HOUSE BILL 229

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document 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; PROVIDING TIME FRAMES FOR LOCAL PUBLIC

BODIES TO REDISTRICT; REVISING REQUIREMENTS FOR VOTER

REGISTRATION AT A VOTING LOCATION PRIOR TO VOTING; ADJUSTING

THE TIME FRAME FOR PROCESSING REGISTRATIONS AFTER AN ELECTION;

REQUIRING A FULL SOCIAL SECURITY NUMBER FOR VOTER REGISTRATION;

AMENDING PROCESS REQUIREMENTS FOR DRIVER'S LICENSE VOTER

REGISTRATION; REVISING REQUIREMENTS FOR RETURNING AND HANDLING

MAILED BALLOTS; REINSTATING THE PRIMARY ELECTION LAW SHORT

TITLE ACT; CLARIFYING THE ORDER OF OFFICES ON BALLOTS;

REINSTATING THE ELECTION OF DISTRICT ATTORNEYS TO THE YEAR IN

WHICH THE PRESIDENT OF THE UNITED STATES IS ELECTED;

REINSTATING THE ELECTION OF CERTAIN COUNTY OFFICIALS IN BOTH

GENERAL ELECTION CYCLES; REVISING POST-ELECTION DUTIES AND

PROCEDURES; INCREASING THE TIME THE SECRETARY OF STATE HAS TO

RESPOND TO REFERENDUM PETITIONS; REMOVING PROVISIONS IN THE

NONPARTISAN JUDICIAL RETENTION ACT REGARDING THE STAGGERING OF

TERMS; MAKING TECHNICAL CHANGES; DECLARING AN EMERGENCY.

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

SECTION 1. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st

S.S.), Chapter 3, Section 4, as amended) is amended to read:

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

A. Before each federal decennial census, every

precinct shall comply with the requirements of Section 1-3-1

NMSA 1978, and if necessary its boundary shall be adjusted to

coincide with a feature or a boundary that is:

(1) shown on the standard base maps developed

pursuant to Subsection B of this section;

(2) a designated census block boundary on the

proposed federal PL 94-171 2020 census block maps; or

(3) approved by the secretary of state and the

United States [bureau of the] census bureau.

B. Prior to commencement of the federal decennial

census, the secretary of state shall have prepared and shall

furnish to each county clerk standard base maps of the county.

The standard base map for urban and nonurban areas of the county shall, as nearly as practical, show:

(1) all state and federal highways;

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

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

(4) all major railroad lines;

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

(6) all streets within urban areas; and

(7) other major terrain features, such as flowing rivers and streams, arroyos, power lines, pipelines, roads, trails and ridgelines and other acceptable census block boundaries.

C. The board of county commissioners, upon receipt of the standard base maps from the secretary of state and upon the recommendation of the county clerk, shall:

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

.215799.4AIC   February 13, 2020 (11:27am)

precinct boundaries whenever possible; and

                (2) upon the completion of the precinct boundary adjustments as required in this section, indicate on the standard base maps the boundaries for both urban and nonurban precincts and, together with a written description of the precincts, shall send an electronic copy to the secretary of state for approval.

        D. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for the [2021] decennial redistricting. For [the 2022 and] subsequent statewide elections, changes in precincts through the calendar year prior to the year of the next federal decennial census shall be made in accordance with the provisions of Chapter 1, Article 3 NMSA 1978.

        E. Between the first day of July and the last day of October in the same calendar year in which the state receives the results of a federal decennial census, the state legislature shall redistrict federal representative districts, each chamber of the legislature, public regulation commission districts, public education commission districts and any other state districts requiring redistricting.

        F. Between the first day of July and the last day

.215799.4AIC   February 13, 2020 (11:27am)

of October in the same calendar year in which the state receives the results of a federal decennial census, every local public body subject to districting and whose officers are elected at a time other than the regular local election shall create or redraw districts for the local public body. Between the first day of **HSEIC➡May⬅HSEIC HSEIC➡April⬅HSEIC** and the last day of **HSEIC➡October⬅HSEIC HSEIC➡December⬅HSEIC** in the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting and whose officers are elected in the regular local election shall create or redraw districts for the local public body. A local public body, when creating or redrawing districts, shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest."

