipal top-two runoff election may be held within fifty days prior to any statewide election**←HJC. This section does not prohibit a local government ballot question authorized by the board of county commissioners from appearing on the general election ballot or regular local election ballot. As used in this section, "statewide election" means a primary, general or special statewide election or a regular local election as provided in the Local Election Act."

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

"1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

A. Whenever any candidate [~~for any office for which the state canvassing board or county canvassing board issues a certificate of nomination or election~~] believes that any error or fraud has been committed by any precinct board in counting or tallying the ballots, in the verification of the votes cast on the voting machines or in the certifying of the results of any election whereby the results of the election in the precinct have not been correctly determined, declared or certified, the candidate, within six days after completion of the canvass by the proper canvassing board, may have a recount of the ballots, or a recheck of the votes shown on the voting machines, that were cast in the precinct.

B. In the case of any office for which the state

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canvassing board issues a certificate of nomination or election, application for recount or recheck shall be filed with the secretary of state.

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

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

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

A. The form for ballots on questions other than proposed constitutional amendments to be submitted to the voters of the entire state shall be prescribed by the secretary of state. The form for ballots on those questions not statewide in application to be submitted to the voters of [~~the~~] a county or local government shall be furnished by the county clerk, and a copy of the resolution proposing [~~such~~] the question shall be sent by the county clerk to the secretary of state not less than [~~thirty~~] seventy days prior to the election. In each case, the ballots shall conform as nearly as practicable to the form required for ballots on proposed constitutional amendments.

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

SECTION 16. Section 1-22-1 NMSA 1978 (being Laws 1985, Chapter 168, Section 3) is repealed and a new Section 1-22-1

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NMSA 1978 is enacted to read:

"1-22-1. [NEW MATERIAL] SHORT TITLE.--Chapter 1, Article 22 NMSA 1978 may be cited as the "Local Election Act"."

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

"1-22-2. [NEW MATERIAL] DEFINITIONS.--As used in the Local Election Act:

- A. "local election" means a local government election;
- B. "local governing body" means a board, council or commission, as appropriate for a given local government;
- C. "local government" means a school district, a special hospital district, a community college district, a technical and vocational institute district, a learning center district, an arroyo flood control district, a special zoning district, a soil and water conservation district, a water and sanitation district and a municipality, including a home rule municipality governed pursuant to Article 10, Section 6 of the constitution of New Mexico, a municipality operating pursuant to a territorial charter or special charter and, beginning July 1, 2022, a conservancy district governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978 and a watershed district governed pursuant to the Watershed District Act;
- D. "municipal officers" means the local governing

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body and any executive and judicial officers of a municipality;  
and

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

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

"1-22-3. [NEW MATERIAL] REGULAR LOCAL ELECTIONS--SPECIAL LOCAL ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

A. A regular local election shall be held on the first Tuesday after the first Monday in CONF→SRC→November June←SRC← November←CONF of each odd-numbered year.

B. A local election shall be held to elect qualified persons to membership on a local governing body and, where applicable, to municipal executive office and to municipal judicial office. No person shall become a candidate in a local election unless the person's record of voter registration shows that the person is a qualified elector of the state, physically resides in the district in which the person is a candidate and was registered to vote in the district on the date the proclamation calling a local election is filed in the office of the secretary of state.

C. In addition to candidates in the election, a regular local election ballot may contain ballot questions proposed by the state, county or local government or as otherwise provided by law. An election on a ballot question held at any time other than the date for a regular local

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election shall be held with the general election CONF→, as provided by law, or municipal officer election if authorized by the governing body of the municipality;←CONF or shall be a special local election called, conducted and canvassed as provided in Chapter 1, Article 24 NMSA 1978.

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

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

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

"1-22-4. [NEW MATERIAL] REGULAR LOCAL ELECTION-- MUNICIPAL OFFICER ELECTION--PROCLAMATION--PUBLICATION.--

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

B. Between one hundred twenty and one hundred fifty days before the next local election, each local government

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shall notify the secretary of state of all local government positions that are to be filled at the next election for that local government.

C. The proclamation shall specify the:

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

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

- (1) date when the election will be held;
- (2) positions on each local governing body of

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a district situated in whole or in part in the county;

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

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

(5) location of each polling place;

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

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

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

E. Whenever two or more members of a local governing body are to be elected at large for terms of the same length of time, the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position. Whenever two or more members of a local governing body are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall list the office with the shorter length of time first and shall designate each position with "for a term expiring \_\_\_\_"."

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

"1-22-7. [NEW MATERIAL] DECLARATION OF CANDIDACY--FILING DATE--PENALTY.--

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

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

C. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

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

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

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

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

I, \_\_\_\_\_ (candidate's name on certificate

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of registration), being first duly sworn, say that I am a voter of the county of \_\_\_\_\_, State of New Mexico. I reside at

\_\_\_\_\_

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

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

I desire to become a candidate for the office of \_\_\_\_\_ at the local election to be held on the date set by law;

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

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

\_\_\_\_\_

(Signature of Declarant)

\_\_\_\_\_

(Mailing Address)

\_\_\_\_\_

(Residence Address)

Subscribed and sworn to before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_.

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(Notary Public)

My commission expires:

\_\_\_\_\_ ". "

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

"1-22-8.1. [NEW MATERIAL] WRITE-IN CANDIDATES.--

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

B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.

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

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

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

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

E. At the time of filing the declaration of candidacy, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place.

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

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

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

"1-22-9. [NEW MATERIAL] WITHDRAWAL OF CANDIDATES.--A candidate seeking to withdraw from a local election shall

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withdraw no later than the sixty-third day before that election by filing a signed and notarized statement of withdrawal with the proper filing officer."

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

"1-22-10. [NEW MATERIAL] BALLOTS.--

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

B. Ballots for the local election shall be prepared by the proper filing officer and printed in accordance with the provisions of Section 1-10-5 NMSA 1978. The printed ballot shall contain the name of each person who is a candidate and the position for which the person is a candidate. The ballot shall also contain all questions permitted by the board of county commissioners pursuant to Section 1-22-10.1 NMSA 1978 that are to be submitted to the voters as certified to the

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county clerk in each county in which the local government is situate by the local governing body and shall conform to the requirements of Section 1-16-8 NMSA 1978.

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

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

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

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

"1-22-10.1. [NEW MATERIAL] BALLOT ORDER.--

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

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

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(2) school board elections;  
(3) community college elections;  
(4) special district elections listed in order  
by voting population of each special district, with the most  
populous listed first and the least populous listed last; and  
(5) in the order prescribed by the secretary  
of state:

(a) county questions;  
(b) local government questions; and  
(c) other ballot questions authorized by  
law.

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

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

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page."

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

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

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

"1-22-13. [NEW MATERIAL] WATCHERS--OBSERVERS--  
CHALLENGERS.--

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

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

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

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

"1-22-15. [NEW MATERIAL] CANVASSING BOARD--DUTIES.--

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

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

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

(2) issue a certificate of canvass of the results of the election and send one copy of the certified results to:

(a) each local governing body receiving

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votes in the county;

(b) the secretary of state;

(c) the county clerk; and

(d) the state canvassing board, if the

results are for candidates or ballot questions voted on by the voters of more than one county.

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

D. In the event of a tie vote between any candidates in the election for the same office, the determination as to which of the candidates shall be declared to have been elected shall be decided by lot. The method of determining by lot shall be agreed upon by a majority of a committee consisting of the tied candidates and the county clerk and district judge of the county in which the administrative office of the local government is situate. The secretary of state shall issue the certificate of election to the candidate chosen by lot.

E. If a top-two runoff election is required in a municipal election, the canvassing board shall notify the

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relevant municipality within ten days following the local election.

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

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

"1-22-16. [NEW MATERIAL] MUNICIPAL RUNOFF ELECTIONS.--

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

(1) a top-two runoff election shall be conducted on a separate ballot when the candidate receiving the most votes for an office did not receive the percentage of votes required by the laws of the municipality to be elected in the first round of voting. When ordered, the top-two runoff election shall be held following the regular local election or municipal officer election and allow the voter to select between the two candidates who in the first round of voting received the highest number of votes for an office; and

(2) a ranked-choice runoff election shall be conducted on the same ballot as the regular local election or municipal officer election and allow the voter to rank the

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candidates for an office in the order of preference for the voter.

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

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

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

C. A municipality whose laws provide for a runoff election shall conduct the election in the manner provided by the municipality's ordinance or charter, provided that a municipality may by ordinance choose between conducting a top-two runoff election and a ranked-choice runoff election. The ordinance shall be filed with the secretary of state no later than January 30 of the year the next regular local election or municipal officer election is scheduled.

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

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

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

SECTION 31. Section 1-22-18 NMSA 1978 (being Laws 1985, Chapter 168, Section 20, as amended) is repealed and a new Section 1-22-18 NMSA 1978 is enacted to read:

"1-22-18. [NEW MATERIAL] LOCAL ELECTION--DATE TERM OF OFFICE BEGINS.--The term of office of a candidate elected in a regular local election CONF→SRC→~~or ensuing top-two runoff election~~←SRC or ensuing top-two runoff election←CONF shall begin on CONF→SRC→~~January July~~←SRC January←CONF 1 following the candidate's election CONF→SRC→~~or August 1 following an ensuing top-two runoff election~~←SRC←CONF, and the candidate to whom a certificate of election has been issued shall take the

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oath of office before entering upon the duties of office."

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

"1-22-19. [NEW MATERIAL] ABSENTEE VOTING--ALTERNATE VOTING LOCATIONS.--

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

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

C. A county clerk shall provide at least one alternate early voting or mobile alternate voting location in a municipality when requested by a municipality in the county; provided that the:

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

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

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

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

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

"[NEW MATERIAL] COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--LOCAL ELECTION FUND ESTABLISHED.--

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

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

(2) paying the administrative costs of the office of the secretary of state for administering elections required by the Local Election Act and for administering the local election fund; and

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

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

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

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

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

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

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

F. Each local government whose local governing body is elected in the regular local election shall pay an annual assessment to the secretary of state for deposit into the local election fund. The first one-half of the annual assessment shall be paid no later than thirty days following the close of the sixth month of each fiscal year, and the second one-half of the annual assessment shall be paid no later than thirty days

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following the close of each fiscal year. Assessments are based on a local government's general fund expenditures for each fiscal year; provided that no assessment shall be made on federal funds received by a local government nor on capital expenditures. The annual assessment shall be equal to two hundred fifty dollars (\$250) per one million dollars (\$1,000,000) or minor fraction thereof of the local government's general fund expenditures; provided that:

(1) for a municipality that adopts an ordinance pursuant to Section 1-22-16 NMSA 1978 to have a top-two runoff election, the annual assessment shall be equal to five hundred dollars (\$500) per one million dollars (\$1,000,000) or minor fraction thereof of the municipality's general fund expenditures; and

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

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

"[NEW MATERIAL] MUNICIPAL OFFICER ELECTION DAY--  
PROCEDURES--CONF→SRC→~~OPTING INTO REGULAR LOCAL ELECTIONS--~~  
~~SRC~~←CONF EXCEPTIONS.--  
CONF→SRC→~~A. Except as provided in Subsection B of this section, a municipality may by ordinance opt out of an election of its municipal officers in the regular local election if the municipality passes the ordinance and files the ordinance with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. A~~

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~~municipality that has passed an ordinance pursuant to this subsection may at any time rescind the ordinance opting out of the election of its municipal officers in the regular local election upon filing the rescission with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled.~~ ←SRC

~~SRC → A. All municipalities, except home rule municipalities with a population of more than ninety-five thousand according to the 2010 federal decennial census, shall elect their municipal officers on the municipal officer election day, which is the first Tuesday in March of even-numbered years.~~

~~————— B. Home rule municipalities with a population of more than ninety-five thousand according to the 2010 federal decennial census shall elect their municipal officers on the day specified in their charters.~~

~~————— C. Except as provided in Subsection D of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of office for current office holders will be lengthened or shortened to correspond with the new election date. A~~

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~~municipality that has passed an ordinance pursuant to this subsection may at any time rescind the ordinance opting into the election of its municipal officers in the regular local election upon filing the rescission with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled.~~←SRC←CONF

CONF→CONF→A. ~~Except as provided in Subsection B of this section, a municipality may by ordinance opt out of an election of its municipal officers in the regular local election if the municipality passes the ordinance and files the ordinance with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. A municipality that has passed an ordinance pursuant to this subsection may at any time rescind the ordinance opting out of the election of its municipal officers in the regular local election upon filing the rescission with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled.~~←CONF←CONF

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

B. Except as provided in Subsection C of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of

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office for current office holders will be lengthened or shortened to correspond with the new election date. A municipality that has passed an ordinance pursuant to this subsection may at any time rescind the ordinance opting in to the election of its municipal officers in the regular local election upon filing the rescission with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. ←CONF

CONF → ~~CONF~~ → SRC → ~~B~~ ~~D~~ ← SRC ← ~~B~~ ← CONF ← C ← CONF. A home rule municipality that pursuant to its charter is implementing a form of required voter identification that supersedes the provisions of Section 1-1-24 NMSA 1978 shall not elect its municipal officers at the regular local election.

CONF

→ ~~CONF~~ → SRC → ~~C~~ ~~E~~ ← SRC ← ~~C~~ ← CONF ← D ← CONF. For municipalities that SRC → ~~have opted out pursuant to Subsection A of this section or that are subject to Subsection B of this section~~ elect their officers on municipal officer election day ← SRC, all provisions of the Local Election Act as supplemented by the Election Code apply, except as provided in this section and except for those election procedures contained in the charter of a home rule municipality that operate in lieu of or in addition to the provisions of the Election Code.

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SRC→~~SRC→D F←SRC.~~ Elections held pursuant to this section shall be held on the municipal officer election day, which shall be the first Tuesday in March of each even-numbered year.←SRC

CONF→~~CONF→SRC→E G F←SRC D←CONF~~ E←CONF.

SRC→Declarations Except as otherwise provided in this subsection, declarations←SRC of candidacy for municipal officer elections shall be filed between 9:00 a.m. and 5:00 p.m. on the fifty-sixth day before the election. CONF→~~SRC→For a home rule municipality whose charter requires that a candidate file a declaration of candidacy before qualifying for public financing, declarations of candidacy shall be filed on the date provided in the municipality's charter.~~←SRC←CONF

CONF→For a home rule municipality whose charter or ordinance requires that a candidate file a declaration of candidacy before qualifying for public financing, declarations of candidacy shall be filed on the date provided in the municipality's charter.←CONF

Write-in candidates for municipal officer elections shall file declarations of candidacy between 9:00 a.m. and 5:00 p.m. on the forty-ninth day before the election. The last day to file a statement of withdrawal for a municipal officer election is forty-nine days before the election.

CONF→~~CONF→SRC→F H G←SRC E←CONF~~ F←CONF. Except for municipalities that, pursuant to Section 1-22-16 NMSA 1978, have chosen to have a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the

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election. For home rule municipalities that hold a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the runoff election.

CONF → ~~CONF~~ → SRC → ~~G I H~~ ← SRC ← ~~F~~ ← CONF G ← CONF. A municipality holding municipal officer elections pursuant to this section may place ballot questions on the ballot of an election held pursuant to this section and as otherwise provided in the Local Election Act.

CONF → ~~CONF~~ → SRC → ~~H J I~~ ← SRC ← ~~G~~ ← CONF H ← CONF. The municipal clerk shall fulfill the duties of the county clerk in the conduct of elections held pursuant to this section and, except for recall elections, special local elections held pursuant to Section 1-24-3 NMSA 1978. The county clerk shall maintain accurate voter registration information for each municipality located in the county. The county clerk shall provide to the municipal clerk, in advance of an election held pursuant to this section, the names of only those voters entitled to vote in the municipal election. The municipality shall bear the reasonable cost of preparation of the voter lists, signature rosters and voter registration in electronic format HJC → and all other costs of administering municipal officer and special elections held pursuant to this section ← HJC.

CONF → ~~CONF~~ → SRC → ~~I K J~~ ← SRC ← ~~H~~ ← CONF I ← CONF. The

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

CONF→~~CONF~~→SRC→J L K←SRC I←CONF J←CONF. The governing body of the municipality may act in relation to the duties of the board of county commissioners set forth in Section 1-3-2 NMSA 1978 that are applicable to the conduct of an election held pursuant to this section."

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

"[NEW MATERIAL] MUNICIPALITIES--ADJUSTMENT OF DATES FOR PROCEDURES AFFECTED BY THE LOCAL ELECTION ACT.--HJC→The ~~municipal clerk of a~~←HJC HJC→A. A ←HJC municipality that has enacted provisions or procedures in an ordinance or its charter that are supplemental to provisions in the Election Code shall adjust the calendar dates that implement those provisions and procedures to accord with the schedules imposed by the Local Election Act for the conduct of HJC→local or municipal officer ←HJC elections. The municipal clerk shall post the conforming dates on the municipality's website no later than January 30 of each odd-numbered year. HJC→"←HJC

HJC→B. A municipality may change its charter by

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ordinance or as otherwise provided by the municipality to conform its election schedule with the requirements of this section."←HJC

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

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

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

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

C. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign; but "contribution" does not

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include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or campaign committee;

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

E. "election cycle" means the period beginning thirty days after an election for an office and ending ~~[on]~~ thirty days following the subsequent election day for that office;

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

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

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

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

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

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

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

B. A candidate or campaign committee shall file a campaign report of all contributions received and expenditures made during an election cycle and not previously reported by midnight on the [~~second Monday in April~~] twenty-first day before the election and on the thirtieth day following the election.

C. If a reporting date set by Subsection B of this section falls on a [~~weekend or~~] holiday, the report shall be filed on the next business day.

D. If a candidate or campaign committee has not received any contributions and has not made any expenditures since the last report filed with the secretary of state, the candidate or campaign committee shall only be required to file

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a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due.

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

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

(1) there are no outstanding campaign debts;  
(2) all money has been expended in accordance with the provisions of Section [~~6 of the School District Campaign Reporting Act~~] 1-22A-10 NMSA 1978; and

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

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

H. A candidate may apply to the secretary of state for exemption from electronic filing in case of hardship, which

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shall be defined by the secretary of state."

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

"1-24-1. SHORT TITLE--SPECIAL ELECTION [PROCEDURES] ACT--APPLICATION--EXCEPTION.--~~[To the extent separate laws pertaining to the conduct of special elections by local governments or special districts or to the extent procedures are not specified under such separate laws for the conduct of special elections, the provisions of Sections 1 through 4 of this act shall apply]~~

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

B. Notwithstanding any state or local laws to the contrary, the provisions of the Special Election Act govern the conduct of all special elections conducted by the state or a local government, except for ballot questions printed on a general election ballot or a ballot on which local governing body members are elected pursuant to the Local Election Act."

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

"[NEW MATERIAL] DEFINITION.--As used in the Special Election Act, "local government" means:

- A. a county;
- B. a local government subject to the Local Election

Act; or

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

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

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

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

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

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

~~[(3) if officers are to be elected or positions on the governing body are to be filled, the date on which declarations of candidacy are to be filed;~~

~~(4) if a question is to be voted upon]~~

(3) the text of ~~[that question]~~ any questions to be voted on; and

~~[(5) the precincts in each county in which the election is to be held and the location of each polling place in the precinct;~~

~~(6) the hours that each polling place will be open; and~~

~~(7)]~~ (4) the date and time of closing the registration books by the county clerk as required by law.

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

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

- (1) the date on which the special election will be held;
- (2) the purpose for which the special election is called;
- (3) if a vacancy in the office of United States representative is to be filled, the date on which declarations of candidacy are to be filed;

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(4) ~~[if a question is]~~ the text of any questions to be voted upon ~~[the text of that question]~~; and

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

D. After the proclamation issued pursuant to Subsection C of this section is filed with the secretary of state, the secretary of state shall within five days certify the proclamation to each county clerk in the state.

Beginning not less than sixty-three days before the date of the election, the county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation ~~[which shall include the precincts in the county in which the election is to be held and the location of each polling place in the precinct and the hours that each polling place will be open]~~.

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

**SECTION 41.** Section 1-24-3 NMSA 1978 (being Laws 1989, Chapter 295, Section 3) is amended to read:

"1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--  
~~[Special elections shall be conducted and canvassed in the same manner that regular elections are conducted in the local government or special district; provided, the governing body may, as set forth in the proclamation, consolidate precincts.~~

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~~A polling place shall be provided within each of the consolidated precincts.]~~

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

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

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

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

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

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"[NEW MATERIAL] SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

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

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

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

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

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

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

B. Each page or group of pages of a petition shall be accepted for filing by a municipal clerk, a county clerk, a governing body or a board of county commissioners only if:

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

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

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

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

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

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

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

(4) a statement that any person knowingly providing or causing to be provided any false information on a petition, forging a signature or signing a petition when

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that person knows that person is not a qualified elector in the municipality is guilty of a fourth degree felony.

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

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

F. Upon approval of a proposed petition as to form, the municipal clerk shall notify the county clerk of the approval, and the county clerk shall furnish a current voter registration list of qualified electors entitled to

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vote in municipal elections to the municipal clerk within fourteen days of the notification.

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

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

(1) resolve issues of residency and major infractions in accordance with the ~~[rules set forth in the Municipal]~~ Election Code;

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

(3) examine the petition and the names, addresses and signatures on the petition, purge from the petition the signature of any person who is not shown as a qualified elector of the municipality on the list of registered voters provided by the county clerk, purge any signature that is a forgery or that is illegible, purge any

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signature that appears more than once or that cannot be matched to the name, address and signature as shown on the voter registration lists and the original affidavit of registration, purge the signature of any person who has not signed within the time limits set by law and purge the signature of any person who does not meet the qualifications for signing the petition as prescribed by law; and

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

I. Nothing in this section shall preclude a person with a disability or an illiterate person from causing another person to sign a petition on a person with a disability's or an illiterate person's behalf, so long as the person signing for the person with a disability or illiterate person executes an affidavit acknowledged before a notary public that the person is authorized to sign the petition for the person with a disability or illiterate person. In order for the signature on behalf of the person with a disability or illiterate person to be counted and not purged, the original affidavit shall be submitted along with the petition containing the signature on behalf of the illiterate person or person with a disability.