SECTION 2. Section 1-4-5.7 NMSA 1978 (being Laws 2019, Chapter 67, Section 1) is amended to read:

"1-4-5.7. REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions in Section 1-4-8 NMSA 1978 providing for the closing of registration prior to an election, a qualified elector seeking to register to vote or update an existing certificate of registration in the state shall be allowed to do so at a voting location immediately before voting in that election after signing an affidavit under

.215799.4AIC   February 13, 2020 (11:27am)

oath that the elector has not voted in the election in this state or elsewhere, and as further provided in this section.

B.   During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election; provided that if the county clerk establishes an additional alternate voting location near the clerk's office in lieu of voting at the office of the county clerk, a qualified elector may register to vote or update an existing certificate of registration at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election.

C.   During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an alternate voting location only if the county clerk has assigned a county clerk employee to be the clerk's authorized deputy to serve as a registration officer at the alternate voting location; provided that ninety days before the election, the county clerk shall post the location of each

.215799.4AIC   February 13, 2020 (11:27am)

alternate voting location where a qualified elector may register to vote or update an existing certificate of registration immediately before voting.

D.   Beginning January 1, 2021 and upon the approval of the voting system certification committee, during a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an election day voting location; provided that the secretary of state shall establish procedures to ensure that a registration officer has an opportunity to review the information of a qualified elector who registers to vote or updates an existing certificate of registration immediately before the qualified elector votes on election day.

E.   A voter shall not be allowed to change party affiliation when updating an existing certificate of registration [or registering to vote] at an early voting site or polling place during a primary election.

F.   During a special election, a qualified elector HSEIC➡residing within the boundary of the jurisdiction conducting⬅HSEIC HSEIC➡**eligible to vote in**⬅HSEIC the special election may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election until [the last regular business day the week prior to] HSEIC➡5:00 p.m. on the date of the

election←HSEIC HSEIC➡**close of business for the regular hours of business for the county clerk's office on the day prior to the election**←HSEIC.

G. A qualified elector seeking to register to vote or update an existing certificate of registration immediately before voting shall provide

[~~(1) a New Mexico driver's license or New Mexico identification card issued through the motor vehicle division of the taxation and revenue department;~~

~~(2) any document that contains an address in the county together with a photo identification card; or~~

~~(3) a current valid student photo identification card from a post-secondary educational institution in New Mexico accompanied by a current student fee statement that contains the student's address in the county~~] a physical form of identification that is issued by a government, including a federally recognized Indian nation, tribe or pueblo, or an educational institution, and that:

(1) contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration;

(2) contains a photograph of the qualified elector, which shall resemble the qualified elector;

(3) need not contain an expiration date, and if it does, the expiration date is not required to be a date on

.215799.4AIC   February 13, 2020 (11:27am)

or after the election in which the identification is used; and

HSEIC➡️(4) need not contain an address; provided that a qualified elector shall not be permitted to register to vote or update an existing voter registration immediately before voting unless the address provided on the certificate of registration matches the address on either:

(a) the physical form of identification required pursuant to this subsection; or⬅️HSEIC

HSEIC➡️**(4) shall either:**

(a) contain an address that matches the address on the certificate of registration; or⬅️HSEIC

(b) HSEIC➡️**be accompanied by**⬅️HSEIC an original or copy of a utility bill, bank statement, government check, paycheck, student identification card or other government document HSEIC➡️provided in addition to the physical form of identification required pursuant to this subsection.⬅️HSEIC HSEIC➡️**that contains an address that matches the address on the certificate of registration.**⬅️HSEIC

H. If an early voting site or polling place does not have real-time access to the statewide electronic voter file, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional ballot.