J. If the petition is certified as valid pursuant to Subsection G of this section or is certified as containing

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in excess of the minimum number of valid names, addresses and signatures mandated by law, then such certification shall be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners.

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

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

(2) determine the total number of people signing the petition, the number purged, the number that were not purged and the minimum number of valid names, addresses and signatures required by law for such a petition and post this information along with and at the same time as the posting required in Paragraph (1) of this subsection;

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

(4) cause the information compiled pursuant to Paragraphs (1) and (2) of this subsection and the date and place of publication pursuant to Paragraph (3) of this

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subsection to be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners after publication has occurred.

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

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

(2) if the clerk fails to reinstate that person's signature within three days of demand, then that person may, within ten days of the clerk's refusal to reinstate, petition the district court for an order to reinstate the person's signature on the petition. Upon a prima facie showing by the petitioner of the right to have that person's signature included upon the petition, the district court shall issue an order to the municipal clerk, county clerk, governing body or board of county commissioners to require reinstatement of the signature of the petitioner;

(3) within ten days after receiving the order of the district court, the municipal clerk, county clerk, governing body or board of county commissioners shall reinstate the signature of the petitioner on the petition or show cause why the signature of the petitioner has not been reinstated. Upon hearing, if the district court finds that the person whose signature has been purged meets the

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qualifications for signing the petition, the district court shall make final its order of reinstatement to the municipal clerk, county clerk, governing body or board of county commissioners; and

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

M. Any petition that contains an insufficient number of signatures after all signatures have been reinstated pursuant to Subsection L of this section is invalid.

N. When a petition governed by this section is filed with the municipal clerk or the governing body of a municipality, the governing body or municipal clerk shall perform or cause to be performed the duties required under this section, except as otherwise prohibited by law. When a petition governed by this section is required to be filed with the county clerk or board of county commissioners, the board of county commissioners or county clerk shall perform or cause to be performed the duties required under this

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section, except as otherwise prohibited by law.

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

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

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

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

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

(4) the charter of a combined municipal organization.

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

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

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

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

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

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

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

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

(1) not within the boundary of an existing municipality and not within the urbanized area of a

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municipality; or

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

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

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

E. Based on the census results and the municipal incorporation review team's report, if the board of county commissioners determines that the conditions for incorporation have not been met, the board of county commissioners shall notify the petitioners of its determination by publishing in a newspaper of general circulation in the territory proposed to be incorporated, once, not more than ten days after its determination, a notice of its determination that the conditions for incorporation have not been met. If there is no newspaper of

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general circulation in the territory proposed to be incorporated, notice of the determination shall be posted in eight public places within the territory proposed to be incorporated.

F. After the board of county commissioners has determined that all of the conditions for incorporation of the territory as a municipality have been met, the board of county commissioners shall hold an election on the question of incorporating the territory as a municipality. Special elections for the incorporation of municipalities shall only be held in June or July in odd-numbered years [~~on the first Tuesday in July or in any year on the first Tuesday in January, unless that Tuesday is a holiday, in which case the election shall be held on the second Tuesday in July or the second Tuesday in January~~] or July or August in even-numbered years and shall be held pursuant to the provisions of the Local Election Act. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the incorporation election within ten days after the adoption of the resolution calling the election.

G. The signers of the petition or a municipality within whose urbanized area the territory proposed to be incorporated is located may appeal any determination of the board of county commissioners to the district court pursuant

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to the provisions of Section 39-3-1.1 NMSA 1978."

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

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

A. If a majority of the votes cast [~~favor~~] favours the incorporation of the territory as a municipality, the board of county commissioners shall [~~within fifteen days after declaring the results of the election~~] call an election for the purpose of electing municipal officers [~~Except for the fact that the election need not be held on the date specified in the Municipal Election Code for the regular municipal election, the election shall be called and conducted in the manner provided in the Municipal Election Code for regular municipal elections. The board of county commissioners shall perform the duties imposed by the Municipal Election Code upon the governing body of the municipality and the county clerk shall perform the duties imposed by the Municipal Election Code upon the municipal clerk~~] at the first regular local or general election following approval. The election shall be conducted pursuant to the provisions of the Local Election Act. The county clerk [~~also~~] shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the first election of municipal officers within ten days after the county commissioners have called the election.

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B. At the first election for municipal officers following a vote in favor of incorporating territory as a municipality, the ~~[term]~~ terms of office for the mayor and the municipal judge shall be until the next regular ~~[municipal]~~ local election. The terms of office for one-half of the members of the governing body shall be until the next regular ~~[municipal]~~ local election and for the remaining one-half of the members of the governing body until the second regular ~~[municipal]~~ local election is held. The elected municipal officers shall continue in office until their successors are elected and qualified. The length of the terms of the first members shall be determined by lot."

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

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

A. If a petition signed by qualified electors of the municipality equal in number to not less than one-eighth of the total number of votes at the last preceding regular municipal election requests the governing body to submit to the qualified ~~[municipal]~~ electors the question of reorganizing the municipality under the provisions of the

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Municipal Code, the governing body shall, within fourteen days after the petition is certified as valid, adopt an election resolution calling for a special election in the manner provided in the [~~Municipal Election Code~~] Local Election Act on the question of reorganizing the municipality under the provisions of general law. The special election shall only be held [~~within sixty days after the date the election resolution is adopted~~] in June or July in odd-numbered years or July or August in even-numbered years in accordance with the provisions of the Local Election Act.

B. The petition may further propose that the boundary of the municipality incorporated by special act be extended by including any or all territory [~~which~~] that is:

- (1) laid off or platted;
- (2) adjoining or contiguous to the municipality or any addition or subdivision of the municipality; and
- (3) not within the boundary of another municipality.

C. The petition shall describe the boundary of the municipality as it would exist if the municipality incorporated by special act is reorganized under general law. The registered voters residing within the boundary of the municipality as it would exist if the municipality incorporated by special act is reorganized may vote in the election authorized in this section."

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

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

A. If a majority of the votes cast on the question of reorganizing a municipality incorporated by a special act [~~favor~~] favours reorganizing the municipality under general law, the governing body shall [~~within fourteen days after the results of the election reorganizing the municipality under general law have been canvassed and certified~~] adopt an election resolution calling for an election of officers, which shall be held at the first regular local or general election following approval of reorganization. The election shall be called, conducted and canvassed in the manner provided in the [~~Municipal Election Code for the election of officers at a regular municipal election, except that the provisions of Section 3-8-25 NMSA 1978 shall not apply and the election shall be held not later than one hundred and twelve days from the adoption of the election resolution~~] Local Election Act.

B. The terms of office for the mayor, municipal judge and one-half of the members of the governing body shall be until the next regular [~~municipal~~] local election. The terms of office for the remaining one-half of the governing body shall be until the second regular [~~municipal~~] local election is held. The elected municipal officers shall

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continue in office until their successors are elected and qualified. The length of terms of the first members shall be determined by lot."

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

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

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

"PETITION TO DISINCORPORATE THE MUNICIPALITY OF. . . . .

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

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

The day for holding the election shall not be less than fifty days ~~not~~ or more than sixty days after the board of

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county commissioners adopts the election resolution.

B. Notice of the election shall be published as required [~~for special elections as set forth in the Municipal Election Code~~] in the Local Election Act."

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

"3-4-3. DISINCORPORATION--CONDUCT OF ELECTION.--The election for disincorporation shall be conducted [~~in the same manner as a special municipal election except that the election officials shall be appointed by the board of county commissioners, and the county clerk shall perform the duties of the municipal clerk and the board of county commissioners shall perform the duties of the governing body. The election returns shall be made to the board of county commissioners and canvassed in the same manner as are special election returns~~] pursuant to the provisions of the Local Election Act."

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

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

A. Whenever any two or more contiguous municipalities wish to consolidate as one municipality, the governing body of each municipality shall appoint three

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commissioners who shall prepare the terms for consolidation and submit the terms for consolidation to the respective governing bodies. If each governing body approves the terms for consolidation, it shall adopt an ordinance declaring [~~its~~] approval of the terms for consolidation and shall provide for an election on the question of consolidation. The election shall be conducted pursuant to the provisions of the Local Election Act.

B. If a majority of the votes cast in each municipality [~~favor~~] favours consolidation, the governing body of each municipality shall declare, by ordinance, that consolidation has been approved between the municipalities and proceed to consolidate under the terms for consolidation. The municipal clerk of each municipality shall notify the secretary of finance and administration and the secretary of taxation and revenue that the consolidation has been approved by the electorate. If the question of consolidating the municipalities fails to receive a majority vote favoring consolidation in any one of the municipalities, the consolidation shall fail.

C. If on the day of the election on consolidation any municipality proposing to consolidate has outstanding indebtedness or a judgment payable from a tax on property and the consolidation is approved, a tax sufficient to pay the interest and principal on such indebtedness or judgment shall continue to be levied on the property within the boundary of the municipality as it existed on the day of the election on the question of consolidation. Indebtedness created by the

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issuance of revenue bonds and the current obligations of each municipality shall be assumed by the consolidated municipality. The consolidated municipality may refund the indebtedness of the municipalities ~~[which]~~ that are consolidated.

D. Certified copies of the entire proceedings for consolidation shall be filed with the clerk of the municipality so consolidated, ~~[with]~~ the county clerk and the secretary of state. When certified copies of the consolidation have been filed as required in this section, the consolidation is complete."

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

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

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

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

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

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

C. Notwithstanding the provisions of Subsection A of this section, a municipality with a population of five

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hundred persons or less in the last federal decennial census shall not have a municipal judge if it adopts an effective ordinance in accordance with the provisions of Subsection B of Section 35-14-1 NMSA 1978.

D. In every noncharter municipality, except those noncharter municipalities having a commission-manager form of government or electing members of the governing body from districts, the terms of office for the mayor and members of the governing body shall be four years. The term of office for members of the governing body shall be staggered so that the terms of office for one-half of the members of the governing body will expire every two years.

E. Any elected municipal official whose term of office has expired shall continue in that office until ~~his~~ a successor is elected and has taken office pursuant to the provisions of the ~~[Municipal Election Code]~~ Local Election Act."

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

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

A. At the organizational meeting of the governing body ~~[which shall be scheduled pursuant to Section 3-8-33 NMSA 1978 of the Municipal Election Code]~~, the mayor shall submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality and the names of persons who shall be employed by the municipality. If the governing body fails to confirm

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any person as an appointive official or employee of the municipality, the mayor at the next regular meeting of the governing body shall submit the name of another person to fill the appointed office or to be employed by the municipality.

B. Any person holding an appointed office at the time of the municipal election shall continue in that office until ~~[his]~~ the person's successor has been appointed and is qualified."

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

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

~~[A. Except as provided in Subsection B of this section]~~ Any vacancy on the governing body of a mayor-council municipality shall be filled by appointment of a qualified elector by the mayor of the municipality, with the advice and consent of the governing body. Any qualified elector appointed to fill a vacancy on the governing body shall serve until the next regular ~~[municipal]~~ local election ~~[or any special election called in accordance with Subsection B of this section]~~, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any.

~~[B. A special election for the purpose of filling a vacancy on the governing body may be called by the mayor with the consent of the governing body or by the governing body.~~

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~~Except for the fact that the election need not be held on the date specified in the Municipal Election Code for the regular municipal election, the special election to fill a vacancy shall be conducted in the manner set forth in the Municipal Election Code for regular municipal elections. However, this subsection shall not apply to those municipalities which have adopted a charter under the provisions of Article 10, Section 6 of the constitution of New Mexico or to those counties which have incorporated under the provisions of Article 10, Section 5 of the constitution of New Mexico.]"~~

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

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

A. The clerk of the municipality shall:

- (1) keep in custody all minutes, ordinances and resolutions approved by the governing body;
- (2) attend all meetings of the governing body;
- (3) record all proceedings, ordinances and resolutions of the governing body; and
- (4) upon request, furnish copies of municipal records. The clerk may charge a reasonable fee for the cost of furnishing copies of municipal records.

B. The mayor with the consent of the governing body may designate other municipal employees to be deputy municipal clerks who shall have the right and duty to perform all of the duties of the municipal clerk [~~including but not limited to the duties created in the Municipal Election Code~~]."

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

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

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

B. The question to be placed shall read substantially as follows:

"For the commission-manager form of government and providing for the election of five commissioners \_\_\_\_; and

Against the commission-manager form of government

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and providing for the election of five commissioners \_\_\_\_".

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

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

A. Within ten days after the adoption of the commission-manager form of government, the governing body shall adopt an election resolution calling for the holding of ~~[a special]~~ an election ~~[within one hundred twenty days after the adoption of the commission-manager form of government]~~ for the purpose of electing five commissioners at the first regular or local or general election following adoption of the resolution. The election shall be conducted in the same manner as are regular ~~[municipal]~~ local elections pursuant to the terms of the ~~[Municipal Election Code]~~ Local Election Act. The commissioners so elected shall determine their terms of office by lot, so that three commissioners shall serve until the next regular ~~[municipal]~~ local election and two commissioners shall serve until the succeeding regular ~~[municipal]~~ local election.

B. Their respective successors shall hold office for staggered periods of four years and until their successors are elected and take office as provided in the ~~[Municipal Election Code]~~ Local Election Act."

SECTION 57. Section 3-14-9 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-9, as amended) is amended to read:

"3-14-9. VACANCIES IN COMMISSION.--

~~[A. Except as provided in Subsection B of this section]~~ If a vacancy occurs in the commission, the remaining

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elected and appointed commissioners shall, by a majority vote, appoint a qualified elector to fill the vacancy until the next regular [~~municipal~~] local election [~~or any special election called in accordance with Subsection B of this section~~], at which time a qualified elector shall be elected to fill the remaining unexpired term, if any.

~~[B. A special election for the purpose of filling a vacancy on the governing body may be called by the chairman with the consent of the governing body or by the governing body. Except for the fact that the election need not be held on the date specified in the Municipal Election Code for the regular municipal election, the special election to fill a vacancy shall be conducted in the manner set forth in the Municipal Election Code for regular municipal elections. However, this subsection shall not apply to those municipalities which have adopted a charter under the provisions of Article 10, Section 6 of the constitution of New Mexico or to those counties which have incorporated under the provisions of Article 10, Section 5 of the constitution of New Mexico.]"~~

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

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

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

B. If a majority of the votes cast at the special election [~~favor~~] favours abandonment of the commission-manager form of government, the form of government reverts to that form of government existing immediately preceding the adoption of the commission-manager form of government after the election and taking office of the new officers and the commission shall [~~within ten days after the filing of the certificate of canvass in the minute book~~] adopt an election resolution calling for the holding of [~~a special~~] an election [~~within one hundred twenty days of such filing~~] to elect new officers, which shall be held at the first regular local or general election following adoption of the resolution.

C. The election shall be held in the same manner as regular [~~municipal~~] local elections are held as provided in the [~~Municipal Election Code~~] Local Election Act. The mayor and one-half of the members of the governing body shall hold office until the next regular [~~municipal~~] local election and the remaining one-half of the members of the governing body

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shall hold office until the succeeding regular [~~municipal~~]  
local election. The terms of the members of the governing  
body shall be determined by lot after their election.

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

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

"3-15-10. QUALIFICATIONS OF VOTERS--BALLOTS--CONDUCT OF  
ELECTION--EFFECT OF ADOPTION.--All qualified electors  
residing within the municipality shall be qualified to vote  
at the special election held under [~~Sections 14-14-1 through  
14-14-14 New Mexico Statutes Annotated, 1953 Compilation~~] the  
Municipal Charter Act, and the vote shall be by separate  
ballots, one of which shall be:

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

"Against adoption of charter .

The special election shall be conducted in accordance with  
[~~Sections 14-8-1 through 14-8-17 New Mexico Statutes  
Annotated, 1953 Compilation~~] the Local Election Act and if a  
majority of all the votes cast shall favor the adoption of  
the charter, the [~~same~~] charter shall take effect immediately  
insofar as necessary to authorize the election of officers

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~~[thereunder]~~, but shall not take effect otherwise until such date as may be specified in the charter, which date shall not be less than sixty days after the special election. After the date fixed by the charter, the municipality shall be deemed reorganized under the provisions of the charter, and the powers and duties of all officers elected or appointed under the former laws shall cease."

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

"3-15-11. FIRST ELECTION OF OFFICERS--TIME--LAW GOVERNING.--In case the charter is adopted pursuant to Section 3-15-10 NMSA 1978, it shall be the duty of the presiding officer of the governing body of the municipality to issue a proclamation calling a special election for the election of such elective officers as may be provided for in the charter. The election shall be at least ten days before the date specified in the charter for it to go into effect, and the election shall be held in accordance with the provisions of the Local Election Act and the charter."

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

"3-21-19. ZONING COMMISSION.--A zoning commission consisting of five members shall be elected by the registered electors residing within the district in accordance with the provisions of the Local Election Act. Members of the commission shall be residents of the district, and each shall be elected for a term of two years. Any vacancy on the commission shall be filled by the remaining members

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appointing a new member to fill the unexpired term. Members of the commission shall serve without compensation."

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

"3-21-20. ELECTION OF MEMBERS TO THE COMMISSION.--

~~[Within sixty days after the creation of a district, the county commissioners of the county in which the district is situate shall hold an election for members to the commission. When the district is situate in more than one county, the county commissioners of the counties shall cooperate in conducting an election for members to the commission. The election shall be conducted in the same manner as elections for municipal school board members. The cost of conducting elections for members to the commission shall be borne by the county or counties in which the district is situate. Each county shall pay its pro rata share, which is determined by the number of registered electors of the district residing within the county.]~~ Election of members to the commission shall be conducted pursuant to the Local Election Act."

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

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

A. No municipality shall acquire a municipal utility from funds acquired from the issuance of revenue bonds until the question of acquiring the utility is

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submitted, at a regular [~~municipal~~] local election or special election, to a vote of the qualified electors of the municipality, and a majority of the votes cast on the question [~~favor~~] favours the acquisition of the utility. No special election shall be set for a date ninety days prior to the day of a regular [~~municipal~~] local election. The acquisition by a municipality, which owns municipal electric facilities on July 1, 1979, of a generating facility or any interest in a jointly owned generating facility from funds acquired from the issuance of revenue bonds shall not be subject to the election requirement of this section.

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

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

(2) allow each voter to indicate whether [~~he~~] the voter favors or opposes the acquisition.

C. The election shall be called and conducted as provided in [~~Sections 3-8-1 through 3-8-19 NMSA 1978~~] the Local Election Act.

[~~G.~~] D. If a majority of the votes cast on the question [~~favor~~] favours the acquisition of the utility, the governing body may acquire the utility.

[~~D.~~] E. If, pursuant to Article 9, Section 12 of the [~~New Mexico~~] constitution of New Mexico and Sections 3-30-1 through 3-30-9 NMSA 1978, the qualified electors of the municipality and nonresident municipal electors have voted in favor of creating a debt for the acquisition of a

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

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

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

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

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

C. Earnings from investment of a municipal utility permanent fund may be budgeted and appropriated by the governing body of the municipality for expenditure for any purpose related to the operation, maintenance and improvement

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of the municipal utility or deposited in the municipal utility permanent fund.

D. Money in the municipal utility permanent fund may be appropriated or expended only pursuant to approval of the voters of the municipality. The municipality may adopt a resolution calling for an election on the question of the expenditure of a specified amount of the municipal utility permanent fund for a specified purpose. The election shall be held within sixty days after the adoption of the resolution by the governing body. The election shall be called, conducted, counted and canvassed [~~substantially in the manner provided by law for special municipal elections pursuant to the Municipal Election Code~~] pursuant to the provisions of the Local Election Act. If a majority of the voters of the municipality voting on the question [~~vote~~] votes to approve the expenditure, that amount of money shall be available for appropriation from the municipal utility permanent fund for expenditure by the municipality for the specified purpose. If a majority of the voters of the municipality voting on the question [~~vote~~] votes against the expenditure, no money in the municipal utility permanent fund may be appropriated or expended for that purpose. Following an election at which the question was not approved, that question shall not again be submitted to the voters of the municipality for at least one year from the date of that election."

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

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

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

B. The governing body of the municipality shall give notice of the time and place of holding the election and the purpose for which the bonds are to be issued. ~~[Notice of a bond election shall be given as required in the Municipal Election Code for special elections. A change in the location of a polling place after notice has been given shall not invalidate a bond election.]~~ The election shall be conducted pursuant to the provisions of the Local Election Act.

C. The question shall state the purpose for which the bonds are to be issued and the amount of the issue. If bonds are to be issued for more than one purpose, a separate question shall be submitted to the voter for each purpose to be voted upon. The ballots shall contain words indicating the purpose of the bond issue and a place for a vote "For . .

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. (designate type) bonds" and "Against . . . (designate type) bonds" for each bond issue. The ballots shall be deposited in a separate ballot box unless voting machines are used."

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

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

A. The vote upon each question proposing to issue negotiable bonds shall be canvassed as provided in the [~~Municipal Election Code~~] Local Election Act, and the municipal clerk shall [~~certify the results of the election and~~] file the certificate of canvass in the official minute book of the municipality.

B. If a majority of those voting on the question [~~favor~~] favours the creation of the debt, the governing body of the municipality may proceed to issue the negotiable bonds."

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

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

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

- (1) declares the necessity for issuing revenue

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bonds;

(2) authorizes the issuance of revenue bonds by an affirmative vote of three-fourths of all the members of the governing body; and

(3) designates the source of the pledged revenues.

B. If a majority of the governing body, but less than three-fourths of all the members, votes in favor of adopting the ordinance authorizing the issuance of revenue bonds, the ordinance is adopted but shall not become effective until the question of issuing the revenue bonds is submitted to a vote of the qualified electors for their approval at a special or regular ~~[municipal]~~ local election. If an election is necessary, the election shall be conducted in the manner provided in ~~[Sections 3-8-1 through 3-8-19 NMSA 1978. Notice of the election shall be given as provided in Section 3-8-2 NMSA 1978]~~ the Local Election Act.

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

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resolution that:

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

(2) authorizes the issuance and sale of revenue bonds to the New Mexico finance authority by an affirmative vote of a majority of all the members of the governing body; and

(3) designates the source of the pledged revenues.

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

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

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

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

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

B. Before levying the tax, the municipality shall submit to the qualified electors of the municipality the question of levying the tax. The question may be submitted at any regular or special ~~[municipal]~~ local election called for that purpose. Notice of the election shall be given as provided in the ~~[Municipal Election Code for special elections]~~ Local Election Act.

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

D. If a majority of the votes cast ~~[favor]~~ favours the levy of the tax, the governing body shall levy and certify the levy as any other tax is levied for municipal

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purposes.

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

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

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

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

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

B. A municipality may lease or sell and exchange any municipal utility facilities or real property having an appraised value in excess of twenty-five thousand dollars (\$25,000) by public or private sale or lease, subject to the referendum provisions set forth in this section. The value of municipal utility facilities or real property to be leased or sold and exchanged shall be determined by the appraised value of the municipal utility facilities or real property

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and not by the value of the lease. An appraisal shall be made by a qualified appraiser and submitted in writing to the governing body. If the sale price is less than the appraised value, the governing body shall cause a detailed written explanation of that difference to be prepared, and the written explanation shall be made available to any interested member of the public upon demand.

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

D. Any sale or lease of municipal utility facilities or real property entered into pursuant to Subsection B of this section shall be by ordinance of the municipality. Such an ordinance shall be effective forty-five days after its adoption, unless a referendum election is held pursuant to this section. The ordinance shall be published prior to adoption pursuant to the provisions of

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Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3 NMSA 1978 and shall be published after adoption at least once within one week after adoption pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978. Such publications shall concisely set forth at least:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;
- (4) the amount of the lease or sale;
- (5) the identities of the purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

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

- (1) no later than thirty days after the adoption of the sale or lease ordinance;
- (2) containing the names, addresses and signatures of at least fifteen percent of the qualified electors of the municipality; and
- (3) containing the following heading on each page of the petition reprinted as follows:

"PETITION FOR A REFERENDUM

We, the undersigned registered voters of . . . . .  
. . . . . (insert name of

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municipality) petition the governing body of . . . . .  
. . . . . (insert name of municipality)  
to conduct a referendum election on ordinance number . . . .  
. . . . Ordinance number . . . . . would cause a . .  
. . . . . (insert "sale" or "lease") of  
municipal . . . . . (insert  
"real property" or "utility facilities").

Date                      Name (printed)                      Address                      Signature".

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

G. If the municipal clerk certifies to the  
municipal governing body that the petition does contain the  
minimum number of valid names, addresses and signatures  
required to call a referendum election on the sale or lease  
ordinance, the municipal governing body shall adopt an  
election resolution within fourteen days after the date the  
clerk makes such certification, calling for a referendum  
election on the sale or lease ordinance. The election  
resolution shall be adopted and published pursuant to the  
provisions of the [~~Municipal Election Code governing special  
elections~~] Local Election Act and shall also concisely set  
forth:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal

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utility facilities or real property;

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

(4) the amount of the lease or sale;

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

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

H. The referendum election on the sale or lease ordinance shall be held not later than ninety days after the election resolution is adopted. Such election shall be held at a special or regular ~~[municipal]~~ local election and shall be conducted ~~[as a special election in the manner provided in the Municipal Election Code]~~ pursuant to the provisions of the Local Election Act. Any qualified elector of the municipality may vote in such a referendum election.

I. If a majority of the votes cast ~~[are]~~ is to approve the sale or lease ordinance, the sale or lease ordinance shall be effective after the election results have been canvassed and certified. If a majority of the votes cast ~~[are]~~ is to disapprove the sale or lease ordinance, the ordinance shall not be effective."

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

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

A. In each special hospital district, the board of trustees may adopt a resolution calling for an election for

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the purpose of authorizing the imposition of an ad valorem tax on all taxable property within the special hospital district. The election shall be held pursuant to the Local Election Act. The revenue from such tax shall be used to pay for current operations and maintenance of hospitals, including hospital facilities owned and operated by the special hospital district or ~~[for]~~ hospitals operated and maintained by the special hospital district pursuant to an agreement with a political subdivision as provided in Subsection B of Section 4-48A-11 NMSA 1978, and to pay the operational costs of the special hospital district.

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

C. In the case of a special hospital district ~~[which]~~ that is composed of all or a portion of two or more

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counties, if a majority of the qualified electors in the special hospital district of each [~~subdistrict~~] county voting on the question [~~authorize~~] authorizes a tax levy, the boards of county commissioners of the counties [~~which~~] that agreed to form the special hospital district shall levy such tax in the manner provided in Subsection B of this section.

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

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

"4-48A-17. ELECTION PROCEDURES.--

[~~A. In all elections held pursuant to the provisions of the Special Hospital District Act, except as otherwise provided in that act, the board of trustees shall give notice of the election in a newspaper of general circulation in the special hospital district and, in the case of a special hospital district composed of all or portions of~~

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~~two or more counties, in the subdistrict, at least once a week for three consecutive weeks, the last insertion to be not less than two weeks prior to the proposed election.~~

~~B.] All elections of the special hospital district, unless otherwise provided in the Special Hospital District Act, shall be called, conducted and canvassed [in substantially the same manner as school district elections are called, conducted and canvassed. The board of trustees shall be the canvassing board for such elections.~~

~~G. The expenses of elections conducted by the special hospital district shall be budgeted for and paid from the operating funds of the special hospital district] pursuant to the Local Election Act."~~

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

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

A. Whenever a petition signed by not less than two hundred qualified electors of any county in this state [~~shall be~~] is presented to the board of county commissioners asking that a vote be taken on the question or proposition of building, remodeling or making additions to necessary public buildings or necessary public projects, setting forth in general terms the object of the petition and the amount of bonds asked to be voted for, [~~it shall be the duty of~~] the

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board of county commissioners of the county to which the petition [~~may be~~] is presented shall, within ten days after the presentation, [~~to~~] call an election to be held within sixty days thereafter in the county. [~~The board shall give notice of the election by publication once a week for at least three consecutive weeks in any newspapers published in the county, which notices shall set forth the time and place of holding the election, the necessary public building or necessary public project proposed and which bonds are to be voted for.~~] Except as provided in Chapter 4, Article 49 NMSA 1978, such elections shall be held and conducted [~~in the same manner as general elections, including recount and contest, and the board of county commissioners shall certify and declare on the records of the county the returns of the election]~~ pursuant to the provisions of the Local Election Act.

B. After the defeat of any proposition once voted for, a second special election upon any question or proposition under the provisions of Chapter 4, Article 49 NMSA 1978 shall not be held for a term of two years unless a petition requesting another election, containing the names of qualified electors of the county equal to ten percent of the [~~vote~~] votes cast for governor in the last preceding election and otherwise conforming to the requirements of this section, [~~shall be~~] is presented to the board of county commissioners; provided, however, that in no event shall more than two elections upon any proposition or question under Chapter 4, Article 49 NMSA 1978 be held in any term of two years. A

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bond election as provided in this section may also be called by the board of county commissioners, without any petition, after the board has adopted a resolution calling such an election, which resolution shall set forth the object of the election and the amount of bonds to be issued."

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

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

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

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent of the annual general fund expenditures of the local government in that fiscal year.

The limits of this subsection shall not apply to:

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

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

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

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

(5) the proceeds of a revenue bond issue to

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which county infrastructure gross receipts tax revenue is pledged; or

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

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

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The

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resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular ~~[municipal]~~ local or county election or at a special election called for that purpose by the governing body. A special ~~[municipal]~~ local election shall be called, conducted and canvassed as provided in the ~~[Municipal Election Code]~~ Local Election Act. A special county election shall be

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called, conducted and canvassed in substantially the same manner as provided by law for general elections.

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

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

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

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

B. The local government permanent fund shall constitute a fund in the treasury of the county or municipality into which may be deposited at the end of a fiscal year an amount of the unappropriated general fund surplus. The amount that may be deposited into the local government permanent fund is any portion of the unappropriated general fund surplus that is in excess of fifty percent of the prior fiscal year's budget of the county

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or municipality. Money in the permanent fund may be appropriated or expended only pursuant to approval of the voters of the county or municipality as provided in Subsection E of this section.

C. Money in the local government permanent fund may be invested by the local board of finance for the county or municipality in the types of investments specified in Section 6-10-10 NMSA 1978 and as specified in Sections 6-10-36 and 6-10-44 NMSA 1978, except as provided in Paragraph (2) of Subsection D of this section. Earnings from the investment of the permanent fund shall be deposited in the local government income fund in the treasury of the county or municipality. Money in the income fund may be budgeted and appropriated by the local governing body for expenditure for any purpose of the county or municipality or may be deposited in the permanent fund.

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

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

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

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following:

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

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

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

E. The governing body of a county or municipality may adopt a resolution calling for an election on the question of expenditure of any amount of the local government permanent fund for a specified county or municipal purpose. The election shall be held within sixty days after the action of the governing body. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within the county or special municipal elections under the ~~[Municipal Election Code]~~ Local Election Act. If a majority of the registered voters of the county or municipality voting on the question ~~[vote]~~ votes for the expenditure of a specified amount of the local government permanent fund for a specified county or municipal purpose, then that amount of money shall be available for appropriation and expenditure by the county or municipality for that purpose. If a majority of the registered voters of the county or municipality voting on the question ~~[vote]~~ votes against the expenditure of a specified

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amount of the local government permanent fund for a specified county or municipal purpose, then money in the local government permanent fund shall not be expended or appropriated for that purpose. Following an election at which the question was not approved, the question shall not again be submitted to the voters of that county or municipality within one year of the date of that election."

SECTION 75. Section 6-15-26 NMSA 1978 (being Laws 1971, Chapter 132, Section 3, as amended) is amended to read:

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

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

~~[B. The ballots shall be deposited in one ballot box for each polling place at any bond election and the vote shall be cast, counted, returned and canvassed so that the board can determine the total number of votes cast at each election for and against each bond proposition.~~

~~G. The Bond Election Act does not prevent any board from using one or more voting machines at any polling place for any bond election if the vote is cast, counted, returned and canvassed and the election otherwise is conducted in a~~

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~~manner which is consistent with the Bond Election Act.~~

D.] B. Except as expressly provided in the Bond Election Act, any bond election shall be called, conducted and canvassed pursuant to applicable statutes governing elections for the bonds; provided, however, absentee ballot provisions in the Election Code governing regular elections of the board shall apply. A bond election called by a municipality shall be called, conducted and canvassed pursuant to the applicable provisions of the [~~Municipal Election Code~~] Local Election Act, and the absentee ballot provisions of the [~~Municipal Election Code~~] Local Election Act shall apply [~~provided, however, that the provisions of this act and any applicable statutes governing elections for the bonds shall supersede the Municipal Election Code in the event of a conflict~~]."

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

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

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of one and one-half percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of municipal gross receipts tax rate increments, but the total municipal gross receipts tax rate

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imposed by all ordinances shall not exceed an aggregate rate of one and one-half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent.

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

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including ~~[but not limited to]~~ police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

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

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(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of [~~a home-rule charter or on a date set by the governing body and pursuant to the provisions of the Municipal Election Code governing special elections~~] the Local Election Act; or

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

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

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

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of

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signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the [~~Municipal Election Code for special elections~~] Local Election Act, and the election shall be held within seventy-five days after the date the petition is verified by the municipal clerk or it may be held in conjunction with a regular [~~municipal~~] local election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one

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year from the date of the election.

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

H. Any law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

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

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

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

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

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

- (1) payment of special obligation bonds issued pursuant to a revenue bond act;
- (2) repair, replacement, construction or

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acquisition of infrastructure improvements, including sanitary sewer lines, storm sewers and other drainage improvements, water, water rights, water lines and utilities, streets, alleys, rights of way, easements, international ports of entry and land within the municipality or within the extraterritorial zone of the municipality;

(3) municipal general purposes;

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

(5) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing any increment of the municipal infrastructure gross receipts tax in excess of the first one-eighth of one percent or any increment imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the

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election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular ~~[municipal]~~ local election or at a special election called for that purpose by the governing body. ~~[A special municipal]~~ An election shall be called, conducted and canvassed as provided in the ~~[Municipal Election Code]~~ Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal infrastructure gross receipts tax fails, the governing body shall not again propose the imposition of any increment of the tax in excess of the first one-eighth of one percent for a period of one year from the date of the election."

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

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

A. A majority of the members of the governing body of a municipality that desires to become a member of a

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regional spaceport district pursuant to the Regional Spaceport District Act shall impose by ordinance an excise tax at a rate not to exceed one-half percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of a person engaging in business in the municipality, and the aggregate of all rates shall not exceed one-half percent of the gross receipts of a person engaging in business in the municipality. The tax may be referred to as the "municipal regional spaceport gross receipts tax".

B. A governing body, at the time of enacting an ordinance imposing a tax authorized in Subsection A of this section, shall dedicate a minimum of seventy-five percent of the revenue to a regional spaceport district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act and may dedicate no more than twenty-five percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the municipality.

C. An ordinance imposing a municipal regional spaceport gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a

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resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular ~~[municipal]~~ local election or at a special election called for that purpose by the governing body. ~~[A special municipal]~~ An election shall be called, conducted and canvassed as provided in the ~~[Municipal Election Code]~~ Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal regional spaceport gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal regional spaceport gross receipts tax fails, the governing body shall not again propose the imposition of an increment of the tax for a period of one year from the date of the election.

D. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax shall transfer a minimum of seventy-five percent of all proceeds from the tax to the regional spaceport district of which it is a member for regional spaceport purposes in accordance with the provisions of the Regional Spaceport District Act. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax may retain no more than

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twenty-five percent of the municipal regional spaceport gross receipts tax for spaceport-related projects as approved by resolution of the governing body."

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

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

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

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

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

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form of bonds.

D. An ordinance imposing the federal water project gross receipts tax shall not go into effect until an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular [~~municipal~~] local election or at a special election called for that purpose by the governing body. [~~A special municipal~~] An election shall be called, conducted and canvassed as provided in the [~~Municipal Election Code~~] Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the federal water project gross receipts tax, then the ordinance shall become effective on January 1 or July 1 in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the federal water project gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

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

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

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

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

A. The ordinance imposing a municipal gasoline tax shall not go into effect until after an election is held and a simple majority of the qualified electors of the municipality voting on the question [~~vote~~] votes in favor of imposing the municipal gasoline tax. The governing body of the municipality shall provide for an election on the question of imposing the municipal gasoline tax within sixty days after the day the ordinance is adopted. Such question may be submitted to the electors and voted upon as a separate question at any regular or special election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for special [~~municipal~~] elections as provided in the [~~Municipal Election Code~~] Local Election Act. If the question of imposing a municipal gasoline tax fails, the governing body shall not again propose a municipal gasoline tax ordinance for a period of one year after the election.

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

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

"10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL OFFICE.--~~[Sec. 7.]~~ Any office belonging to the class mentioned in Section ~~[3954]~~ 10-4-1 NMSA 1978 becomes vacant under any of the following circumstances:

[1] A. by death of the party in office;

[2] B. removal of the officer as provided by ~~[this chapter]~~ Sections 10-4-1 through 10-4-29 NMSA 1978;

[3] C. failure of the officer to qualify as provided by law;

[4] D. expiration of the term of office when no successor has been chosen as provided by law;

[5] E. when the officer removes from the ~~[county in]~~ area from which ~~[he is]~~ the officer was elected to represent and, in case of ~~[municipal officers]~~ an officer serving pursuant to an appointment, when ~~[he]~~ the officer removes from the ~~[town or city for which he is elected]~~ area the officer was appointed to represent;

[6] F. absence from the ~~[county]~~ political subdivision in which the officer serves for six consecutive

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months [~~and, in cases of municipal officers, absence for such length of time from the village, town or city for which he is elected~~]; but this provision does not apply to those officers wherein the law provides that the duties may be discharged by a deputy, when such absence is due to illness or other unavoidable cause;

[7] G. by resignation of the officer; or

[8] H. by an officer accepting and undertaking to discharge the duties of another incompatible office."

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

"10-4-1. LOCAL OFFICERS SUBJECT TO REMOVAL.--[~~Sec. 5.~~]  
Any [~~county, precinct, district, city, town or village~~]  
officer of a political subdivision of the state elected by the people and any officer appointed to fill out the unexpired term of any such officer may be removed from office on any of the grounds mentioned in [~~this chapter~~] and according to the [~~provision hereof~~] provisions of Sections 10-4-1 through 10-4-29 NMSA 1978."

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

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

A. Community college board members shall be [~~over twenty-one years of age~~] qualified electors and residents of the community college district.

B. Community college board members shall be elected for staggered terms of six years [~~beginning on April 1 succeeding their elections~~]. Elections shall be held

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~~[(1) in conjunction with regular school district elections on the first Tuesday of February in each odd-numbered year if the community college board and school board agree to hold their elections at the same time; or~~

~~(2) on the date otherwise prescribed by the Community College]~~ pursuant to the Local Election Act.

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

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

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

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

A. A district board shall be composed of five or seven members elected for four-year terms who shall reside in

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and be elected from single-member districts as provided in this section. [~~Any board, the members of which have not been elected from single-member districts, shall district and hold a special election to coincide with the school district elections of 2001.~~] If the board is a seven-member board, board members shall be elected for all seven positions on the board, with the board members elected to positions 1, 3, 5 and 7 to be elected for initial terms of two years and the board members elected to positions 2, 4 and 6 to be elected for initial terms of four years. If the board is a five-member board, board members elected to positions 1, 3 and 5 shall be elected for initial terms of two years and board members elected to positions 2 and 4 shall be elected for initial terms of four years. After the initial election for a district board, each board member shall be elected for a term of four years.

B. [~~Except where specific provision is otherwise provided by law~~] All election proceedings for technical and vocational institute district elections shall be conducted pursuant to the provisions of the [~~School Election Law with the president of the institute serving in the place of the superintendent of schools in every case~~] Local Election Act.

C. Once following each federal decennial census, the board shall redistrict the technical and vocational institute district into election districts to ensure that the districts remain as equal in population as is practicable and shall notify the county clerk of the new boundaries upon completion of the redistricting process. The new districts

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shall go into effect at the first regular board election thereafter. Candidates for the new single-member districts that are scheduled to be voted on at the election shall reside in and be elected from the appropriate new single-member district. Incumbent board members whose districts before redistricting were not scheduled to be voted on at the election need not reside in the new single-member districts corresponding to their position numbers and may serve out their terms. At the second regular board election held after the redistricting, all candidates for the new single-member districts that are scheduled to be voted on shall reside in and be elected from the appropriate single-member district.

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

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

SECTION 85. Section 21-16-14 NMSA 1978 (being Laws 1963, Chapter 108, Section 11, as amended) is amended to read:

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

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

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

C. In conducting the survey, the public education department, in conjunction with the [~~commission on~~] higher education department, shall ascertain the attitude of the technical and vocational institute board and collect other information it deems necessary. If, on the basis of the

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survey, the public education department finds that the proposed addition of the petitioning area will promote an improved education service in the area, it shall approve the petition. The secretary of public education shall proceed to issue a proclamation and call an election pursuant to the provisions of the Local Election Act within the petitioning area and in the established technical and vocational institute district on the question of the inclusion of the petitioning area in the institute district.

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

E. If a technical and vocational institute district includes less than all of a school district, the institute board, by resolution of a majority of the members of the board, may call an election within the institute district and in the portion of the school district that is not included in the institute district on the question of the addition of the

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excluded portion of the school district to the established institute district. [~~Except where specific provision is otherwise provided by law~~] Such election shall be conducted pursuant to the provisions of the [~~School Election Law with the president of the institute district serving in the place of the superintendent of schools in every case; provided that:~~

(1) ~~the election may be held in conjunction with a regular election or as a special election;~~

(2) ~~if a precinct lies partly within and partly outside the institute district, the parts of the precinct within and outside the institute district shall constitute separate precincts for purposes of the election; and~~

(3) ~~precincts may be consolidated for purposes of administrative convenience]~~ Local Election Act.

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

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

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

"21-16-20. SUBMISSION AT ELECTION--NOTICE--CERTIFICATION.--If [~~the~~] a question is submitted pursuant to Section 21-16-16 NMSA 1978 at [~~a general~~] an election, the submitting board shall [~~publish notice thereof in the manner required for general elections, except that such notice need not include the names of any election officials or the places where such election is to be held in each precinct and voting division and no posting shall be required~~] notify the county clerk pursuant to the Local Election Act. The submitting board shall [~~not less than thirty days before the election~~] furnish to the county clerk of each county in which [~~each~~] an affected school district is situate a certificate specifying the question to be submitted [~~and the precincts and voting divisions included in the school district or districts or in the technical and vocational institute district.~~ The county clerk of each such county shall include such question on the ballots and voting machines in the proper voting divisions. The election officials in such voting divisions shall execute separate certificates certifying the results of the voting on such question, and, upon receipt thereof, each county clerk shall deliver the same to the president of the board or his designated representative]."

SECTION 87. Section 21-16A-6 NMSA 1978 (being Laws

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2000, Chapter 105, Section 6) is amended to read:

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

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

B. The tax authorized in Subsection A of this section shall not be imposed in a district unless the question of authorizing the imposition of the tax is submitted to the voters of the district at [~~a regular school district~~] an election [~~or a special election called for that purpose~~] held pursuant to the Local Election Act.

C. A resolution adopted pursuant to Subsection A of this section shall specify:

- (1) the rate of the proposed tax;
- (2) the date of the election at which the question of imposition of the tax will be submitted to the voters of the district;
- (3) the period of time the tax is authorized to be imposed; and
- (4) the proposed use of the revenues from the proposed tax.

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D. The election required by this section shall be called, conducted and canvassed as provided in the [~~School Election Law~~] Local Election Act.

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

F. If a majority of the voters voting on the question votes against a learning center tax levy pursuant to a resolution adopted under the Learning Center Act, the tax shall not be imposed. The board shall not again adopt a resolution authorizing the imposition of a tax levy pursuant to the Learning Center Act for at least two years after the date of the resolution that the voters rejected.

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

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

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

A. The full term of office of a member of a local school board shall be four years [~~from March 1~~] succeeding [~~his~~] the member's election to office at a regular [~~school district~~] local election held pursuant to the Local Election Act.

B. Any member of a local school board whose term of office has expired shall continue in that office until [~~his~~] a successor is elected and qualified."