I. No later than June 30, 2021 and upon the approval of the voting system certification committee, the

secretary of state and the secretary of taxation and revenue shall develop a procedure for importing the list of eligible but unregistered persons with a driver's license or state-issued identification card into the voter registration electronic management system prior to an election to facilitate processing a new voter registration pursuant to this section."

SECTION 3. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

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

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

B. the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall not process any certificate of registration subscribed and sworn beginning the first business day after the deadline to register to vote or update an existing voter registration before an election if the residential address on the certificate of registration indicates that the registration is for a:

(1) statewide election, within the county; or

.215799.4AIC   February 13, 2020 (11:27am)

(2)   special election, within any precinct in the county in which votes may be cast in the special election;

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

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

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

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

D.   certificates of registration and cancellations of existing voter registrations not processed pursuant to Subsection B or C of this section [shall] may be processed beginning [thirty-five days after] the Monday following an election and shall be processed HSEIC➜beginning←HSEIC no later

.215799.4AIC   February 13, 2020 (11:27am)

than the first business day after the approval of the county canvass report, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration; provided that if there is a subsequent election scheduled at which a qualified elector or voter would be eligible to vote if the certificate of registration were processed on an earlier date, the certificate of registration for that qualified elector or voter shall be processed by the county clerk on a day and in a manner to ensure the ability of the qualified elector or voter to vote in the subsequent election;

E. when the deadline to register to vote or update an existing voter registration prior to an election referred to in this section is a Saturday, Sunday or state holiday, registration certificates shall be accepted through the next succeeding business day for the office of the county clerk; and

F. the county clerk shall accept for filing and process any certificate of registration that is subscribed and dated on or before the deadline to register to vote or update an existing voter registration prior to an election and:

(1) received by the county clerk by the end of the last regular business day of the week for the office of the county clerk immediately following the deadline to register to vote or update an existing voter registration prior to an election;

.215799.4AIC   February 13, 2020 (11:27am)

- 12 -

(2) mailed and postmarked on or before the day of the deadline to register to vote or update an existing voter registration prior to any election referred to in this section; or

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

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

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

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

B. If the applicant's certificate of registration

is rejected for any reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation of why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. The county clerk shall reject any certificate of registration that does not contain the qualified elector's name, address and date of birth, along with a signature or usual mark. If the qualified elector is a new voter, the county clerk shall reject any certificate of registration that does not contain the qualified elector's driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department, social security number or last four digits of the qualified elector's social security number. The county clerk shall reject any certificate of registration in which the question regarding citizenship is not answered or is answered in the negative.

D. A <u>full</u> social security number is required to finish processing a new voter registration in this state. If the certificate of registration does not contain a social security number, the county clerk shall ascertain the qualified elector's social security number from the qualified elector's previous certificate of registration, from the motor vehicle

division of the taxation and revenue department or from the secretary of state.

E. If the county clerk rejects a certificate of registration because required information is not provided on the certificate or cannot ascertain the qualified elector's social security number, the county clerk shall indicate this on the qualified elector's certificate of registration and shall make the appropriate notation in the voter file, indicating that the voter **shall provide the full social security number prior to receiving a ballot and, if not**, may only vote on a provisional ballot. The provisional ballot shall be counted HSEIC➡**once**⬅HSEIC HSEIC➡**only if**⬅HSEIC the required information is provided or the voter's social security number is ascertained.

F. If the qualified elector does not register in person, has not previously voted in an election in New Mexico and does not provide the registration officer with the required documentary identification, the registration officer shall indicate this on the qualified elector's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

SECTION 5. Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is amended to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

A. Every person who is a qualified elector and is

.215799.4AIC   February 13, 2020 (11:27am)

applying for a driver's license, to renew a driver's license or for an identification card shall, if qualified to register to vote, with the consent of the applicant be simultaneously registered to vote.

B.   The secretary of taxation and revenue shall select certain employees of the motor vehicle division of the taxation and revenue department or employees of entities on contract to provide field services to the motor vehicle division to provide assistance to any applicant requesting voter registration assistance.