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

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

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

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

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

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

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C. A special recall election may be held in conjunction with a regular or [a] local special [~~school district~~] election.

D. [~~Whenever a special recall election is called, the county clerk shall give public notice of the special recall election by publishing information regarding the election once each week for four consecutive weeks. The first publication of the information shall be made between forty five and sixty days before the date of the special recall election. Information regarding the election shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall include the date when the special recall election will be held, the question to be submitted to the voters, a brief description of the boundaries of each precinct, the location of each polling place, the hours each polling place will be open and the date and time of the closing of the registration books by the county clerk as required by law.~~] Except as otherwise provided in the Local School Board Member Recall Act, special recall elections in a school district shall be conducted pursuant to the provisions of the Local Election Act.

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

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member".

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

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

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

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

A. Before any general obligation bonds are issued, a local school board of a school district shall submit to a vote of the qualified electors of the school district [~~owning real estate in the school district~~] the question of creating a debt by issuing the bonds, and a majority of those persons voting on the question shall vote for issuing the general obligation bonds.

B. The election on the question of creating a debt by issuing general obligation bonds shall be held [~~at the same time as a regular school district election or at any special school district election which is not within ninety days after a regular school district election~~] pursuant to the provisions of the Local Election Act. The question shall be submitted to a vote at a [~~general or special school~~] district election upon the initiative of a local school board or upon a petition being filed with a local school board

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signed by qualified electors of the school district [~~having paid a property tax on property in the school district for the preceding year, according to the latest completed tax rolls~~]. The number of signatures required on the petition shall be at least ten percent of the number of votes cast for governor in the school district in the last preceding general election. For the purpose of determining the number of votes cast for governor in the school district at the last preceding general election, any portion of a voting division within the school district shall be construed to be wholly within the school district. A local school board shall call for a bond election at [a] the next regular local or special [~~school district~~] election within ninety days [~~from~~] following the date a properly signed petition is filed with it; provided that the timing of the election does not conflict with the provisions of Section 1-12-71 NMSA 1978."

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

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

A. A person is required to be a registered [~~voter~~] qualified elector to vote in a bond election in a school district.

B. Bond elections in a school district shall be conducted pursuant to the [~~Election Code, except as otherwise provided in Sections 22-18-1 through 22-18-12 NMSA 1978, the~~

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~~School Election Law and the Bond~~ Local Election Act."

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

"22-18-8. RESTRICTION ON BOND ELECTIONS.--In the event a majority of those persons voting on a question submitted to the voters in a bond election [~~vote~~] votes against creating a debt by issuing general obligation bonds, no bond election shall be held on the same question for a period of two years from the date of the bond election [~~except upon the presentation of a petition pursuant to Section 77-15-2 New Mexico Statutes Annotated, 1953 Compilation and after the expiration of at least six months from the date of the previous bond election on the question. If a majority of those persons voting on a question submitted to the voters in a bond election for a second time within two years vote against creating a debt by issuing general obligation bonds, no bond election shall then be held on the same question for a period of two years from the date of first bond election on the question~~]."

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

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

A. An election on the question of imposing a tax under the Public School Capital Improvements Act [~~may~~] shall be held [~~in conjunction with a regular school district election or may be conducted as or held in conjunction with a special school district election, but the election shall be held prior to July 1 of the property tax year in which the~~

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~~tax is proposed to be imposed. Conduct of the election shall be] as prescribed in the [School Election Law for regular and special school district elections] Local Election Act.~~

B. The proclamation required to be published as notice of the election under Section [~~1-22-4 or 1-22-5~~] 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for the capital improvements specified in the authorizing resolution.

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

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

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

A. An election on the question of imposing a tax under the Public School Buildings Act [~~may~~] shall be held [~~in conjunction with a regular school district election or may be conducted as or held in conjunction with a special school district election, but the election shall be held prior to~~

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~~July 1 of the property tax year in which the tax is proposed to be imposed. Conduct of the election shall be~~ as prescribed in the ~~[School Election Law for regular and special school district elections]~~ Local Election Act.

B. The resolution required to be published as notice of the election under Section ~~[1-22-4 or 1-22-5]~~ 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for capital improvements.

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

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

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

A. An election on the question of imposing a tax under Sections 22-26A-8 through 22-26A-12 NMSA 1978 shall be held ~~[in conjunction with a regular school district election or may be conducted as or held in conjunction with a special school district election, but the election shall be held prior to July 1 of the property tax year in which the tax is proposed to be imposed. Conduct of the election shall~~

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be] as prescribed in the [~~School Election Law for regular and special school district elections~~] Local Election Act.

B. The resolution required to be published as notice of the election under Section [~~1-22-4 or 1-22-5~~] 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding thirty years upon the net taxable value of all property allocated to the school district for payments due under lease purchase arrangements.

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

SECTION 97. Section 22-26A-11 NMSA 1978 (being Laws 2007, Chapter 173, Section 11) is amended to read:

"22-26A-11. ELECTION RESULTS--CERTIFICATION.--The certification of the results of an election held on the question of imposition of a lease purchase tax shall be made in accordance with the [~~School Election Law~~] Local Election Act, and a copy of the certificate of results shall be mailed immediately to the secretary."

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

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

A. at any time after the effective date of the Liquor Control Act, the registered qualified electors of [~~any~~] a proposed local option district may petition the governing body by filing one or more petitions in the appropriate office to hold an election for the purpose of determining whether the county or municipality shall adopt the local option provisions of the Liquor Control Act. If the aggregate of the signatures of such electors on all the petitions equals or exceeds five percent of the number of registered voters of the district, the governing body shall call an election within seventy-five days of the verification of the petition. The date of the filing of the petition shall be the date of the filing of the last petition [~~which~~] that brings the number of signatures up to the required five percent; provided, however, that the governing body shall refuse to recognize the petition if more than three months have elapsed between the date of the first signature and the filing of the last petition necessary to bring the number of signatures on the petition up to five percent;

B. the election shall be called, conducted, counted

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and canvassed substantially in the manner provided by law for general elections within the county or special ~~[municipal]~~ elections within the municipality, except as otherwise provided in this section;

C. the votes at the election shall be counted, returned and canvassed as provided for in the case of general elections within the county or special ~~[municipal]~~ elections within the municipality;

D. except as otherwise provided in this section, contests, recounts and rechecks shall be permitted as provided for in the case of candidates for county office in general elections or as provided for in the case of special ~~[municipal]~~ elections within the municipality. Applications for contests, recounts or rechecks may be filed by any person who voted in the election, and service shall be made upon the county clerk or municipal clerk as the case may be;

E. if a majority of all the votes cast at the election ~~[are]~~ is cast in favor of the sale, service or public consumption of alcoholic beverages in the county or municipality, the ~~[chairman]~~ chair of the governing body shall declare by order entered upon the records of the county or municipality that the county or municipality has adopted the local option provisions of the Liquor Control Act and shall notify the department of ~~[such]~~ the results;

F. no election held pursuant to this section shall

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be held within forty-two days of [~~any~~] a primary or general [~~municipal or school district~~] election. If within sixty days from the verification of [~~any~~] a petition as provided in Subsection A of this section a primary or general [~~municipal or school~~] election is held, the governing body may call an election for a day not less than sixty days after the primary or general [~~municipal or school~~] election;

G. if an election is held under the provisions of the Liquor Control Act in [~~any~~] a county [~~which~~] that contains within its limits [~~any~~] a municipality of more than five thousand persons according to the [~~last~~] latest United States census, it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of adopting the local option provisions of the Liquor Control Act by the municipality. The election in the county shall be conducted so as to separate the votes in the municipality from those in the remaining parts of the county. If a majority of the voters in the county, including the voters in the municipality, [~~vote~~] votes against the sale, service or public consumption of alcoholic beverages in the county, the county shall not adopt the local option provisions of the Liquor Control Act; but if a majority of the votes in the municipality [~~are~~] is in favor of the sale, service or public consumption of alcoholic beverages, the municipality shall have adopted the local option provisions of the Liquor Control Act. Nothing contained in this subsection shall prevent any municipality from having a

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separate election under the terms of this section;

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

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

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

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

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

- (1) on Mondays from 7:00 a.m. until midnight;
- (2) on Tuesdays through Saturdays from after

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midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section; and

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

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale, only on Mondays through Saturdays from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section.

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

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beverages in unbroken packages for consumption off the licensed premises and not for resale.

D. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection F of this section. Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, and in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection H of this section shall be called "Sunday sales".

E. Retailers, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or their lessees shall not sell, serve, deliver or allow the consumption of alcoholic beverages on the licensed premises from 2:00 a.m. on

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Christmas day until 7:00 a.m. on the day after Christmas, except as permitted pursuant to Subsection G of this section.

F. Sunday sales pursuant to the provisions of Subsection D of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection K of this section apply. The question shall not again be placed on the ballot in that local option district until:

(1) at least one year has passed; and

(2) a petition is filed with the local

governing body bearing the signatures of registered qualified electors of the local option district equal in number to ten percent of the number of votes cast and counted in the local option district for governor in the last preceding general election in which a governor was elected. The signatures on the petition shall be verified by the clerk of the county in which the local option district is situated.

G. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees, provided that the licensees have current, valid

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food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to petition and election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of allowing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day. The election ~~[shall be held within sixty days after the date the petition is verified, or it]~~ may be held in conjunction with a regular election of the governing body ~~[if that election occurs within sixty days of such verification]~~ or a regular local or special election

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held pursuant to the Local Election Act. The election shall be called, conducted, counted and canvassed in substantially the same manner as provided for general elections in the county under the Election Code or for special [~~municipal~~] elections in a municipality under the [~~Municipal Election Code~~] Local Election Act. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

H. Notwithstanding the provisions of Subsection F of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian nation, tribe or pueblo; provided that a certified

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copy of such enactment is filed with the office of the director and with the secretary of state.

I. Subject to the provisions of Subsection J of this section, a dispenser or retailer, upon payment of an additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until 2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".

J. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall adopt a resolution calling an election on the question. The election shall be held within sixty days of the date that the petition is verified, or it may be

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held in conjunction with a regular election of the governing body, if the regular election occurs within sixty days of the petition verification. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within a county or for special ~~[municipal]~~ elections within a municipality pursuant to the Local Election Act. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

K. Sunday sales of alcoholic beverages shall be permitted at resorts and at horse racetracks statewide pursuant to the provisions of Section 60-7A-2 NMSA 1978."

**SECTION 100.** Section 62-6-5 NMSA 1978 (being Laws 1941, Chapter 84, Section 17A, as amended) is amended to read:

"62-6-5. LOCAL OPTION.--Notwithstanding any of the provisions in Section 62-6-4 NMSA 1978, any municipality desiring to avail itself of all the benefits of the Public Utility Act and of the regulatory services of the commission may elect to come within the provisions of that act and to

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have the utilities owned and operated by it, either directly or through a municipally owned corporation, regulated and supervised under the provisions of that act. When a municipality so elects, in the manner provided in this section, it shall be subject to all the provisions of the Public Utility Act. The election shall be held as follows:

A. at any time after the effective date of the Public Utility Act, the legal voters of any municipality may petition in writing the governing body of the municipality by filing a petition in the office of the municipal clerk to hold an election for the purpose of determining whether the municipality shall be subject to the provisions of that act. If the aggregate of the names signed to the petition equals or exceeds twenty-five percent of the number of legal votes cast in the municipality for governor at the last preceding general election, the governing body of the municipality shall call an election to be held within sixty days of the filing of the petition in accordance with the provisions of the Local Election Act. Provided, however, that if a ~~[general municipal]~~ local election is to be held ~~[for any other purpose]~~ within six months of the filing of the petition, the election provided for in this section shall be held at the same time as ~~[and through the election machinery used at]~~ that election;

B. the election shall be held in the same manner as

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and with the same registration books as for other municipal elections. The ballots to be submitted to the voters at the election shall present the following questions:

"For regulation of municipally owned utilities by the [~~New Mexico~~] public [~~utility~~] regulation commission . . . . . \_\_\_\_\_  
Against regulation of municipally owned utilities by the [~~New Mexico~~] public [~~utility~~] regulation commission . . . . . \_\_\_\_\_".

The votes at the election shall be counted, returned and canvassed as provided for in [~~general municipal elections~~] the Local Election Act. If the majority of all the votes are in favor of regulation of municipally owned utilities, the governing body of the municipality shall declare, by order entered upon the records of the municipality, that it is subject to all the provisions of the Public Utility Act. If the majority of all the votes are against such regulation, the result of the election shall be declared and entered in the same manner; and

C. no elections for the same purpose shall be held within two years of each other."

**SECTION 101.** Section 72-16-1 NMSA 1978 (being Laws 1963, Chapter 311, Section 1) is amended to read:

"72-16-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 16 NMSA 1978 may be cited as the "Arroyo Flood Control Act"."

**SECTION 102.** Section 72-16-4 NMSA 1978 (being Laws 1963, Chapter 311, Section 4) is amended to read:

"72-16-4. DEFINITIONS.--Except where the context

otherwise requires, [~~the definitions in this section govern the construction hereof~~] as used in the Arroyo Flood Control Act:

A. "act" means [~~this~~] the Arroyo Flood Control Act;

B. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination [~~thereof~~] of those, of facilities, other property or any project, or an interest [~~therein, herein~~] in them, authorized by the Arroyo Flood Control Act;

C. "authority" means the Albuquerque metropolitan arroyo flood control authority [~~hereby created~~];

D. "board" means the board of directors of the Albuquerque metropolitan arroyo flood control authority;

E. [~~"chairman"~~] "chair" means the [~~chairman~~] chair of the board and president of the authority;

F. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project, or an interest [~~therein, herein~~] in them, authorized by the Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the

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authority, and in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes [~~hereof~~] of the Arroyo Flood Control Act. In the event the construction of any facility or project [~~herein~~] authorized by that act, or any part [~~thereof, shall make~~] of the act makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of [~~such~~] the public utility facility for the expense of [~~such~~] removal and relocation, including the cost of any necessary land or rights in land;

G. "cost" or "cost of the project", or words of similar import, means [~~all, or~~] any part designated by the board of the cost of any facilities, project or interest [~~therein~~] being acquired and of [~~all or~~] any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient [~~therefor~~] or in connection therewith, which cost, at the option of the board, may include [~~all or~~] any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality from funds available for use [~~therefor~~] in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help or other agents or employees; for the costs of capitalizing

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interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments [~~thereof~~]; for the costs of reimbursements by the authority to any public body, the federal government or any person of any [~~moneys theretofore~~] money expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

H. "director" means a member of the board;

I. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project, or an interest [~~therein, herein~~] in them, authorized by the Arroyo Flood Control Act;

J. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer

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or firm of [~~such~~] engineers employed by the authority in connection with any facility, property project or power [~~herein~~] authorized by the Arroyo Flood Control Act;

K. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination [~~thereof~~] of them, appertaining to any facilities, property or project or interest [~~therein, herein~~] in them, authorized by the Arroyo Flood Control Act;

L. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

M. "federal government" means the United States [~~of America~~] or any agency, instrumentality or corporation [~~thereof~~] of the United States;

N. "federal securities" means the bills, certificates of indebtedness, notes or bonds [~~which~~] that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States [~~of America~~];

O. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding [~~hereunder~~] under the Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

P. "hereby", "herein", "hereinabove", "hereinafter", "hereinbefore", "hereof", "hereto" and

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"hereunder" refer to ~~[this]~~ the Arroyo Flood Control Act and not solely to the particular portion ~~[thereof]~~ of the act in which such word is used;

Q. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination, ~~[thereof]~~ of facilities, other property or project or any interest ~~[therein, herein]~~ in them, authorized by the Arroyo Flood Control Act;

R. "mailed notice" or "notice by mail" means the giving by the engineer, secretary or any deputy ~~[thereof]~~, as determined by the board, of any designated written or printed notice addressed to the last known owner ~~[or owners]~~ of each tract of real property in question or other designated person at ~~[his or their]~~ the owner's last known address ~~[or addresses]~~, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail ~~[any such]~~ a notice shall not invalidate any proceedings ~~[hereunder]~~ under the Arroyo Flood Control Act. The names and addresses of ~~[such]~~ the property owners shall be obtained from the records of the county assessor or from such other source ~~[or sources]~~ as the secretary or the engineer ~~[deem]~~ deems reliable. Any list of ~~[such]~~ names and addresses may be revised from time to time,

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but ~~[such a]~~ the list need not be revised more frequently than at twelve-month intervals. Any mailing of ~~[any]~~ notice ~~[herein]~~ required shall be verified by the affidavit or certificate of the engineer, secretary, ~~[the]~~ deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining ~~[thereto]~~ to taxes have been paid in full or any claim is barred by a statute of limitations;

S. "may" is permissive;

T. "municipality" means the city of Albuquerque or any other incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains thereto;

U. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

V. "president" means the president of the authority and the ~~[chairman]~~ chair of the board;

W. "project" means any structure, facility, undertaking or system ~~[which]~~ that the authority is ~~[herein]~~ authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system ~~[which]~~ that the authority is ~~[hereby]~~ authorized and directed to provide within and without the authority's boundaries;

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X. "property" means real property and personal property;

Y. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as [~~herein~~] otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise [~~so~~] stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication [~~herein~~] required shall be verified by the affidavit of the publisher and filed with the secretary;

Z. "public body" means the state [~~of New Mexico~~] or any agency, instrumentality or corporation [~~thereof~~] of the state, or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

AA. "qualified elector" means a person qualified

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and registered to vote in general elections in the state [~~of New Mexico~~] who is a resident of the authority at the time of any election held under the provisions of [~~this~~] the Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

BB. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land; and
- (4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise, and the indebtedness secured by [~~such~~] the liens;

CC. "secretary" means the secretary of the authority;

DD. "secretary of state" means the secretary of the state of New Mexico;

EE. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project, or interest [~~therein, herein~~] in a project authorized by the Arroyo Flood Control Act;

FF. "sewer facilities" means any one or more of the various devices used in the collection, [~~channelling~~]

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channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations [~~thereof~~]; and any [~~and all~~] rights or interest in such sewer facilities;

GG. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer, or combination storm and sanitary sewer, including [~~but not limited to~~] collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

HH. "shall" is mandatory;

II. "state" means the state of New Mexico or any agency, instrumentality or corporation [~~thereof~~] of the state of New Mexico;

JJ. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

KK. "taxes" means general (ad valorem) taxes

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pertaining to any project [~~herein~~] authorized by the Arroyo Flood Control Act; and

~~[LL. "taxpaying elector" means a qualified elector of the authority who is an owner of real or personal property within the boundaries of the authority, which property is subject to general (ad valorem) taxation at the time of any election held under the provisions of this act or at any other time in reference to which the term "taxpaying elector" is used. A person who is obligated to pay general (ad valorem) taxes under a contract to purchase real property in the authority shall be considered as such an owner. The ownership of any property subject to the payment of a specific ownership tax on a motor vehicle or trailer or of any other excise or property tax other than such general (ad valorem) taxes shall not constitute the ownership of property subject to taxation as herein provided;~~

~~MM.]~~ LL. "treasurer" means the treasurer of the authority."

**SECTION 103.** Section 72-16-8 NMSA 1978 (being Laws 1963, Chapter 311, Section 8) is amended to read:

"72-16-8. BOARD OF DIRECTORS.--The governing body of the authority hereby created is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any [~~and all~~] executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers

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and employees of the authority. Except for the first directors appointed as ~~[hereinafter]~~ provided for in Section 72-16-9 NMSA 1978, and except for any director chosen to fill an unexpired term, the term of each director ~~[commences on the first day of January next following a general election in the state and]~~ runs for six years. Each director, subject to ~~[said]~~ such exceptions, shall serve ~~[such]~~ a six-year term ~~[ending on the first day of January next following a general election]~~, and each director shall serve until ~~[his]~~ a successor has been duly chosen and qualified."

SECTION 104. Section 72-16-10 NMSA 1978 (being Laws 1963, Chapter 311, Section 10, as amended) is amended to read:

"72-16-10. ELECTION OF DIRECTORS.--

A. ~~[At each general election]~~ Elections shall be held pursuant to the provisions of the Local Election Act. Directors shall be elected from single-member districts in which they reside. The board shall ensure that the districts remain contiguous, compact and as equal in population as is practicable, assessing the existing districts following each federal decennial census to accomplish that objective. A redistricting shall be effective at the following regular board election. Incumbent board members whose residences are redistricted out of their districts may serve out their term of office.

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B. The qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end [~~on the first day of January next~~] following each election. Nothing [~~herein~~] may be construed as preventing [~~a~~] qualified [~~elector~~] electors of the authority from [~~any~~] single-member [~~district~~] districts from being elected or reelected as [~~a director~~] directors to succeed [~~himself~~] themselves."