C.   Every motor vehicle division office, field office or contract field office of the division shall display within the offices clearly visible signs stating "voter registration assistance available" and:

(1)   personnel in each office shall advise each person who is a qualified elector and an applicant for licensure or renewal or for an identification card that initial voter registration or a change of address for voter registration may be made simultaneously with the motor vehicle application;

(2)   voter registration shall be conducted in a manner such that the applicant completes the full certificate of registration electronically; [and]

(3)   the applicant's digital signature shall be affixed to the certificate of registration using an electronic

.215799.4AIC   February 13, 2020 (11:27am)

- 16 -

signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act; <u>and</u>

<u>(4) every certificate of registration completed electronically shall include the applicant's full social security number and shall be transmitted by means of a secured electronic transmission to the secretary of state for delivery to the appropriate county clerk.</u>

D. A motor vehicle division employee or contractor shall not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

E. Any <u>certificate of</u> voter registration <u>completed on a paper form</u> made or accepted at a motor vehicle division office, [<s>or motor vehicle division</s>] field office <u>or contract field office</u> shall be [<s>transmitted</s>] <u>delivered</u> to the secretary of state [<s>and</s>] <u>or</u> the [<s>appropriate registration officer</s>] <u>county clerk of the county in which the office is located</u> within seven [<s>calendar</s>] days.

F. The secretary of state shall work with the motor vehicle division to:

(1) ensure compliance in the application of the provisions of this section with the federal National Voter Registration Act of 1993;

.215799.4AIC   February 13, 2020 (11:27am)
- 17 -

(2)   ensure consistent implementation in the various counties, based on county classification and developing technology; and

(3)   develop procedures to ensure that, once voter registration information is transmitted to the appropriate registration officer, the voter's certificate of registration is printed and placed in the county's register of voters."

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

"1-6-4. MAILED BALLOT APPLICATION.--

A.   In a statewide election, application by a voter for a mailed ballot shall be made only on a paper form or its online equivalent. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of a mailed ballot under the Absent Voter Act; provided that only on the application form for a primary election ballot there shall be a box, space or place provided for designation of the voter's political party affiliation.

B.   Each application on a paper form for a mailed ballot shall be signed by the applicant and shall require the applicant's printed name, registration address and year of birth to be supplied by the applicant, which shall constitute the required form of identification. When submitted by the voter, the county clerk shall accept an application for a

.215799.4AIC   February 13, 2020 (11:27am)

mailed ballot pursuant to this subsection regardless of whether the application for a mailed ballot is delivered to the county clerk on paper or by electronic means. When submitted by a third party, the county clerk shall not accept an application for a mailed ballot pursuant to this subsection if the application for a mailed ballot is delivered by electronic means.

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

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

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

[ ] I am the person whose name and identifying information is provided on this form and I desire to request a

mailed ballot to vote in the state of New Mexico; and

[ ] All of the information that I have provided on this form is true and correct as of the date I am submitting this form.".

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

F. New registrants who registered for the first time in this state by mail and at that time did not provide acceptable documentary identification as required by federal law shall be informed of the need to comply with federal identification requirements when returning the requested ballot and notified that if the registrant votes for the first time in New Mexico by mail **HSEIC� and does not follow the instructions for returning the required documentary identification**←HSEIC, the registrant waives the right to secrecy in that mailed ballot. The secretary of state shall issue rules to exempt voters from submitting identification only as required by federal law and shall review and, if necessary, update these rules no later than March 15 of even-numbered years.

G. A person who willfully and with knowledge and

.215799.4AIC   February 13, 2020 (11:27am)

intent to deceive or mislead any voter, election board, canvassing board, county clerk or other election official and who falsifies any information on an absentee ballot request form or who affixes a signature or mark other than the person's own on a mailed ballot request form is guilty of a fourth degree felony."

SECTION 7. Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

"1-6-8. MAILED BALLOT ENVELOPES.--

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

(1) official inner envelopes for use in sealing the completed mailed ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the county clerk, which shall be postage-paid; provided that only the official mailing envelope for absentee ballots in a political party primary shall contain a designation of party affiliation;

(3) mailed ballot instructions, describing proper methods for completion of the ballot and returning it; and

(4) official transmittal envelopes for use by the county clerk in sending mailed ballot materials.

B. Official transmittal envelopes and official mailing envelopes for transmission of mailed ballot materials

to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

C. The reverse of each official mailing envelope shall contain a form to be executed under penalty of perjury by the voter completing the mailed ballot. The form shall HSEIC➜[identify the voter and shall]◄HSEIC HSEIC➜identify the voter and shall◄HSEIC contain the following pre-printed statement to be affirmed by the voter: HJC➜"I attest under penalty of perjury that I am the voter identified on this official mailing envelope and that◄HJC I have not and will not vote any other ballot in this election". [The official mailing envelope shall contain a space for the voter to record the voter's name, registration address and year of birth] HJC➜Under the space for the voter's signature shall be the following statement: "NOTICE: The only people who may lawfully mail or deliver this ballot to the county clerk are the voter, the voter's immediate family or the voter's caregiver."◄HJC The envelope shall have a security flap to cover this information."

SECTION 8. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MAILED BALLOTS--MANNER OF VOTING--DELIVERY METHODS.--

A. When voting a mailed ballot, the voter shall secretly mark the mailed ballot in the manner provided in the

Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then [complete] HSEIC→ensure the form is complete and←HSEIC sign the form on the reverse of the official mailing envelope [which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth]. The voter or another person authorized by law shall then return the official mailing envelope containing the voted ballot to the county clerk of the voter's county of residence. If returned by a person other than the voter, the official mailing envelope shall contain the signature, printed name and relationship to the voter of the person returning the ballot.

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

C.   The official mailing envelope may be returned using a commercial delivery service; provided that unless the secretary of state has approved the use of a specific commercial delivery service, the voter shall be responsible for

.215799.4AIC   February 13, 2020 (11:27am)

- 23 -

the costs of delivery by means of such service.

D.   The official mailing envelope may be returned in person to the office of the county clerk or to an alternate voting location, mobile alternate voting location or election day voting location.

E.   The official mailing envelope may be returned by depositing the official mailing envelope in a secured container made available by the county clerk to receive voted mailed ballots for that election; provided that:

(1)   the location of the containers and the days and times the containers will be available to receive ballots are posted by the county clerk at least ninety days before a statewide election or forty-two days before a special election;

(2)   the location of a secured container is considered a polling place for purposes of electioneering too close to the polling place in violation of Section 1-20-16 NMSA 1978;

(3)   all secured containers shall be monitored by video surveillance cameras and the video recorded by that system shall be retained by the county clerk as a record related to voting pursuant to the provisions of Section 1-12-69 NMSA 1978;

(4)   signage at the location of a secured container shall inform voters and those dropping off ballots at

.215799.4AIC   February 13, 2020 (11:27am)

the location:

(a) that it is a violation of law for any person who is not an immediate family member to collect and deliver a ballot for another person;

(b) that electioneering is prohibited within one hundred feet of the secured container; and

(c) of the dates and approximate time the ballots will be collected; and

(5) at least once a day, the county clerk or a full-time deputy county clerk shall collect the ballots from the secured containers, register the date and time stamp on each official mailing envelope and identify the location of the secured container in the ballot register."

SECTION 9. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

"1-6-14. HANDLING MAILED BALLOTS.--

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

B.   If the voter's signature [or the required voter identification] is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation "Rejected--Missing Signature" [or "Rejected--Missing Required Voter Identification"] in the "Notations" column of the register. The presiding judge shall place the official mailing envelope unopened in a container provided for rejected ballots.