SECTION 105. Section 72-16-11 NMSA 1978 (being Laws 1963, Chapter 311, Section 11, as amended) is amended to read:

"72-16-11. NOMINATION OF DIRECTORS.-- [~~Not later than forty-five days before a proposal to incur debt is first submitted to the taxpaying electors or at the first general election next following the effective date of the Arroyo Flood Control Act, whichever occurs first~~] Written nominations of any candidate as director may be filed [~~with the secretary of the board~~] in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty [~~taxpaying~~] qualified electors who reside within the district for which the candidate has been nominated, shall designate [~~therein~~] the name of the [~~candidates thereby~~] candidate nominated and shall recite that the subscribers are [~~taxpaying~~] qualified electors of the district for which the candidate is nominated and that the candidate [~~or candidates~~] designated [~~therein are~~] is a qualified [~~electors~~] elector of the authority and

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~~[reside] resides~~ within the district for which ~~[they are]~~ the candidate is nominated. No ~~[taxpaying]~~ qualified elector may nominate more than one candidate for any vacancy. ~~[If a candidate does not withdraw his name before the time established by the county for purposes of absentee ballots or as set forth in the Election Code, whichever is earlier, his name shall be placed on the ballot. For any election held after November 6, 1984, nominations shall be made by qualified electors in accordance with the procedures and limitations of this section, except that such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election.]"~~

SECTION 106. Section 72-16-13 NMSA 1978 (being Laws 1963, Chapter 311, Section 13) is amended to read:

"72-16-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day ~~[next]~~ following the first day of ~~[January in each odd-numbered year]~~ the month that the term of office begins for members elected in the immediately preceding election at the office of the board within the authority. Each member of the board, before entering upon ~~[his]~~ the member's official duties, shall take and subscribe on oath ~~[that he will]~~ to support the constitution of the United States and the constitution and laws of New Mexico and ~~[that he will]~~ to discharge faithfully and impartially ~~[discharge]~~ the duties

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of [his] office to the best of [his] the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon [his] the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of [~~each and~~] all of the duties of [his] office, without fraud, deceit or oppression, and the accounting for all [~~moneys~~] money and property coming into [his] the director's hands and the prompt and faithful payment of all [~~moneys~~] money and the delivering of all property coming into [his] the director's custody or control belonging to the authority to [his] the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

**SECTION 107.** Section 72-16-22 NMSA 1978 (being Laws 1963, Chapter 311, Section 22, as amended) is amended to read:

"72-16-22. **ADDITIONAL POWERS OF THE AUTHORITY.**--The authority may exercise the following duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a quasi-municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare:

- A. have perpetual existence and succession;

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B. adopt, have and use a corporate seal and alter the same at pleasure;

C. sue and be sued and be a party to suits, actions and proceedings;

D. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise, and otherwise participate in, and assume the cost and expense of, any and all actions and proceedings now or hereafter begun and appertaining to the authority, its board, its officers, agents or employees, or any of the authority's duties, privileges, immunities, rights, liabilities and disabilities, or the authority's flood control system, other property of the authority or any project;

E. enter into contracts and agreements, including ~~[but not limited to]~~ contracts with the federal government, the state and any other public body;

F. borrow money and issue securities evidencing any loan to or amount due by the authority, provide for and secure the payment of any securities and the rights of the holders thereof, and purchase, hold and dispose of securities, as hereinafter provided;

G. refund any loan or obligation of the authority and issue refunding securities to evidence such loan or obligation without any election;

H. purchase, trade, exchange, encumber and

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otherwise acquire, maintain and dispose of property and interests therein;

I. levy and cause to be collected general (ad valorem) taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized pursuant to the Arroyo Flood Control Act, for any fiscal year shall not exceed an aggregate total of fifty cents (\$.50), or any lower amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, by certifying, on or before the fifteenth day of July in each year in which the board determines to levy a tax, to the board of county commissioners of Bernalillo county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy the tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body, as provided in Sections 72-16-23 through 72-16-27 NMSA 1978. No taxes may be levied and collected for any purpose, or any contract made, until a bond issue has been submitted to and approved by the [taxpaying]

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qualified electors as hereinafter provided;

J. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, defray any expenses incurred thereby in connection with the authority, and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, [~~workmen's~~] workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees, and other types of insurance, as the board may determine; provided, however, that no provision herein authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

K. condemn property for public use;

L. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, storm sewer facilities, project and appurtenant works, or any interest therein, wholly within the authority, or partially within and partially without the authority, and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the authority;

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M. pay or otherwise defray the cost of any project;

N. pay or otherwise defray and contract so to pay or defray, for any term not exceeding fifty years, without an election, except as hereinafter otherwise provided, the principal of, any interest on, and any other charges appertaining to, any securities or other obligations of the federal government or any public body or person incurred in connection with any such property so acquired by the authority;

O. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public right of way, or in, upon, under or over any vacant public lands, which public lands are now, or may become, the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

P. deposit any money of the authority, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or

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without the payment of any interest on any such deposit;

Q. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities;

R. sell any such securities thus purchased and held, from time to time;

S. reinvest the proceeds of any such sale in other securities of the authority or in federal securities, as provided in Subsection Q of this section;

T. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purposes for which the money with which such securities were originally purchased was placed in the treasury of the authority;

U. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the authority is authorized to engage, and enter into contracts and cooperate with, and accept cooperation and participation from, the

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federal government for these purposes;

V. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning storm sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

W. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts and agreements, for any term not exceeding fifty years, with the federal government, any public body or any person for the provision and operation by the authority of storm sewer facilities;

X. enter into and perform, without any election, contracts and agreements with the federal government, any public body or any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal, and the financing of any project, including [~~but not necessarily limited to~~] any contract or agreement for any term not exceeding fifty years;

Y. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority,

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and locate the necessary works of any project and roadways and other rights of way appertaining to any project herein authorized; acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

Z. cooperate with and act in conjunction with the state, or any of its engineers, officers, boards, commissions or departments, or with the federal government or any of its engineers, officers, boards, commissions or departments, or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority, or for the protection of life or property therein, or for any other works, acts or purposes provided for herein, and adopt and carry out any definite plan or system of work for any such purpose;

AA. cooperate with the federal government or any public body by an agreement therewith by which the authority may:

(1) acquire and provide, without cost to the operating entity, the land, easements and ~~[rights-of-way]~~ rights of way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and

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operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

BB. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities, and any project, both within and without the authority, and for this purpose the authority has the right of access through its authorized representative to all lands and premises within the state;

CC. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the authority's flood control system or of any parts of the works and properties of the authority;

DD. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

EE. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the

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board to make the connection, to require the connection to be made in such manner as the board may direct;

FF. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection DD or Subsection EE of this section;

GG. make and keep records in connection with any project or otherwise concerning the authority;

HH. arbitrate any differences arising in connection with any project or otherwise concerning the authority;

II. have the management, control and supervision of all the business and affairs appertaining to any project herein authorized, or otherwise concerning the authority, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

JJ. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

KK. enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement [~~which~~] that the authority is empowered to enter into under the provisions hereof or of any other law of the state;

LL. provide, by any contract for any term not

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exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the authority, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

MM. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

NN. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the authority;

OO. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities herein authorized, or to both, except as provided in Subsection PP of this section and in Section 72-16-54 NMSA 1978;

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PP. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein, or in the performance of the authority's covenants or duties, or in order to secure the payment of its securities; provided that no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby; and provided further that no property, excluding money, of the authority is liable to be forfeited or taken in payment of such securities;

QQ. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent hereof; and

RR. exercise all or any part or combination of the powers herein granted."

SECTION 108. Section 72-16-28 NMSA 1978 (being Laws 1963, Chapter 311, Section 28, as amended) is amended to read:

"72-16-28. ELECTIONS.--Each biennial election of directors, each election proposition to issue bonds and all other elections shall be conducted [~~at the time of the general election under the direction of the Bernalillo county clerk and~~] in accordance with the [~~election laws of New Mexico~~] Local Election Act."

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SECTION 109. Section 72-16-89 NMSA 1978 (being Laws

1963, Chapter 311, Section 89) is amended to read:

"72-16-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision herein, whenever a majority of the [~~taxpaying~~] qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose herein authorized, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of [~~said~~] the bonds or any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time [~~or times~~] not exceeding a period of time equal to the estimated time needed to effect the purpose [~~or purposes~~] for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section [~~89~~] and in Sections [~~90 and 91~~ hereof] 72-16-90 and 72-16-91 NMSA 1978, interim debentures shall be issued as provided herein for securities in Sections [~~47 to 80, both inclusive~~] 72-16-47 through 72-16-80 NMSA 1978. Taxes, other revenues of the authority, including without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at

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such time [~~or times~~] as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date [~~be~~] is the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture [~~or interim debentures~~] secured by a pledge of such bonds, nor shall they bear interest at any time [~~which~~] that with any interest accruing at the same time on the interim debenture [~~or interim debentures~~] so secured exceeds six percent per [~~annum~~] year."

SECTION 110. Section 72-17-1 NMSA 1978 (being Laws 1967, Chapter 156, Section 1) is amended to read:

"72-17-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 17 NMSA 1978 may be cited as the "Las Cruces Arroyo Flood Control Act"."

SECTION 111. Section 72-17-4 NMSA 1978 (being Laws 1967, Chapter 156, Section 4) is amended to read:

"72-17-4. DEFINITIONS.--Except where the context otherwise requires, [~~the definitions in this section govern the construction hereof~~] as used in the Las Cruces Arroyo Flood Control Act:

- A. "act" means the Las Cruces Arroyo Flood Control Act;
- B. "acquisition" or "acquire" means the opening,

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laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest [~~therein, herein~~] in any facilities, other property or project authorized;

C. "authority" means the Las Cruces metropolitan arroyo flood control authority hereby created;

D. "board" means the board of directors of the Las Cruces metropolitan arroyo flood control authority;

E. [~~"chairman"~~] "chair" means the [~~chairman~~] chair of the board and president of the authority;

F. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest [~~therein, herein~~] in any facilities, other property or project authorized. The authority may exercise in the state the power of eminent domain, either within or without the authority and in the manner provided by law for the condemnation of private property for public use, and may take any property necessary to carry out any of the objects or purposes [~~hereof~~] of the act. In the event the construction of any facility or project herein authorized, or any part thereof, [~~shall make~~] makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner

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of [~~such~~] the public utility facility for the expense of [~~such~~] removal and relocation, including the cost of any necessary land or rights in land;

G. "cost" or "cost of the project" or words of similar import, means all or any part designated by the board of the cost of any facilities or project, or interest [~~therein~~] in the facilities or project, being acquired, and all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient [~~thereof~~] or in connection [~~therewith~~] with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limiting the generality of the foregoing, preliminary expenses advanced by any municipality from funds available for use [~~therefor~~] in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or

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interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments [~~thereof~~]; for the costs of reimbursements by the authority to any public body, the federal government or any person of any [~~moneys theretofore~~] money expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

H. "director" means a member of the board;

I. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project or an interest [~~therein~~] in the facilities, property or project, herein authorized;

J. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of [~~such~~] engineers employed by the authority in connection with any facility, property, project or power herein authorized;

K. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property or project or interest [~~therein~~] in the facilities, property or project, herein authorized;

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L. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

M. "federal government" means the United States [~~of America~~] or any agency, instrumentality or corporation [~~thereof~~] of the United States;

N. "federal securities" means the bills, certificates of indebtedness, notes or bonds [~~which~~] that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States [~~of America~~];

O. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding [~~hereunder~~] under the Las Cruces Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

P. "hereby", "herein", "hereinabove", "hereinafter", "hereinbefore", "hereof", "hereto" and "hereunder" refer to [~~this~~] the Las Cruces Arroyo Flood Control Act and not solely to the particular portion [~~thereof~~] in which [~~such~~] the word is used;

Q. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any

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combination thereof, of facilities, other property or project or any interest ~~[therein]~~ in the facilities, property or project, herein authorized;

R. "mailed notice" or "notice by mail" means the giving by the engineer, secretary or any deputy ~~[thereof]~~ of the engineer or secretary, as determined by the board, of any designated written or printed notice addressed to the last known owner ~~[or owners]~~ of each tract of real property in question or other designated person at ~~[his or their]~~ the person's last known address ~~[or addresses]~~, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail ~~[any such]~~ a notice shall not invalidate any proceedings hereunder. The names and addresses of ~~[such]~~ the property owners shall be obtained from the records of the county assessor or from such other source ~~[or sources]~~ as the secretary or the engineer ~~[deem]~~ deems reliable. Any list of ~~[such]~~ names and addresses may be revised from time to time, but ~~[such a]~~ the list need not be revised more frequently than at twelve-month intervals. Any mailing of ~~[any]~~ a notice herein required shall be verified by the affidavit or certificate of the engineer, secretary, the deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining ~~[thereto]~~ to them have been paid in full or any claim is barred by a statute of limitations;

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S. "may" is permissive;

T. "municipality" means the city of Las Cruces or any other incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains thereto;

U. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

V. "president" means the president of the authority and the ~~chairman~~ chair of the board;

W. "project" means any structure, facility, undertaking or system ~~which~~ that the authority is ~~herein~~ authorized to acquire, improve, equip, maintain or operate.

A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system ~~which~~ that the authority is ~~hereby~~ authorized and directed to provide within and without the authority's boundaries;

X. "property" means real property and personal property;

Y. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general

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circulation in the authority. Except as [~~herein~~] otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise [~~so~~] stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication [~~herein~~] required shall be verified by the affidavit of the publisher and filed with the secretary;

Z. "public body" means the state [~~of New Mexico~~] or any agency, instrumentality or corporation [~~thereof~~] of the state or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

AA. "qualified elector" means a person qualified and registered to vote in general elections in the state [~~of New Mexico~~], who is a resident of the authority at the time of any election held under the provisions of [~~this~~] the Las Cruces Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

BB. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;

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(3) any property appurtenant to or used in connection with land; and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise, and the indebtedness secured by [~~such~~] liens;

CC. "secretary" means the secretary of the authority;

DD. "secretary of state" means the secretary of the state of New Mexico;

EE. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest [~~therein~~] in any project herein authorized;

FF. "sewer facilities" means any one or more of the various devices used in the collection, [~~channelling~~] channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof, and any and all rights or interest in [~~such~~] the sewer facilities;

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GG. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including ~~[but not limited to]~~ collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

HH. "shall" is mandatory;

II. "state" means the state of New Mexico or any agency, instrumentality or corporation ~~[thereof]~~ of the state of New Mexico;

JJ. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

KK. "taxes" means general (ad valorem) taxes pertaining to any project herein authorized; and

~~[LL. "taxpaying elector" means a qualified elector of the authority who is an owner of real or personal property within the boundaries of the authority, which property is subject to general (ad valorem) taxation at the time of any election held under the provisions of this act or at any other time in reference to which the term "taxpaying elector" is used. A person who is obligated to pay general (ad valorem) taxes under a contract to purchase real property in the authority shall be considered as such an owner. The~~

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~~ownership of any property subject to the payment of a specific ownership tax on a motor vehicle or trailer or of any other excise or property tax other than such general (ad valorem) taxes shall not constitute the ownership of property subject to taxation as herein provided;~~

~~MM.]~~ LL. "treasurer" means the treasurer of the authority."

SECTION 112. Section 72-17-8 NMSA 1978 (being Laws 1967, Chapter 156, Section 8) is amended to read:

"72-17-8. BOARD OF DIRECTORS.--The governing body of the authority hereby created is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any ~~[and all]~~ executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as ~~[hereinafter]~~ provided and except for any director chosen to fill an unexpired term, the term of each director ~~[commences on the first day of January next following a general election in the state and]~~ runs for six years. Each director, subject to ~~[said]~~ such exceptions, shall serve ~~[such]~~ a six-year term ~~[ending on the first day of January next following a general election]~~, and each

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director shall serve until [~~his~~] a successor has been duly chosen and qualified."

SECTION 113. Section 72-17-10 NMSA 1978 (being Laws 1967, Chapter 156, Section 10) is amended to read:

"72-17-10. ELECTION OF DIRECTORS.--At the time that a proposal to incur debt [~~shall be~~] is first submitted to the [~~taxpaying~~] qualified electors [~~or at the first general election next following the effective date of the Las Cruces Arroyo Flood Control Act, whichever occurs first~~], the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 1969, two to serve a term ending January 1, 1971 and one to serve a term ending January 1, 1973. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting. At each [~~general~~] election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end [~~on the first day of January next~~] following each [~~such~~] election. Nothing [~~herein~~] in this section may be construed as preventing [~~a~~] qualified [~~elector~~] electors of the authority from being elected or reelected as [~~a director~~] directors to succeed [~~himself. If there be only one vacancy on the board, the candidate receiving the highest number of votes shall be elected as director. If there be two vacancies on the board, the candidate receiving the highest number of votes and the~~].

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~~candidate receiving the next highest number of votes shall be elected as directors]~~ themselves."

SECTION 114. Section 72-17-11 NMSA 1978 (being Laws 1967, Chapter 156, Section 11) is amended to read:

"72-17-11. NOMINATION OF DIRECTORS.--~~[Not later than forty-five days before a proposal to incur debt shall be first submitted to the taxpaying electors or at the first general election next following the effective date of the Las Cruces Arroyo Flood Control Act, whichever occurs first]~~

Written nominations of any candidate as director may be filed with the ~~[secretary of the board]~~ proper filing officer in accordance with the provisions of the Local Election Act.

Each nomination of any candidate shall be signed by not less than fifty ~~[taxpaying]~~ qualified electors regardless of whether or not nominated ~~[therein]~~, shall designate ~~[therein]~~ the name of the candidates ~~[thereby nominated]~~ and shall recite that the subscribers ~~[thereto]~~ are ~~[taxpaying]~~ qualified electors and that the ~~[candidate or]~~ candidates designated ~~[therein]~~ are qualified electors of the authority.

No written nomination may designate more qualified electors as candidates than there are vacancies. No ~~[taxpaying]~~ qualified elector may nominate more than one candidate for any vacancy. ~~[If a candidate does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot.]"~~

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SECTION 115. Section 72-17-13 NMSA 1978 (being Laws

1967, Chapter 156, Section 13) is amended to read:

"72-17-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of [~~January in each odd-numbered year~~] the month that the term of office begins for members elected in the immediately preceding election at the office of the board within the authority. Each member of the board, before entering upon [~~his~~] the member's official duties, shall take and subscribe an oath that [~~he~~] the member will support the constitution of the United States and the constitution and laws of New Mexico and that [~~he~~] the member will faithfully and impartially discharge the duties of [~~his~~] office to the best of [~~his~~] the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon [~~his~~] the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of each [~~and all~~] of the duties of [~~his~~] office, without fraud, deceit or oppression, and the accounting for all [~~moneys~~] money and property coming into [~~his~~] the director's hands, and the prompt and faithful payment of all [~~moneys~~] money and the delivering of all property coming into [~~his~~] the director's custody or control belonging to the authority of [~~his~~] the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the

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secretary of state."

SECTION 116. Section 72-17-22 NMSA 1978 (being Laws 1967, Chapter 156, Section 22, as amended) is amended to read:

"72-17-22. ADDITIONAL POWERS OF AUTHORITY.--The authority may exercise the following powers:

- A. have duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a quasi-municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare;
- B. have perpetual existence and succession;
- C. adopt, have and use a corporate seal and alter the same at pleasure;
- D. sue and be sued and be a party to suits, actions and proceedings;
- E. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise and otherwise participate in and assume the cost and expense of any actions and proceedings now or hereafter begun and appertaining to the authority, its board, its officers, agents or employees or any of the authority's duties, privileges, immunities, rights, liabilities and disabilities

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or the authority's flood control system, other property of the authority or any project;

F. enter into contracts and agreements, including [~~but not limited to~~] contracts with the federal government, the state and any other public body;

G. borrow money and issue securities evidencing any loan to or amount due by the authority, provide for and secure the payment of any securities and the rights of the holders thereof and purchase, hold and dispose of securities as hereinafter provided;

H. refund any loan or obligation of the authority and issue refunding securities to evidence such loan or obligation without any election;

I. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of property and interests therein;

J. levy and cause to be collected general (ad valorem) taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized by the [~~taxpaying~~] qualified electors of the authority, for any fiscal year shall not exceed an aggregate total of fifty cents (\$.50), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, by certifying, on or before July 15 of each year in which the

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board determines to levy a tax, to the board of county commissioners of Dona Ana county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy such tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body as provided in Sections 72-17-23 through 72-17-27 NMSA 1978. No taxes may be levied and collected for any purpose and no contract may be made until a bond issue has been submitted to and approved by the ~~[taxpaying]~~ qualified electors as hereinafter provided;

K. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, defray any expenses incurred thereby in connection with the authority and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, ~~[workmen's]~~ workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees and other types of insurance as the board may

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determine; provided, however, that no provision herein authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

L. condemn property for public use;

M. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, sewer facilities, project and appurtenant works or any interest therein wholly within the authority, or partially within and partially without the authority, and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the authority;

N. pay or otherwise defray the cost of any project;

O. pay or otherwise defray and contract so to pay or defray for any term not exceeding fifty years, without an election, except as hereinafter otherwise provided, the principal of, any interest on and any other charges appertaining to any securities or other obligations of the federal government, any public body or person incurred in connection with any such property so acquired by the authority;

P. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public ~~[right-of-way]~~ right of way or in, upon, under or over any vacant public lands, which public lands are now or may become the property of the

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state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public ~~[right-of-way]~~ right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

Q. deposit any money of the authority, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on any such deposit;

R. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same or by the subsequent purchase of such securities;

S. sell any such securities thus purchased and held from time to time;

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T. reinvest the proceeds of any such sale in other securities of the authority or in federal securities, as provided in Subsection R of this section;

U. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purpose for which the money with which such securities were originally purchased was placed in the treasury of the authority;

V. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the authority is authorized to engage and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

W. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements for any term not exceeding fifty years with the federal government, any public body or any person concerning sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection herewith;

X. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts

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and agreements for any term not exceeding fifty years with the federal government, any public body or any person for the provision and operation by the authority of sewer facilities;

Y. enter into and perform, without any election, contracts and agreements with the federal government, any public body and any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal and the financing of any project, including ~~[but not necessarily limited to]~~ any contract or agreement for any term not exceeding fifty years;

Z. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority and locate the necessary works of any project and roadways and other ~~[rights-of-way]~~ rights of way appertaining to any project herein authorized and acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

AA. cooperate with and act in conjunction with the state or any of its engineers, officers, boards, commissions or departments or with the federal government or any of its engineers, officers, boards, commissions or departments or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority or for the

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protection of life or property therein or for any other works, acts or purposes provided for herein and adopt and carry out any definite plan or system of work for any such purpose;

BB. cooperate with the federal government or any public body by an agreement therewith by which the authority may:

(1) acquire and provide, without cost to the operating entity, the land, easements and ~~[rights-of-way]~~ rights of way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

CC. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities and any project, both within and without the authority, and for this purpose the authority has the right of access through its authorized representative to all lands and premises within the state;

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DD. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the authority's flood control system or of any parts of the works and properties of the authority;

EE. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

FF. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the board to make the connection, to require the connection to be made in such manner as the board may direct;

GG. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection EE or Subsection FF of this section;

HH. make and keep records in connection with any project or otherwise concerning the authority;

II. arbitrate any differences arising in connection with any project and otherwise concerning the authority;

JJ. have the management, control and supervision of all the business and affairs appertaining to any project

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herein authorized, or otherwise concerning the authority, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

KK. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

LL. enter into contracts of indemnity and guaranty in such form as may be approved by the board relating to or connected with the performance of any contract or agreement [~~which~~] that the authority is empowered to enter into under the provisions hereof or of any other law of the state;

MM. provide, by any contract for any term not exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the authority, upon such terms and conditions as may be

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determined for the equitable apportionment of the expenses therefrom resulting;

NN. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

OO. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the authority;

PP. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities herein authorized, or to both, except as provided in Subsection QQ of this section and in Section 72-17-54 NMSA 1978;

QQ. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein or in the performance of the authority's covenants or duties or in order to secure the payment of its securities; provided that no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby; and provided further that no property, excluding money, of the district is liable to be forfeited or taken in payment of such securities;

RR. have and exercise all rights and powers necessary or incidental to or implied from the specific

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powers granted herein, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent hereof; and

SS. exercise all or any part or combination of the powers herein granted."