C.   If, pursuant to Subsection F of Section 1-6-4 NMSA 1978, the voter was notified of the need to comply with federal identification requirements when returning the requested ballot and failed to comply, the judge or election clerk shall preserve the inner envelope with the official mailing envelope and write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation "Rejected--Missing Required Documentary Identification" in the "Notations" column of the register. The presiding judge shall place the official mailing envelope with the attached inner envelope in a container provided for rejected ballots; provided that if the judge or election clerk was required to open the inner envelope to determine that the required documentary identification was not included, the untallied ballot shall be returned to the inner

.215799.4AIC   February 13, 2020 (11:27am)

envelope and preserved along with the official mailing envelope in a container provided by the secretary of state for this purpose.

[C.] D. A lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any mailed ballot voter for the following reasons:

(1) the official mailing envelope has been opened by someone other than the voter prior to being received by the absent voter election board;

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

(3) the official mailing envelope does not contain the required [voter] documentary identification; or

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

[D.] E. If a challenge is upheld by unanimous vote of the presiding judge and the election judges, the official mailing envelope shall not be opened but shall be placed in a container provided for challenged ballots. If the reason for the challenge is satisfied by the voter before the conclusion of the county canvass or as part of an appeal, the official mailing envelope shall be opened and the vote counted.

[E.] F. If the official mailing envelope has been properly subscribed and the voter has not been challenged, the judges or election clerks shall enter the voter's name and

.215799.4AIC   February 13, 2020 (11:27am)

residence address as shown on the official mailing envelope and shall make the appropriate notation opposite the voter's name in the "Notations" column of the register.

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

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

.215799.4AIC   February 13, 2020 (11:27am)

[H.] I. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of mailed ballots prior to the later of the closing of the polls or the deadline for receiving mailed ballots pursuant to Section 1-6-10 NMSA 1978.

[I.] J. Mailed ballots shall be counted and tallied, where possible, on an electronic voting machine as provided in the Election Code.

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

SECTION 10. Section 1-9-7.10 NMSA 1978 (being Laws 2010, Chapter 28, Section 8) is amended to read:

"1-9-7.10. VOTING SYSTEMS--BALLOT HANDLING AND PROCESSING REQUIREMENTS.--Voting systems certified for use in state elections shall:

A. accept a ballot that is a minimum of six inches wide and a maximum of twenty-four inches long, in dual columns and printed on both sides;

B. accept a ballot in any orientation when inserted by a voter;

C. have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;

.215799.4AIC   February 13, 2020 (11:27am)

D. be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction; [and]

E. be able to read a single ballot with at least four hundred twenty voting positions; and

F. when tabulating a voter's selection of a candidate or answer to a ballot question, count as a vote only the human-readable marks in the voter response area made by or at the direction of the voter."

SECTION 11. A new Section 1-8-10 NMSA 1978 is enacted to read:

"1-8-10. [NEW MATERIAL] SHORT TITLE.--Sections 1-8-10 through 1-8-52 NMSA 1978 may be cited as the "Primary Election Law"."

SECTION 12. Section 1-10-8 NMSA 1978 (being Laws 2019, Chapter 212, Section 103) is amended to read:

"1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT QUESTIONS.--

A. In the year in which the president of the United States is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

(1) in a presidential primary, president;

(2) in a general election, president and vice president as a ticket;

.215799.4AIC   February 13, 2020 (11:27am)

- 30 -

(3)　United States senator;

(4)　United States representative;

(5)　state senator;

(6)　state representative;

(7)　supreme court;

(8)　court of appeals;

(9)　public regulation commission [districts with odd-numbered designations];

(10)　public education commission [districts with odd-numbered designations];

(11)　district attorney;

[(11)] (12)　district court;

[(12)] (13)　metropolitan court;

[(13)] (14)　county clerk;

[(14)] (15)　county treasurer; [and

(15)] (16)　county commission [districts and positions with odd-numbered designations]; and

(17)　when applicable:

(a)　county sheriff;

(b)　county assessor; and

(c)　probate judge.