SECTION 117. Section 72-17-28 NMSA 1978 (being Laws 1967, Chapter 156, Section 28) is amended to read:

"72-17-28. ELECTIONS.--~~[Wherever in this act an election of the qualified electors or taxpaying electors of the authority is permitted or required, said election may be held separately at a special election or may be held concurrently with any primary or general election held under the laws of the state; provided, however:~~

A. ~~each biennial election of directors shall be held concurrently with the general election in the state;~~

B. ~~no election shall be held at the same time as any regular election of a municipality or school district, any part of the area of which is located within the boundaries of the authority.] Elections shall be held pursuant to the provisions of the Local Election Act."~~

SECTION 118. Section 72-17-44 NMSA 1978 (being Laws 1967, Chapter 156, Section 44) is amended to read:

"72-17-44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.-- The authority is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness [~~nor~~] or any other indebtedness not payable in full within one year, except for interim debentures as provided in

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Sections [~~46, 89, 90, and 91 hereof~~] 72-17-46 and 72-17-89 through 72-17-91 NMSA 1978, shall be created by the authority without first submitting a proposition of issuing such bonds to the [~~taxpaying~~] qualified electors of the authority and being approved by a majority of such electors voting thereon at an election held for that purpose in accordance with Sections [~~28 to 34, both inclusive, of this act~~] 72-17-28 through 72-17-34 NMSA 1978 and all laws amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such time or times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed twelve million five hundred thousand dollars (\$12,500,000) without prior approval of the state legislature."

SECTION 119. Section 72-17-89 NMSA 1978 (being Laws 1967, Chapter 156, Section 89) is amended to read:

"72-17-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision herein, whenever a majority of the [~~taxpaying~~] qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose herein authorized, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of [~~said~~] such bonds or

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any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time or times not exceeding a period of time equal to the estimated time needed to effect the purpose [~~or purposes~~] for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections [~~90 and 91 hereof~~] 72-17-90 and 72-17-91 NMSA 1978, interim debentures shall be issued as provided herein for securities in Sections [~~47 to 80, both inclusive~~] 72-17-47 through 72-17-80 NMSA 1978. Taxes, other revenues of the authority, including without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim [~~debenture~~] debentures may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time or times as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date be the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture or interim debenture secured by a pledge of such bonds, nor shall they bear interest at any time [~~which~~] that, with any interest accruing at the same time on the interim debenture or interim debentures so

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secured, exceeds six percent per ~~[annum]~~ year."

SECTION 120. Section 72-18-1 NMSA 1978 (being Laws 1981, Chapter 377, Section 1) is amended to read:

"72-18-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 18 NMSA 1978 may be cited as the "Flood Control District Act"."

SECTION 121. Section 72-18-13 NMSA 1978 (being Laws 1981, Chapter 377, Section 13) is amended to read:

"72-18-13. ORGANIZATION OF BOARD--INITIAL TERMS OF DIRECTORS.--

A. After taking oath and filing bonds, the board shall choose one of its members as ~~[chairman]~~ chair of the board and shall choose a secretary and a treasurer of the board and of the district. The secretary and treasurer may be one person.

B. The terms of the members of the initial board of directors shall be determined by lot at their organizational meeting. Two members shall serve ~~[until January 1 following the first general election in the state]~~ an initial term of two years following organization of the district, two members shall serve ~~[until January 1 following the second general election in the state]~~ an initial term of four years following organization of the district and one member shall serve ~~[until January 1 following the third general election in the state]~~ an initial term of six years following

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organization of the district."

SECTION 122. Section 72-18-14 NMSA 1978 (being Laws 1981, Chapter 377, Section 14) is amended to read:

"72-18-14. ELECTION OF DIRECTORS ~~[NOMINATIONS]~~.--~~[A.]~~  
Flood control district elections shall be held pursuant to the Local Election Act. At each ~~[general]~~ local election ~~[in the state]~~ after organization of the district, there shall be elected by the qualified registered electors of the district one or two members of the board to serve for a term of six years. Except for the initial board of directors and except for any director chosen to fill an unexpired term, the term of each director ~~[commences on January 1 following the general election in the state and]~~ runs for six years. ~~[Each director, subject to such exceptions, shall serve a six-year term ending on January 1 next following a general election.]~~ Each director shall serve until ~~[his]~~ a successor has been duly chosen and qualified.

~~[B. Not later than thirty days before any election, nominations may be filed with the secretary, and, if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot.]"~~

SECTION 123. Section 72-18-15 NMSA 1978 (being Laws 1981, Chapter 377, Section 15) is amended to read:

"72-18-15. VACANCIES ON THE BOARD.--Any vacancy on the board shall be filled by appointment by a majority of the remaining members of the board. The appointee shall serve until the next ~~[general]~~ local election pursuant to the Local

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Election Act when the vacancy shall be filled by election. If the board fails to fill any vacancy within thirty days after it occurs, the court declaring the organization of the district shall fill the vacancy."

SECTION 124. Section 72-18-35 NMSA 1978 (being Laws 1981, Chapter 377, Section 35) is amended to read:

"72-18-35. ELECTION.--Wherever in the Flood Control District Act an election of the qualified registered electors of a district is permitted or required, the election ~~[may be held separately at a special election or may be held concurrently with any primary or general election held under the laws of the state; provided, however:~~

~~A. each biennial election of directors shall be held concurrently with the general election in the state; and~~

~~B. no election shall be held at the same time as any regular election of a municipality or school district any part of the area of which is located within the boundaries of the district]~~ shall be held pursuant to the Local Election Act."

SECTION 125. Section 72-18-35.1 NMSA 1978 (being Laws 1985, Chapter 177, Section 2) is amended to read:

"72-18-35.1. ELECTION OF DIRECTORS--ESTABLISHED DISTRICT.--In a district established pursuant to the Flood Control District Act ~~[whose boundaries are coterminous with the voting precincts of the county]~~, the election of

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directors shall be conducted [~~by the county clerk in the same manner and at the same time as the general election in the state and the same election officials shall preside. The returns of the election shall be filed with the county clerk, who shall submit them to the board of the district for the purposes of canvassing the election of the district. The nominees for offices of directors shall be determined in accordance with the resolution of the board calling for the election, which shall provide that nominees shall file for the office of director in the same manner and form as for municipal offices, and a list of the nominees shall be provided to the county clerk not later than three days following the primary election. All costs for materials and supplies incurred by the county clerk on behalf of the district shall be paid by the district to the clerk's office. The district may provide for the cost of one additional clerk of election to assist the county clerk specifically in the conduct of the district election]~~ in accordance with the provisions of the Local Election Act."

SECTION 126. Section 72-19-1 NMSA 1978 (being Laws 1990, Chapter 14, Section 1) is amended to read:

"72-19-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 19 NMSA 1978 may be cited as the "Southern Sandoval County Arroyo Flood Control Act"."

SECTION 127. Section 72-19-4 NMSA 1978 (being Laws 1990, Chapter 14, Section 4, as amended) is amended to read:

"72-19-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Southern Sandoval County

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Arroyo Flood Control Act:

A. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest [~~therein~~] in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

B. "authority" means the southern Sandoval county arroyo flood control authority;

C. "board" means the board of directors of the authority;

D. [~~"chairman"~~] "chair" means the [~~chairman~~] chair of the board and president of the authority;

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest [~~therein~~] in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority, and, in the manner provided by law for the

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condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of that act. In the event the construction of any facility or project authorized by that act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities or project or interest [~~therein~~] in the facilities or project being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient [~~therefor~~] to or in connection [~~therewith~~] with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other public body from funds available for use [~~therefor~~] in the making of surveys, preliminary plans, estimates of cost or other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other

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expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments ~~[thereof]~~ of taxes; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money ~~[therefore]~~ expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

G. "director" means a member of the board;

H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project, or an interest ~~[therein]~~ in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

I. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer

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or firm of [~~such~~] engineers employed by the authority in connection with any facility, property, project or power authorized by the Southern Sandoval County Arroyo Flood Control Act;

J. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property, project or interest [~~therein~~] authorized by the Southern Sandoval County Arroyo Flood Control Act;

K. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

L. "federal government" means the United States or any agency, instrumentality or corporation [~~thereof~~] of the United States;

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Southern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

O. "improvement" or "improve" means the extension,

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widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof, of facilities, other property or project or any interest ~~[therein]~~ in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy ~~[thereof]~~, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at ~~[his]~~ the person's last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail ~~[any such]~~ the notice shall not invalidate any proceedings under the Southern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of ~~[such]~~ names and addresses may be revised from time to time, but ~~[such a]~~ the list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other

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person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

Q. "municipality" means any incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains to municipality;

R. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

S. "president" means the president of the authority and the ~~chairman~~ chair of the board;

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

U. "property" means real property and personal property;

V. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication"

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or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise [se] stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

W. "public body" means the state or any agency, instrumentality or corporation [~~thereof~~] of the state or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified and registered to vote in general elections in the state who is a resident of the authority at the time of any election held under the provisions of the Southern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and

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improvements on land;

(3) any property appurtenant to or used in connection with land; and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

Z. "secretary" means the secretary of the authority;

AA. "secretary of state" means the secretary of the state of New Mexico;

BB. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest [~~therein~~] in a project authorized by the Southern Sandoval County Arroyo Flood Control Act;

CC. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

DD. "sewer improvement" or "improve any sewer"

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means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including ~~[but not limited to]~~ collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

EE. "state" means the state of New Mexico or any agency, instrumentality or corporation ~~[thereof]~~ of the state;

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Southern Sandoval County Arroyo Flood Control Act; and

HH. "treasurer" means the treasurer of the authority."

**SECTION 128.** Section 72-19-8 NMSA 1978 (being Laws 1990, Chapter 14, Section 8, as amended) is amended to read:

"72-19-8. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of five qualified electors of the authority. All powers, rights,

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privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided for in Section 72-19-9 NMSA 1978 or elected as provided for in Section 72-19-10 NMSA 1978 and except for any director chosen to fill an unexpired term, the term of each director [~~commences on the first day of January next following a general election in the state and~~] runs for six years. Each director, subject to such exceptions, shall serve a six-year term [~~ending on the first day of January next following a general election~~], and each director shall serve until [~~his~~] a successor has been duly chosen and qualified."

SECTION 129. Section 72-19-10 NMSA 1978 (being Laws 1990, Chapter 14, Section 10, as amended) is amended to read:

"72-19-10. ELECTION OF DIRECTORS.--At the time that a proposal to incur debt is first submitted to the qualified electors [~~or at the first general election next following the effective date of the Southern Sandoval County Arroyo Flood Control Act, whichever occurs first~~], the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 1993, two to serve a term ending January 1, 1995 and one to serve a term ending January 1, 1997. At the first election, the five candidates receiving the highest number of votes shall be elected as

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directors. The terms of the directors shall be determined by lot at their organizational meeting. At each ~~[general]~~ local election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors ~~[and as successors to the directors whose terms end on the first day of January next following each such election]~~. Elections shall be held pursuant to the provisions of the Local Election Act. Nothing in the Southern Sandoval County Arroyo Flood Control Act shall be construed as preventing ~~[a]~~ qualified ~~[elector]~~ electors of the authority from being elected or reelected as ~~[a director]~~ directors to succeed ~~[himself. If there is only one vacancy on the board, the candidate receiving the highest number of votes shall be elected as director. If there are two vacancies on the board, the candidate receiving the highest number of votes and the candidate receiving the next highest number of votes shall be elected as directors]~~ themselves."

SECTION 130. Section 72-19-11 NMSA 1978 (being Laws 1990, Chapter 14, Section 11, as amended) is amended to read:

"72-19-11. NOMINATION OF DIRECTORS.--~~[Not later than forty-five days before a proposal to incur debt is first submitted to the qualified electors or at the first general election next following the effective date of the Southern Sandoval County Arroyo Flood Control Act, whichever occurs~~

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~~first]~~ Written nominations of any candidate as director may be filed with the ~~[secretary of the board]~~ proper filing officer in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated ~~[therein]~~, shall designate ~~[therein]~~ the name of the candidates ~~[thereby]~~ nominated and shall recite that the subscribers ~~[thereto]~~ are qualified electors and that the ~~[candidate or]~~ candidates designated ~~[therein]~~ are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy. ~~[If a candidate does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. For any election held after November 1990, nominations shall be made by qualified electors in accordance with the procedures and limitations of this section, except that such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election.]"~~

SECTION 131. Section 72-19-13 NMSA 1978 (being Laws 1990, Chapter 14, Section 13) is amended to read:

"72-19-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of ~~[January in each odd-numbered year]~~ the month that the term of office begins for members elected in the immediately preceding election at the office

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of the board within the authority. Each member of the board, before entering upon [his] official duties, shall take and subscribe on oath that [he] the member will support the constitution of the United States and the constitution and laws of New Mexico and [~~that he~~] will faithfully and impartially discharge the duties of [his] office to the best of [his] the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon [his] official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of [his] office, without fraud, deceit or oppression, and the accounting for all money and property coming into [his] the director's hands, and the prompt and faithful payment of all money and the delivering of all property coming into [his] the director's custody or control belonging to the authority, to [his] the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

SECTION 132. Section 72-19-28 NMSA 1978 (being Laws 1990, Chapter 14, Section 28, as amended) is amended to read:

"72-19-28. ELECTIONS.--Each biennial election of directors [~~shall be conducted at the time of the general~~

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~~election under the direction of the Sandoval county clerk and in accordance with the election laws of New Mexico. Any] and other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted [at any time approved by the board in accordance with the election laws of New Mexico. Elections for the issuance of bonds may be by mail-in ballot pursuant to the procedures set forth in the Mail Ballot] pursuant to the Local Election Act."~~

SECTION 133. Section 72-20-4 NMSA 1978 (being Laws 2007, Chapter 99, Section 4) is amended to read:

"72-20-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Eastern Sandoval County Arroyo Flood Control Act:

A. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

B. "authority" means the eastern Sandoval county arroyo flood control authority;

C. "board" means the board of directors of the authority;

D. "chair" means the chair of the board and

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president of the authority;

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority and, in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of the Eastern Sandoval County Arroyo Flood Control Act. In the event the construction of any facility or project authorized by the Eastern Sandoval County Arroyo Flood Control Act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities, project or interest therein being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient

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therefor or in connection therewith, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other public body from funds available for use therefor in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments thereof; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money theretofore expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

G. "director" means a member of the board;

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H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

I. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of such engineers employed by the authority in connection with any facility, property, project or power authorized by the Eastern Sandoval County Arroyo Flood Control Act;

J. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property or project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

K. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

L. "federal government" means the United States or any agency, instrumentality or corporation thereof;

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct

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obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Eastern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

O. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof, of facilities, other property or project or any interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy thereof, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mail, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail any such notice shall not invalidate any proceedings under the Eastern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the

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secretary or the engineer deems reliable. Any list of such names and addresses may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

Q. "municipality" means any incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains to municipality;

R. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

S. "president" means the president of the authority and the chair of the board;

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and

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without the authority's boundaries;

U. "property" means real property and personal property;

V. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise so stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

W. "public body" means the state or any agency, instrumentality or corporation thereof or any municipality, school district or other type of district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified and registered to vote in general elections in the state, who is a resident of the authority at the time of any election held

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under the provisions of the Eastern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land; and
- (4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

Z. "secretary" means the secretary of the authority;

AA. "secretary of state" means the secretary of state of New Mexico;

BB. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

CC. "sewer facilities" means any one or more of the

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various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

DD. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including [~~but not limited to~~] collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

EE. "state" means the state of New Mexico or any agency, instrumentality or corporation thereof;

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Eastern Sandoval County Arroyo Flood Control Act; and

HH. "treasurer" means the treasurer of the authority."

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**SECTION 134.** Section 72-20-8 NMSA 1978 (being Laws 2007, Chapter 99, Section 8, as amended) is amended to read:

"72-20-8. BOARD OF DIRECTORS.--

A. The governing body of the authority is a board of directors consisting of three registered qualified electors of the authority; provided that, after single-member districts are created pursuant to Subsection B of Section 72-20-10 NMSA 1978 and after the expiration of the terms of any directors-at-large who are serving at the time that single-member districts are created:

(1) each director shall reside within and represent a specified district; and

(2) if a director no longer resides within the district that the director represents, the director's position shall be deemed vacant and a successor shall be appointed to serve the unexpired term pursuant to Section 72-20-12 NMSA 1978.

B. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors

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appointed as provided for in Section 72-20-9 NMSA 1978 or elected as provided in Section 72-20-10 NMSA 1978 and except for any director chosen to fill an unexpired term, and except for the first directors serving after the authority is divided into single-member districts, the term of each director [~~commences on the first day of January next following a general election in the state and~~] runs for six years. Each director, subject to such exceptions, shall serve a six-year term [~~ending on the first day of January next following a general election~~], and each director shall serve until a successor has been duly chosen and qualified."

SECTION 135. Section 72-20-10 NMSA 1978 (being Laws 2007, Chapter 99, Section 10, as amended) is amended to read:

"72-20-10. ELECTION OF DIRECTORS--SINGLE-MEMBER DISTRICTS.--

A. At the time that a proposal to incur debt is first submitted to the qualified electors [~~or at the first general election following March 30, 2007, whichever occurs first~~], the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 2011, two to serve a term ending January 1, 2013 and one to serve a term ending January 1, 2015. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting.

B. Upon the exclusion of land pursuant to Subsection C of Section 72-20-6 NMSA 1978, the two directors

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elected in the 2010 general election shall be deemed to have resigned, and, notwithstanding the provisions of Section 72-20-12 NMSA 1978, their positions shall not be filled. Thereafter, the board shall consist of three directors. The board shall divide the authority into three single-member districts. The following provisions shall govern the procedure for converting to single-member districts:

- (1) the districts shall be as contiguous, compact and as equal in population as is practicable;
- (2) remaining terms for the three incumbent directors shall be chosen by lot so that one term expires on January 1, 2013, one term expires on January 1, 2015 and one term expires on January 1, 2017;
- (3) if, as a result of the division of the authority into districts, two or more incumbent directors reside within the same district, the board shall determine, by lot, one of the directors to represent the district, and the other directors residing within that district shall represent the authority at large until their terms expire;
- (4) if, as a result of the exclusion of land pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or more incumbent directors reside outside of any district, the directors shall represent the authority at large until their terms expire; and
- (5) if more than one director represents the

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authority at large pursuant to Paragraph (3) or (4) of this subsection, the board shall determine by lot the district that will elect a resident to succeed a director-at-large as the term of each director-at-large expires.

C. ~~[At the 2012 and each subsequent general election, for the single-member district in which the term of the incumbent director or the term of a director-at-large assigned by lot pursuant to Paragraph (2) of Subsection B of this section will expire on the first day of the January immediately following the election]~~ A director who is a qualified elector and a resident of the district shall be elected by the qualified electors who are residents of that district to serve a six-year term. Elections for directors shall be held pursuant to the Local Election Act.

D. Nothing in this section shall be construed as preventing qualified electors of the authority from being elected or reelected as directors to succeed themselves; provided that they reside in the district from which they are elected.

E. As soon as feasible after each federal decennial census, the board shall assess the existing districts to determine if the districts remain as equal in population as is practicable and, if necessary, shall redistrict the authority into districts that remain contiguous, compact and as equal in population as is practicable; provided that:

(1) a redistricting shall be effective at the next following ~~[general]~~ local election; ~~[and]~~

(2) an incumbent director whose residence is

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redistricted out of the district represented by the director shall serve until the next [~~general~~] local election, at which a qualified elector who resides within the district shall be elected to fill the unexpired term; and

(3) the board shall notify the county clerk of the new district boundaries."

SECTION 136. Section 72-20-11 NMSA 1978 (being Laws 2007, Chapter 99, Section 11, as amended) is amended to read:

"72-20-11. NOMINATION OF DIRECTORS.--~~[Not later than forty-five days before a proposal to incur debt is first submitted to the qualified electors or at the first general election following March 30, 2007, whichever occurs first]~~ Written nominations of any candidate as director may be filed with the [~~secretary of the board~~] proper filing officer in accordance with the provisions of the Local Election Act.

Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated [~~therein~~], shall designate [~~therein~~] the name of the candidates [~~thereby~~] nominated and shall recite that the subscribers [~~thereto~~] are qualified electors and that the [~~candidate or~~] candidates designated [~~therein~~] are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy. [~~If a candidate does not~~

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~~withdraw the candidate's name before the first publication of the notice of election, the candidate's name shall be placed on the ballot. For any election held after November 2010, nominations shall be made by qualified electors in accordance with the procedures and limitations of this section, except that:~~

~~A. such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election;~~

~~B. each nomination shall designate only one candidate;~~

~~C. all of the qualified electors signing each nomination and the person nominated shall reside within the district for which the candidate has been nominated; and~~

~~D. each nomination shall recite that the subscribers thereto are qualified electors who reside in the district for which the candidate is nominated and that the person nominated is a qualified elector who resides in the district for which the person is nominated.]"~~

SECTION 137. Section 72-20-13 NMSA 1978 (being Laws 2007, Chapter 99, Section 13) is amended to read:

"72-20-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of [~~January in each odd-numbered year~~] the month that the term of office begins for members elected in the immediately preceding election, at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take

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and subscribe on oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and that the member will faithfully and impartially discharge the duties of the office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of the director's office, without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

**SECTION 138.** Section 72-20-28 NMSA 1978 (being Laws 2007, Chapter 99, Section 28) is amended to read:

"72-20-28. ELECTIONS.--Each biennial election of directors [~~shall be conducted at the time of the general election under the direction of the Sandoval county clerk and in accordance with the election laws of New Mexico~~] and any

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other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted [at any time approved by the board in accordance with the election laws of New Mexico. Elections for the issuance of bonds may be by mail-in ballot pursuant to the procedures set forth in the Mail Ballot] pursuant to the Local Election Act."

SECTION 139. Section 73-14-20 NMSA 1978 (being Laws 1975, Chapter 262, Section 3, as amended) is amended to read:

"73-14-20. DEFINITIONS.--As used in Sections 73-14-18 through [73-14-32] 73-14-30 NMSA 1978:

[A. ~~"absent voter" means a qualified elector who has requested an absentee ballot forty days prior to an election;~~

B. ~~"absentee-early voter" means a qualified elector who has voted early, prior to election day, on an electronic voting machine at a designated absentee-early voter precinct;~~

G.] A. "benefited area" means that area described by a property appraisal that receives a benefit as a result of the creation of a district for any of the purposes specified in Section 73-14-4 NMSA 1978;

[D. ~~"election director" means the person whom the board of directors may request to provide election services by a contract approved by the secretary of state;~~

E. ~~"election officer" means a person appointed by the board of directors to conduct the election in the absence of an election director and who performs all election services required by statute;~~

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~~F.]~~ B. "list compiler" means a contractor approved by the board of directors to compile and produce a qualified elector list for a conservancy district;

~~G.]~~ C. "qualified elector" means an individual who owns real property within the benefited area of the conservancy district and who has provided proof of an ownership interest to one of the sources specified in Subsection B of Section 73-14-20.1 NMSA 1978 within the required time period, or who resides on and owns legal or equitable title in tribal lands and who is over the age of majority;

~~H.]~~ D. "qualified elector's list" means the list compiled before each election that contains the individual names of all qualified electors; and

~~I.]~~ E. "residence" means a dwelling that lies partially or completely within the benefited area."

**SECTION 140.** Section 73-14-20.1 NMSA 1978 (being Laws 1990, Chapter 48, Section 1, as amended) is amended to read:

"73-14-20.1. QUALIFIED ELECTOR LIST.--

A. The board of directors of the conservancy district may contract for a list compiler before each election to compile and produce a qualified elector's list for the district. The list compiler shall deliver the completed list to the ~~[election director]~~ appropriate county clerk no later than ~~[forty-five]~~ one hundred eighty days

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prior to a district election and update the list every thirty days until ninety days before the election, which list the county clerk shall use for the election. An individual who purchases property ninety days prior to an election and whose name does not appear on the qualified elector's list shall not vote in that election. The individual may become certified to vote in a future election by filing [~~his~~] a deed of title with the appropriate county clerk at least ninety days before the next conservancy district election.

B. Names of qualified electors shall be obtained from the records of the county clerk of the appropriate county, the appropriate county assessor of the appropriate county, records of the conservancy district or from the census bureau and enrollment records provided by the pueblos. The county assessor of the appropriate county, the county clerk of the appropriate county and the tribal representatives of the appropriate pueblos shall deliver to the [~~election director~~] list compiler all records regarding qualified electors of the benefited area no later than the last day of each March before a district election.

C. Updating the qualified elector's list shall consist of adding, for any new qualified elector who has purchased property in the district, the name, address and description of all property owned by the qualified elector in the benefited area and removing the name of any elector who is deceased or [~~is no longer a qualified elector because he~~] who no longer owns property within the benefited area.

D. Proof of ownership of land within the benefited

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area requires one of the following:

(1) a recorded deed or real estate contract indicating current ownership of land within the benefited area;

(2) an individual's name on county clerk records indicating a description of property the individual owns within the benefited area;

(3) an individual's name on a list compiled by the governing body of a pueblo within the benefited area indicating that the individual named is residing on and has legal or equitable title in the pueblo; or

(4) a current property tax bill indicating ownership of land within the benefited area.

E. The [~~election officer or the election director~~] appropriate county clerk shall distribute to each polling place a current qualified elector's list for the appropriate county. The [~~election officer or the election director~~] appropriate county clerk shall distribute the qualified elector's list to each polling place within a pueblo located within the benefited area. A qualified elector may vote at any one polling place in the pueblo or county where [~~he~~] the elector owns land. An individual who seeks to cast [~~his~~] a vote but [~~finds his~~] whose name is not on the qualified elector's list shall not be allowed to vote in that election."

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SECTION 141. Section 73-14-24 NMSA 1978 (being Laws

1975, Chapter 262, Section 7, as amended) is amended to read:

"73-14-24. TIME AND PROCEDURE FOR ELECTION.--

~~[A. On the first Tuesday after the first Monday in January prior to the middle Rio Grande conservancy district election, an election proclamation shall be published that includes a list of the offices for which a candidate may file, the date and place at which declarations of candidacy shall be filed and the date of the election. The election proclamation shall be published once in a newspaper of general circulation in the counties in which the election shall be held.~~

~~B.]~~ A. The members of the boards of directors created pursuant to the provisions of Sections 73-14-18 through ~~[73-14-32]~~ 73-14-30 NMSA 1978 shall be elected ~~[at an election held on the first Tuesday after the first Monday in June in 2001 and in each odd-numbered year thereafter]~~ pursuant to the Local Election Act.

~~[C.]~~ B. The elections for the members of the board of directors of the conservancy district shall be conducted, counted and canvassed as provided in ~~[Sections 73-14-18 through 73-14-32 and 73-14-84 through 73-14-86 NMSA 1978.~~ The polls may be opened and closed in the same manner as provided for the general election under the Election Code.

~~D.~~ If only one candidate has filed a declaration of candidacy for a position to be filled at an election, no declared write in candidate has filed for a position and there are no questions or bond issues on the ballot, only one

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~~polling place for the election may be designated. The one polling place may be located in the office of the election director or in the office of the middle Rio Grande conservancy district] the Local Election Act."~~

SECTION 142. Section 73-14-25 NMSA 1978 (being Laws 1975, Chapter 262, Section 8, as amended) is amended to read:

"73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF ELECTORS.--

A. ~~[Any]~~ A person who desires to become a candidate for election as a member of the conservancy district board of directors shall file ~~[his]~~ a written declaration of candidacy with the ~~[election director or with the election officer at least sixty days before the election. The election officer or the election director shall certify the candidates to the board of directors]~~ proper filing officer in accordance with the provisions of the Local Election Act.

B. The declaration of candidacy shall ~~[contain:~~

- ~~(1) a statement that the candidate is a qualified elector of the district and meets the qualifications of a director as required by law;~~
- ~~(2) the candidate's name, address, county of residence and date of declaration of candidacy;~~
- ~~(3) the numerical designation of the position on the board of directors for which he desires to be a candidate;~~

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~~(4)~~ be accompanied by:

(1) if a candidate for a position representing a county in the conservancy district, a petition signed by at least seventy-five qualified electors of the district who reside in that county; or

~~(5)~~ (2) if a candidate for the position at large in the conservancy district, a petition signed by at least one hundred twenty-five qualified electors [~~and~~

~~(6) a statement that the candidate resides within the conservancy district and in the county for which he desires to be a candidate on the board of directors]."~~

SECTION 143. Section 73-14-28.1 NMSA 1978 (being Laws 1996, Chapter 42, Section 12) is amended to read:

"73-14-28.1. ELECTION.--~~[The board of directors of the conservancy district shall conduct the election]~~ Elections shall be conducted pursuant to [~~Chapter 73, Article 14]~~ Sections 73-14-18 through 73-14-30 NMSA 1978 and [~~other applicable election laws or shall select an election director as defined in Section 73-14-20 NMSA 1978 to provide election services. The election director shall operate pursuant to a contract approved by the secretary of state. The election may be conducted by emergency paper ballot, electronic voting machine or any other state-certified tabulating voting machine]~~ the Local Election Act."

SECTION 144. Section 73-14-55 NMSA 1978 (being Laws 1943, Chapter 126, Section 2) is amended to read:

"73-14-55. BOARDS OF DIRECTORS--MEMBERSHIP--  
QUALIFICATIONS.--The boards of directors [~~hereby~~] created in

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Sections 73-14-54 through 73-14-69 NMSA 1978 shall consist of five ~~[(5)]~~ directors, each of whom must own real property within the conservancy district ~~[which]~~ that is subject to conservancy district appraisals, assessments, levies and taxes, and each of whom must actually reside within the conservancy district and also within the county from which ~~[he shall be]~~ the director is elected ~~[as hereinafter provided]."~~

SECTION 145. Section 73-14-57 NMSA 1978 (being Laws 1943, Chapter 126, Section 4, as amended) is amended to read:

"73-14-57. DEFINITION OF "QUALIFIED ELECTORS"--  
QUALIFIED ELECTOR LIST.--

A. The term "qualified electors", as used in Sections ~~[75-28-33 through 75-28-48 NMSA 1953]~~ 73-14-54 through 73-14-69 NMSA 1978, means only those persons who have reached the age of majority and, for at least six months prior to the election, have owned, during the entire six-month period, real property situated within the district ~~[which]~~ that is subject to conservancy district appraisals, assessments, levies and taxes.

B. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall

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use for that election."

SECTION 146. Section 73-14-58 NMSA 1978 (being Laws 1943, Chapter 126, Section 5) is amended to read:

"73-14-58. TERMS--VACANCIES.--Each director shall be elected for a term of six years from and after the date of [his] election and, unless removed from office as [hereinafter] provided in Section 73-14-59 NMSA 1978, shall serve until [his] a successor is duly elected and has qualified; provided that at the first election, one director shall be elected for a term of two years, two for a term of four years and two for a term of six years, to be determined according to counties if there [be] is land in any district in more than one county, by the board calling the election. Appointments to fill vacancies shall be for the unexpired term of the director whose office becomes vacant. [Within ten days after the first and each succeeding election to be held under the provisions of this act, the directors so elected shall meet and qualify as directors and shall organize the board of directors hereby created in the same manner now by law required of members of the board of directors hereby abolished. When the elected directors shall have qualified and the boards of directors hereby created shall have been organized as aforesaid, then the present boards of directors as now constituted shall immediately cease to exist and to function, and all conservancy district records and property of what kind or character soever shall be, by the outgoing board and its outgoing directors, officers and employees, transferred and delivered unto the

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~~newly organized board of directors of said conservancy district.]"~~

SECTION 147. Section 73-14-61 NMSA 1978 (being Laws 1943, Chapter 126, Section 8, as amended) is amended to read:

"73-14-61. NOTICE OF CANDIDACY--SIGNATURES OF ELECTORS.--Any qualified elector [~~as herein defined~~] who desires to become a candidate for election as a director shall [~~at least forty days prior to the election~~] file with the [~~secretary of the board of directors then in office his~~] proper filing officer in accordance with the provisions of the Local Election Act a written notice of candidacy, which shall state [~~his~~] the candidate's name and residence [~~and the term for which he is a candidate for election~~] within the conservancy district. If [~~he~~] the candidate is a candidate at large, [~~his~~] the candidate's notice of candidacy [~~must~~] shall be signed by twenty qualified electors resident within the district. If [~~he~~] the candidate is a candidate only from that portion of the district [~~which~~] that lies within one county, [~~his~~] the candidate's notice of candidacy [~~must~~] shall be signed by ten qualified electors who reside within that particular portion of the district and county from which the candidate seeks to be elected. [~~No person who has not filed his notice of candidacy as and within the time required in this section shall be placed on the ballot.]"~~

SECTION 148. Section 73-14-62 NMSA 1978 (being Laws

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1943, Chapter 126, Section 9, as amended) is amended to read:

"73-14-62. TIME, PLACE AND PROCEDURE FOR ELECTION.--

~~[A.] The five director-members of the board of directors [by this act] created by Sections 73-14-54 through 73-14-69 NMSA 1978 shall be elected [on the first Tuesday of October of the year 1943 and of each succeeding sixth year thereafter at general election for districts having less than one hundred thousand acres. The five director-members of the boards of directors of conservancy districts formed after July 1, 1952 shall be elected on the first Tuesday of October, 1959 and of each succeeding sixth year thereafter at general election.~~

~~B. Not less than thirty days prior to said election, the board of directors then in office shall meet and by written resolution, which shall be preserved among the permanent records of the board, shall select a voting place within each voting precinct or voting division thereof within the conservancy district and shall select three judges of election to conduct the election at the place so selected. Said judges shall be qualified electors, as herein defined, and residents of the precinct within which they are appointed to act and shall serve without pay. The resolution shall appoint one of said judges to receive the ballots and post its notice of election. Not less than five days thereafter, the secretary of said board shall notify each judge so selected of his appointment as such and send to the judge selected to receive the ballots four copies of a notice of election which shall state the time and purpose thereof, the place where held within the precinct and the names of the~~

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~~judges selected for such precinct and said notices shall be posted at the four most prominent places within the precinct as soon as received]~~ in accordance with the provisions of the Local Election Act."

SECTION 149. Section 73-14-71 NMSA 1978 (being Laws 1961, Chapter 67, Section 3, as amended) is amended to read:

"73-14-71. DEFINITION OF "QUALIFIED ELECTOR"--QUALIFIED ELECTOR LIST.--

A. As used in the provisions of Sections [~~75-28-49 through 75-28-67 NMSA 1953~~] 73-14-70 through 73-14-88 NMSA 1978, "qualified elector" means a natural person who has reached the age of majority and who, for at least six months prior to the election, has owned, either in community or separately, real property located within the district and subject to conservancy district appraisals, assessments, levies and taxes.

B. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall use for that election."

SECTION 150. Section 73-14-73 NMSA 1978 (being Laws 1961, Chapter 67, Section 5) is amended to read:

"73-14-73. ELECTIONS [~~WHEN HELD~~].--~~[A. The first~~

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~~election for conservancy districts existing on July 1, 1961 and eligible under the provisions of Section 75-28-53 New Mexico Statutes Annotated, 1953 Compilation to have an elected board of directors shall be held on the first Tuesday in October 1961.~~

~~B. Subsequent] Elections shall be held [every two years following the year 1961 and shall be held on the first Tuesday of October;~~

~~G.] pursuant to the Local Election Act. Conservancy districts formed after July 1, 1961 shall hold their first election as provided in Section [75-28-53 New Mexico Statutes Annotated, 1953 Compilation] 73-14-74 NMSA 1978."~~

SECTION 151. Section 73-14-74 NMSA 1978 (being Laws 1961, Chapter 67, Section 6, as amended) is amended to read:

"73-14-74. ELIGIBILITY OF DISTRICT TO HOLD ELECTION.--

A. No election shall be held in [~~any~~] an existing conservancy district until the main canals in that district are in such a condition that water can be delivered from them for irrigation on the lands within the district.

B. The first election in any district formed after July 1, 1961 [~~or in a district existing on July 1, 1961, and having an appointed board of directors~~] shall be held [~~on the first Tuesday of October occurring in an odd-numbered year during or~~] with the first regular local election occurring after [~~which~~] the requirements of Subsection A of this section are fulfilled."

SECTION 152. Section 73-14-78 NMSA 1978 (being Laws 1961, Chapter 67, Section 10) is amended to read:

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"73-14-78. NOTICE OF CANDIDACY--SIGNATURES OF ELECTORS.--~~[A.] Any qualified elector who desires to become a candidate for election as a member of a conservancy district board of directors shall file [his] a written notice of candidacy with the [secretary of the existing appointed or elected board at least twenty days before the election.~~

~~B. A notice for candidacy shall state:~~

~~(1) the candidate's name and address; and~~

~~(2) the numerical designation of the office position on the board for which he desires to be a candidate.~~

~~G.] proper filing officer in accordance with the provisions of the Local Election Act. In addition, [to the requirements of Subsection B] a notice for candidacy shall be signed by at least ten qualified electors within the conservancy district."~~

SECTION 153. Section 73-18-27 NMSA 1978 (being Laws 1955, Chapter 281, Section 3, as amended) is amended to read:

"73-18-27. ~~[CALLING OF FIRST ELECTION]~~ ELECTIONS.--~~[The board of directors of the conservancy district shall meet at the office of the conservancy district at 10:00 a.m. on the second Tuesday of August 1955 and shall call an election in the election precincts outside the municipality to be held on the second Tuesday in October 1955. The election shall be called by the board of directors by resolution that shall fix a voting place for each election precinct within the district~~

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~~outside the municipality and designate the necessary qualified electors of each election precinct to act as judges of the election in each precinct. In the discretion of the board of directors of the conservancy district, the election may be held at any place within the district. Judges of the elections shall be paid an amount to be determined by the board of directors for service. Expenses of the elections shall be paid by the district.]~~ In each odd-numbered year after 1955, elections shall be called ~~[in the same manner and at the same times as provided in Sections 73-18-25 through 73-18-43 NMSA 1978]~~ and conducted pursuant to the Local Election Act for the election of directors to succeed any directors whose terms expire in that year."

SECTION 154. Section 73-18-28 NMSA 1978 (being Laws 1955, Chapter 281, Section 4) is amended to read:

"73-18-28. DIRECTOR-AT-LARGE AND MUNICIPAL DIRECTOR--  
QUALIFIED ELECTOR LIST.--

A. The director to represent the municipality ~~[or municipalities]~~ and the director-at-large for the period from October 1955 to October 1957 shall be selected at the September 1955 meeting by the board of directors of ~~[such]~~ the conservancy district as ~~[the same]~~ it exists prior to ~~[such]~~ the election. ~~[Such]~~ The members shall be elected from the membership of the previously existing board if there ~~[be]~~ are qualified members of ~~[such]~~ the board willing to serve for ~~[such]~~ the additional two years. If there ~~[be]~~ are no members of the existing board willing to serve for ~~[such]~~ the additional period of two years or if there ~~[be]~~ is only

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one, [~~then said~~] the existing board may select one or both of [~~such~~] the directors from qualified electors of the district for [~~such~~] the position or positions [~~as a director as no member of the existing board shall be willing to accept~~].

B. In the election to be held in October 1957, a director to represent the municipal voting precinct shall be elected from the qualified electors of the municipality, and a director-at-large shall be elected from the qualified electors of the district.

C. Every resident, otherwise qualified, owning real estate of any character within the district shall have one vote for director-at-large. Each elector resident of the municipal voting precinct shall have one vote for municipal director. The right of a voter to vote for municipal director shall not be affected by [~~such~~] the elector voting in any other election precinct in which [~~such~~] the elector may own class "A" land.

D. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall use for that election."

SECTION 155. Section 73-18-33 NMSA 1978 (being Laws 1955, Chapter 281, Section 9, as amended) is amended to read:

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"73-18-33. QUALIFICATIONS OF DIRECTORS.--The director-at-large shall be the owner of class "A" land within the district and shall be a resident of the district. The director for the municipal election precinct shall be a resident and shall be the owner of real estate within the district boundaries of the municipality. A director representing a district election precinct outside the municipality shall be a resident of the district and the owner of irrigable land within the voting precinct for which ~~[he]~~ the director is a director."

SECTION 156. Section 73-18-34 NMSA 1978 (being Laws 1955, Chapter 281, Section 10, as amended) is amended to read:

"73-18-34. BECOMING A CANDIDATE FOR DIRECTOR.--Any person wishing to become a candidate for the office of director in any district shall ~~[by the last Friday of July before the election]~~ file ~~[in the office of the secretary of the district]~~ a declaration of candidacy pursuant to the provisions of the Local Election Act, stating the election precinct for which the person is a candidate, accompanied by a petition signed by not less than ten qualified electors of the election precinct for which the person is a candidate to represent. No declaration of candidacy shall be accepted ~~[by the secretary]~~ unless accompanied by such petition, signed by electors."

SECTION 157. Section 73-18-35 NMSA 1978 (being Laws 1955, Chapter 281, Section 11) is amended to read:

"73-18-35. TERM OF OFFICE FOR DIRECTOR.--The regular  
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term of office for a director [~~shall be~~] is four [~~(4)~~] years, and the director shall serve until [~~his~~] a successor [~~shall have~~] has been chosen and [~~shall have~~] has qualified. A director shall qualify by taking an oath of office. Newly elected directors shall take office [~~at the next regular meeting of the board of directors~~] on the date that their terms of office begin following the election of [~~such~~] the director."

SECTION 158. Section 73-18-41 NMSA 1978 (being Laws 1955, Chapter 281, Section 17) is amended to read:

"73-18-41. APPLICATION OF [~~GENERAL ELECTION LAWS~~] LOCAL ELECTION ACT.--In any election held under [~~this act~~] Sections 73-18-25 through 73-18-43 NMSA 1978, the [~~general election laws~~] Local Election Act shall be applicable [~~except as otherwise provided in this act and~~] except as to the requirement for registration and residence in state, county or precinct as a qualification of an elector in offering to vote."

SECTION 159. Section 73-20-1 NMSA 1978 (being Laws 1957, Chapter 210, Section 1) is amended to read:

"73-20-1. SHORT TITLE.--[~~This act~~] Sections 73-20-1 through 73-20-24 NMSA 1978 may be cited as the "Watershed District Act"."

SECTION 160. Section 73-20-9 NMSA 1978 (being Laws 1957, Chapter 210, Section 9, as amended) is amended to read:

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"73-20-9. REFERENDUM.--After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in Section [~~45-5-31 NMSA 1953~~] 73-20-13 NMSA 1978 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Due notice of the referendum shall be given as provided in [~~Section 45-5-26 NMSA 1953~~] the Local Election Act, except that notice sent to absentee landowners shall also inform them of their right to request a ballot. [~~Such notice shall state the date of holding the referendum, the hours of opening and closing the polls and shall designate one or more places within the proposed district as polling places. The board shall appoint a polling superintendent and other necessary polling officers giving equal representation to the proponents and opponents of the question involved.~~] Ballots shall be sent to all absentee landowners upon request and they may vote by return ballot by first class mail."

SECTION 161. Section 73-20-10 NMSA 1978 (being Laws 1957, Chapter 210, Section 10, as amended) is amended to .209797.3

read:

"73-20-10. ~~[BALLOTS]~~ QUALIFIED ELECTOR LIST.--~~[The question to be voted on shall be submitted by ballots that define the boundaries of the proposed district as determined by the board of supervisors.]~~ Only owners of lands lying within the boundaries of the territory, as determined by the board, shall be eligible to vote in the referendum or in elections following formation of the district. The board shall compile and deliver to the appropriate county clerks a list of qualified electors one hundred eighty days prior to a district election, and update the list every thirty days until ninety days before an election, which list the county clerk shall use for the election."

SECTION 162. Section 73-20-11 NMSA 1978 (being Laws 1957, Chapter 210, Section 11, as amended) is amended to read:

"73-20-11. ~~VOTES--RESULTS~~.--The votes shall be counted ~~[by the election officers at the close of the polls and report of the results along with the ballots delivered to the polling superintendent, who shall certify the results to the board of supervisors]~~ in accordance with the provisions of the Local Election Act. If a majority of the votes cast ~~[favor]~~ favours creation of the district, the county canvassing board ~~[of supervisors]~~ shall certify the results to the county clerk in the county involved. Upon proper

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recording of the action, the watershed district shall be duly created. After recording, the certification shall be filed with the New Mexico department of agriculture."

SECTION 163. Section 73-20-12 NMSA 1978 (being Laws 1957, Chapter 210, Section 12, as amended) is amended to read:

"73-20-12. DIRECTORS--ELECTION.--

A. ~~[Within thirty days]~~ At the next regular local election held pursuant to the Local Election Act after a watershed district is created, the board of supervisors of the soil and water conservation district involved shall cause an election to be held for the election of a board of directors of the watershed district. The board shall consist of five members. The first board shall determine by lot from among its membership two members to serve terms of two years, two members to serve terms of three years and one member to serve a term of four years. Thereafter, as these initial terms expire, their replacements shall be elected for terms of four years. Vacancies occurring before the expiration of a term shall be filled by the remaining members of the board for the unexpired term. Two or more vacancies occurring simultaneously shall be filled by appointment by the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed district.

B. If the territory embraced within a watershed district lies within more than one soil and water conservation district, each additional soil and water

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conservation district having a minority of the land involved in the watershed shall be entitled to elect three additional directors. These additional directors after their election shall determine by lot one of their number to serve a term of two years, one a term of three years and one a term of four years. Thereafter, their successors shall be elected for terms of four years. The representatives of each of these minority districts shall fill vacancies in the district's membership for the unexpired term.

C. The board of directors shall annually elect from its membership a [~~chairman~~] chair, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of [~~his~~] office to be approved by the board of directors. The bond shall be executed with at least three solvent personal sureties whose solvency shall exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium of the bond shall be paid by the board of directors.

D. The board of directors shall prepare and submit to the department of finance and administration such reports as it may require from among those required to be submitted by other political subdivisions.

E. Each person desiring to be a director of a

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watershed district shall file a nominating petition with the ~~[board of supervisors]~~ proper filing officer in accordance with the provisions of the Local Election Act, signed by ten or more landowners within the watershed districts of the county involved, or, if less than fifty landowners are involved, a majority of such landowners. If the candidates nominated do not exceed the positions available, they shall be declared elected. ~~[No]~~ A person shall not be eligible to be a director of a watershed district ~~[who]~~ if the person is not a landowner in the district in which ~~[he]~~ the person seeks election."

SECTION 164. Section 73-20-14 NMSA 1978 (being Laws 1957, Chapter 210, Section 14, as amended) is amended to read:

"73-20-14. BONDS.--

A. Bonds authorized by Section 73-20-13 NMSA 1978 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used, and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary assessment levy in excess of the maximum authorized in Section 73-20-17 NMSA 1978 to establish a sinking fund for the liquidation of bonds as provided in Section 73-20-17 NMSA 1978. A copy of the order or resolution shall be certified to the board of supervisors.

B. The board of supervisors shall conduct a hearing on the proposal after notice given pursuant to Section

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73-20-8 NMSA 1978. If it appears that the proposal is within the scope and purpose of the Watershed District Act and meets all other requirements of the law, the proposal shall be submitted to the landowners of the district [~~by referendum under supervision of the board of supervisors~~] at an election held pursuant to the Local Election Act.

~~[G. Provisions of Sections 73-20-8 through 73-20-11 NMSA 1978 as to notice, qualifications of voters and manner of holding referendum election in organizing a watershed district shall apply to the referendum held under this section.~~

~~D.]~~ C. If two-thirds of the landowners voting favor the proposal, the bonds may be issued."

SECTION 165. Section 73-20-21 NMSA 1978 (being Laws 1957, Chapter 210, Section 20, as amended) is amended to read:

"73-20-21. ADDITION OF LAND.--

A. Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed district. The petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five or more of the landowners in the territory

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described, if fifty or more such owners are involved, or by a majority if less than fifty landowners are involved.

B. Within thirty days after the petition is filed, the board shall cause due notice to be given as provided in Section 73-20-8 NMSA 1978 of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion of them shall be included in the district. If all the landowners in the territory involved are not petitioners, a referendum shall be held within the territory [~~as provided in Sections 73-20-8 through 73-20-11 NMSA 1978~~] in accordance with the Local Election Act before making a final determination. If it is determined that the land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county involved. After recording, the certification shall be filed with the New Mexico department of agriculture."

**SECTION 166.** Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended by Laws 2013, Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section 2) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations

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of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within sixty days after petition is filed, a referendum shall be held [~~under the supervision of the board of supervisors as provided in Section 73-20-14 NMSA 1978. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its result if notice of the referendum has been given substantially as provided in Subsection B of this section]~~ pursuant to the provisions of the Local Election Act.

D. If a majority of the votes cast in the referendum [~~favor~~] favours the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

SECTION 167. Section 73-20-37 NMSA 1978 (being Laws 1965, Chapter 137, Section 11, as amended) is amended to

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"73-20-37. DISTRICT SUPERVISORS--ELECTION AND APPOINTMENT--NEW DISTRICTS.--

A. The governing body of a district shall be composed of five supervisors who shall be residents of the district and shall be elected pursuant to the provisions of the Local Election Act; provided, however, that two additional supervisors may be appointed to the governing body of each district by the commission in accordance with the provisions of the Soil and Water Conservation District Act. Four elected supervisor positions of each district shall be filled by landowners within the defined geographical area of their district. One elected supervisor position shall be designated supervisor-at-large, and the supervisor filling that position may serve the district without landowner qualification.

~~[B. Unless a different time is prescribed by the commission, within thirty days following the issuance of a certificate of organization to the two interim supervisors of a district, declarations of candidacy for supervisors of the district may be filed with the commission. The commission shall give due notice of election for the offices of five district supervisors. All registered voters residing within the district shall be eligible to vote. The commission shall adopt and prescribe regulations governing the conduct of the election, shall determine voter eligibility and shall supervise the election and publish its results. The districts shall bear the expenses of elections; however, the~~

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~~commission shall bear the expenses of the first election of a newly organized district.~~

~~G.]~~ B. In the first election of supervisors to serve a newly organized district, two supervisors shall be elected for terms of four years and three supervisors shall be elected for terms of two years. Thereafter, each elected supervisor shall serve a term of four years and shall continue in office until ~~[his]~~ a successor has been elected or appointed and has completed an oath of office. ~~[Oaths of office may not be completed prior to July 1 after an election.]~~ A vacant unexpired term of the office of an elected supervisor shall be filled by appointment by the remaining supervisors of the district. Two or more vacant unexpired terms occurring simultaneously in the same district shall be filled by appointment by the commission.

~~[D.]~~ C. Appointed interim supervisors may continue to serve as appointed supervisors ~~[at the pleasure of the commission or]~~ until their successors are ~~[otherwise appointed]~~ elected at the next local election pursuant to the Local Election Act."

SECTION 168. Section 73-20-38 NMSA 1978 (being Laws 1965, Chapter 137, Section 12, as amended) is amended to read:

"73-20-38. DISTRICT SUPERVISORS--ELECTION AND APPOINTMENT--ORGANIZED DISTRICTS.--

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A. Successors to supervisors whose terms end in a calendar year shall be elected [~~on the first Tuesday in May of that year~~] pursuant to the Local Election Act. Elections shall be called, conducted and [~~returned~~] canvassed in accordance with [~~rules adopted and prescribed by the commission~~].

~~B. A canvassing board appointed by the commission shall determine the results of a district election, shall certify and publish the results and shall give the commission notice of its canvass within seven days of its completion. A canvass is considered complete when all challenges have been resolved to the satisfaction of the canvassing board.~~

~~C. Rules adopted and published by the commission and the election provisions of the Soil and Water Conservation District Act shall be exclusive in the conduct of district elections. The commission may adopt and publish rules to carry out the provisions of the Soil and Water Conservation District Act.~~

~~D.] the Local Election Act.~~

B. By June 15 of each year, the district supervisors may submit to the commission a list of persons interested in the district and who by experience or training are qualified to serve as supervisors. The commission may appoint from the list submitted [~~or at will~~] two persons to serve as supervisors if it is the determination of the commission that the appointments are necessary or desirable and would benefit or facilitate the work and functions of the district. In the event a list is not submitted to the

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commission by the supervisors by June 15, the commission may appoint ~~[at will]~~ two supervisors qualified to serve by training or experience. Appointed supervisors shall serve ~~[at the pleasure of the commission]~~ a term of SRC ~~→two years~~ one year←SRC and shall have the same powers and perform the same duties as elected supervisors. Successors to appointed supervisors, or replacement-appointed supervisors in the event of vacancy, shall be appointed by the commission from a list of candidates ~~[or at will]~~ in accordance with the provisions of this subsection."

SECTION 169. Section 73-20-46 NMSA 1978 (being Laws 1965, Chapter 137, Section 20, as amended) is amended to read:

"73-20-46. DISTRICT ASSESSMENTS.--

A. In the event a district is unable to meet or bear the expense of the duties imposed upon it by the Soil and Water Conservation District Act, the supervisors may adopt a resolution that, to be effective, shall be approved by referendum in the district and that shall provide for an annual levy ~~[for a stated period of up to ten years]~~ in a stated amount not exceeding ~~[one dollar (\$1.00)]~~ five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, of real property within the district, except that real property within incorporated cities and towns in the district may be

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excluded. The referendum held to approve or reject the resolution of the supervisors shall be conducted ~~[with appropriate ballot and in substantially the same manner as a referendum adopting and approving the creation of a proposed district]~~ pursuant to the Local Election Act. After the initial authorization is approved by referendum, the supervisors shall adopt a resolution in each following year authorizing the levy. ~~[To extend an assessment beyond the period of time originally authorized and approved by referendum, the supervisors shall adopt a new resolution and the district voters shall approve it in a referendum. The extension shall be for the same period of time as originally approved, but the rate of the tax may be different as long as it does not exceed one dollar (\$1.00) on each one thousand dollars (\$1,000) of net taxable value of real property within the district, except that real property within incorporated municipalities in the district may be excluded. If the district is indebted to the United States or the state or any of their respective agencies or instrumentalities, including the New Mexico finance authority, at the time of the expiration of the original authorization, the supervisors may renew the assessment by resolution for a period not to exceed the maturity date of the indebtedness, and no referendum for that renewal is necessary.]~~

B. A resolution authorized under Subsection A of this section shall not be effective, and neither a referendum nor a levy is authorized, unless the resolution is submitted to and approved in writing by the commission.

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C. In the event a resolution of the supervisors is adopted and approved in accordance with the provisions of Subsection A of this section, the supervisors of the district shall certify by the fifteenth of July of each year to the county assessor of each county in which there is situate land subject to the district assessment:

- (1) a copy of the resolution of the supervisors;
- (2) the results of any referendum held in the year the certification is made; and
- (3) a list of landowners of the district and a description of the land owned by each that is subject to assessment.

D. A county assessor shall indicate the information on the tax schedules, compute the assessment and present the district assessment by regular tax bill.

E. The district assessment shall be collected by the county treasurer of each county in which taxable district land is situate in the same manner and at the same time that county ad valorem taxes are levied. The conditions, penalties and rates of interest applicable to county ad valorem taxation apply to the levy and collection of district assessments. A county treasurer shall be entitled to a collection fee equal to the actual costs of collection or four percent of the money collected from the levy of the

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district assessment, whichever is the lesser.

F. District funds, regardless of origin, shall be transferred to and held by the supervisors and shall be expended for district obligations and functions. The supervisors shall prepare an annual budget and submit it for approval to the commission and to the local government division of the department of finance and administration. All district funds shall be expended in accordance with the approved budgets.

G. In the event the supervisors of a district determine that there are or will be sufficient funds available for the operation of the district for any year for which an assessment is to be levied, they shall, by resolution, direct the assessor of each county in which taxable district land is situate, by July 15 of each year, to decrease the district assessment or to delete the district assessment reflected on the tax schedules.

H. Any levy authorized by the Soil and Water Conservation District Act, and any loan or other indebtedness authorized by that act that will require a levy, shall be based exclusively on or levied exclusively on the real property in the district, except that real property within incorporated cities and towns may be excluded."

**SECTION 170.** Section 73-21-14 NMSA 1978 (being Laws 1943, Chapter 80, Section 13, as amended) is amended to read:

"73-21-14. ELECTIONS.--

A. In any district, except a district created pursuant to a petition signed by the chair of the board of

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county commissioners of a county, [~~on the second Tuesday of January in the second calendar year after the organization of the district and on the second Tuesday of January every second year thereafter~~] in accordance with the Local Election Act there shall be elected by the [~~taxpaying~~] qualified electors of the district one member of the board to serve for a term of six years, except that if the district elects to adopt four-year terms, the member shall serve for a term of four years.

B. In any district created pursuant to a petition signed by the chair of the board of county commissioners of a county, [~~one~~] in the odd-numbered year after the organization of the district and every second year thereafter, there shall be elected by the [~~taxpaying~~] qualified electors of the district at least two, but no more than three, members of the board to serve for a term of two years. The election shall be held in accordance with the provisions of the Local Election Act.

C. [~~Not later than thirty days before any election pursuant to Subsection A or B of this section~~] Nominations may be filed with the [~~secretary of the board, and, if a nominee does not withdraw the nominee's name before the first publication of the notice of election, the name shall be placed on the ballot. The board shall provide for holding such election and shall appoint judges to conduct it. The~~

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~~secretary of the district shall give notice of election by publication and shall arrange such other details in connection with the election as the board may direct] proper filing officer in accordance with the provisions of the Local Election Act. If within ninety days prior to a board election the district publishes materials that describe the qualifications, experience and accomplishments of incumbents, equal space shall be made available without charge for similar information provided by opponents seeking a position on the board. [~~The returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.]"~~~~

SECTION 171. Section 73-21-28 NMSA 1978 (being Laws 1943, Chapter 80, Section 25, as amended) is amended to read:

"73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.-- Whenever the board shall, by resolution, determine that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, to carry out the objects or purposes of the district, requiring the creation of a general obligation indebtedness of five thousand dollars (\$5,000) or more, secured by property tax revenue from within the district, the board shall order the submission of the proposition of issuing the obligations or bonds or creating

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other indebtedness to the qualified [~~taxpaying~~] electors of the district at [~~an~~] a district election held [~~for that purpose. Any such election may be held separately or may be consolidated or held concurrently with any other election authorized by the Water and Sanitation District]~~ in accordance with the provisions of the Local Election Act.

The declaration of public interest or necessity required in this section and the provision for the holding of the election may be included within one and the same resolution. The resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred and the maximum rate of interest to be paid on the indebtedness. The resolution shall also [~~fix~~] announce the date upon which the election shall be held [~~and the manner of holding it and the method of voting for or against the incurring of the proposed indebtedness. The resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place and shall appoint, for each polling place, from the electors of the district, the officers of the election consisting of three judges, one of whom shall act as clerk]; provided that the date is not in conflict with the provisions of Section~~

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1-12-71 NMSA 1978."

SECTION 172. TEMPORARY PROVISION.--

A. The term of an elected local government officer that was set to expire on or before June 30, 2020 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2019, and that officer's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2019 for a term beginning on January 1, 2020.

B. The term of an elected local government officer that was set to expire on or after July 1, 2020 but on or before June 30, 2022 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2021, and that officer's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2021 for a term beginning on January 1, 2022.

C. The term of an elected local government officer that was set to expire on or after July 1, 2022 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2023, and that officer's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

SRC → ~~D. For a municipality whose municipal officers are not elected at the regular local election and that has~~

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~~not opted to have a top-two runoff election, terms of office shall expire on March 31 preceding the January 1 when those terms of office would have expired pursuant to the schedule in Subsections A through C of this section, and the officer's successor shall be elected at the municipal officer election on the first Tuesday in March when the officer's successor shall be elected. For a municipality whose municipal officers are not elected at the regular local election and that has opted to have a top-two runoff election, terms of office shall expire on April 30 following the January 1 when those terms of office would have expired pursuant to the schedule in Subsections A through C of this section, and the officer's successor shall be elected at the municipal election on the first Tuesday in March at the municipal officer election when the officer's successor shall be elected, with any necessary top-two runoff election taking place pursuant to the Local Election Act.~~ ←SRC

SRC → D. The provisions of this section do not apply to the elections for municipal officers, the lengthening or shortening of terms of which shall be determined by ordinance of the municipality opting into having its municipal officers elected at the regular local election. ←SRC

E. The provisions of this section only apply to local government officers whose elections are subject to the provisions of the Local Election Act but do not apply to

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conservancy district or watershed district elections, which are subject to the provisions of Section 173 of this act.

**SECTION 173. TEMPORARY PROVISION.--**

A. The term of a conservancy district or watershed district board member that was set to expire on or before June 30, 2024 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2023, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

B. The term of a conservancy district or watershed district board member that was set to expire on or after July 1, 2024 but on or before June 30, 2026 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2025, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2025 for a term beginning on January 1, 2026.

C. The term of a conservancy district or watershed district board member that was set to expire on or after July 1, 2026 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2027, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2027 for a term beginning on January 1, 2028.

**SECTION 174. TEMPORARY PROVISION.--References in law to**

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the Municipal Election Code and to the School Election Law shall be deemed to be references to the Local Election Act.

**SECTION 175. REPEAL.--**

A. Sections 1-6-19, 1-22-5, 1-22-6, 1-22-12, 1-22-14, 1-23-1 through 1-23-7, 21-13-18.1, 21-13-18.2, 21-16-21, 21-16-22, 72-16-29 through 72-16-34, 72-17-29 through 72-17-34, 72-18-36 through 72-18-41, 72-19-29 through 72-19-34, 72-20-29 through 72-20-34, 73-21-29 and 73-21-30 NMSA 1978 (being Laws 1969, Chapter 54, Section 1, Laws 1985, Chapter 168, Sections 7, 8, 14 and 16, Laws 1987, Chapter 160, Sections 1 through 6, Laws 1991, Chapter 105, Section 43, Laws 1987, Chapter 160, Section 7, Laws 1993, Chapter 75, Sections 3 and 4, Laws 1964 (1st S.S.), Chapter 12, Sections 6 and 7, Laws 1963, Chapter 311, Sections 29 through 34, Laws 1967, Chapter 156, Sections 29 through 34, Laws 1981, Chapter 377, Sections 36 through 41, Laws 1990, Chapter 14, Sections 29 through 34, Laws 2007, Chapter 99, Sections 29 through 34 and Laws 1943, Chapter 80, Sections 26 and 27, as amended) are repealed.

B. Sections 3-8-1 through 3-8-14, 3-8-16, 3-8-17, 3-8-18 through 3-8-40, 3-8-41, 3-8-43 through 3-8-80, 3-9-1, 3-9-3 through 3-9-13.1, 3-9-15, 3-9-16 and 3-14-7 NMSA 1978 (being Laws 1985, Chapter 208, Sections 9 through 14, Laws 1991, Chapter 123, Section 2, Laws 1965, Chapter 300, Section 14-8-5, Laws 1985, Chapter 208, Sections 16 through 22 and 24

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through 26, Laws 1971, Chapter 306, Sections 8 and 9, Laws 1985, Chapter 208, Sections 29 through 32, Laws 1965, Chapter 300, Sections 14-8-3, 14-8-4, 14-8-8 and 14-8-6, Laws 1985, Chapter 208, Section 37, Laws 1965, Chapter 300, Section 14-8-9, Laws 1971, Chapter 306, Section 10, Laws 1965, Chapter 300, Section 14-8-13, Laws 1985, Chapter 208, Sections 41 and 42, Laws 1965, Chapter 300, Section 14-8-2, Laws 1985, Chapter 208, Sections 44 and 45, Laws 2009, Chapter 278, Section 31, Laws 1985, Chapter 208, Sections 46 through 49 and 51 through 60, Laws 1965, Chapter 300, Section 14-8-14, Laws 1985, Chapter 208, Sections 62 through 69, Laws 1965, Chapter 300, Section 14-8-16, Laws 1985, Chapter 208, Sections 71 through 88, Laws 1973, Chapter 375, Sections 2, 1, 3 and 6 through 10, Laws 1985, Chapter 208, Sections 98 through 100, Laws 1973, Chapter 375, Section 11, Laws 2003, Chapter 244, Section 19, Laws 1973, Chapter 375, Sections 13 and 14 and Laws 1965, Chapter 300, Section 14-13-7, as amended) are repealed.

**SECTION 176. DELAYED REPEAL.**--Sections 73-14-27, 73-14-28, 73-14-29, 73-14-31 through 73-14-31.3, 73-14-63 through 73-14-65, 73-14-80 through 73-14-86 and 73-18-37 through 73-18-40 NMSA 1978 (being Laws 1975, Chapter 262, Sections 10 through 12 and 14, Laws 1996, Chapter 42, Sections 15 and 16, Laws 1999, Chapter 168, Section 8, Laws 1943, Chapter 126, Sections 10 through 12, Laws 1961, Chapter 67, Sections 12 through 17, Laws 1996, Chapter 42, Section 17, Laws 1961, Chapter 67, Section 18 and Laws 1955, Chapter 281, Sections 13 through 16, as amended) are repealed

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effective July 1, 2022.

**SECTION 177. EFFECTIVE DATE.--**

A. The effective date of the provisions of Sections 1 through 138 and 167 through 176 of this act is July 1, 2018.

B. The effective date of the provisions of Sections 139 through 166 of this act is July 1, 2022.

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