B.　In the year in which the governor is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

.215799.4AIC　　February 13, 2020 (11:27am)

(1) United States senator;

(2) United States representative;

(3) in a major political party primary, governor;

(4) in a major political party primary, lieutenant governor;

(5) in a general election, governor and lieutenant governor as a ticket;

(6) secretary of state;

(7) attorney general;

(8) state auditor;

(9) state treasurer;

(10) commissioner of public lands;

(11) state representative;

(12) supreme court;

(13) court of appeals;

(14) public regulation commission [~~districts with even-numbered designations~~];

(15) public education commission [~~districts with even-numbered designations~~];

(16) district court;

[~~(17) district attorney;~~

~~(18)~~] (17) metropolitan court;

[~~(19)~~] (18) magistrate court;

[~~(20)~~] (19) county sheriff;

[(21)] (20)　county assessor;

[(22)] (21)　county commission [districts and positions with even-numbered designations]; HSEIC➜and←HSEIC

HSEIC➜(22)　probate judge; and←HSEIC

[(23)　probate judge]

HSEIC➜(22)←HSEIC HSEIC➜(23)←HSEIC when applicable:

(a)　county clerk; and

(b)　county treasurer.

C.　The ballot in a regular local election shall contain, when applicable, nonpartisan offices to be voted on in the following order:

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

(2)　board of education of a school district;

(3)　community college, branch community college, technical and vocational institute district or learning center district; and

(4)　special districts listed in order by voting population of each special district, with the most populous listed first and the least populous listed last.

D.　The ballot in a statewide election shall contain, when applicable, nonpartisan judicial retention and in a statewide or special election, when applicable, ballot

.215799.4AIC　　February 13, 2020 (11:27am)

questions to be voted on in the following order, unless a different order is prescribed by the secretary of state:

           (1)   judicial retention;

           (2)   proposed state constitutional amendments;

           (3)   other state ballot questions;

           (4)   county ballot questions; and

           (5)   local government ballot questions listed in the same order as the list of local governments in Subsection C of this section.

        E. When multiple positions for the same nondistricted, nonjudicial office are to be elected on the same ballot and the qualifications for each of those positions are the same:

           (1) offices shall be elected at large;

           (2) voters shall be given the instruction to "vote for no more than X"; and

           (3) whenever the two or more positions for the same office are to be elected to represent the same area with terms of different lengths of time, the candidates receiving the highest number of votes shall be elected for the greater length of time, and the candidates receiving the next highest number of votes shall be elected for the shorter period of time.

        [E.] F. When multiple positions for the same districted, nonjudicial office are listed on the same ballot

.215799.4AIC   February 13, 2020 (11:27am)

[and each position is to be elected individually] or the qualifications for one or more at large position is distinct from the qualifications for the rest:

(1) offices designated by district number shall appear on the ballot in ascending numerical order of the districts; and

(2) offices not designated by district number shall appear on the ballot in ascending numerical order of the position; provided that 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, and only one member shall be elected for each position. [and

(3) whenever two or more positions for the same office are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall first group the offices with the shorter length of time and shall designate each position with "for a term expiring ___", specifying the date the term expires.

F.] G. When multiple positions for the same judicial office are listed on the same ballot and each position is to be elected or voted on individually:

(1) district, metropolitan and magistrate court positions, either for partisan election or for nonpartisan judicial retention, shall appear on the ballot in

.215799.4AIC   February 13, 2020 (11:27am)

ascending numerical order of the division number assigned to each position;

(2) supreme court and court of appeals for partisan election shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the date of the vacancy causing the position to be listed on the ballot; provided that if multiple vacancies occurred on the same day, the positions shall appear on the ballot based on the order of seniority of the justice or judge who vacated the position, with the highest seniority listed first; and

(3) supreme court and court of appeals for nonpartisan judicial retention shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the seniority of the justice or judge seeking retention, with the highest seniority listed first."

SECTION 13. Section 1-12-65 NMSA 1978 (being Laws 1977, Chapter 222, Section 68, as amended) is amended to read:

"1-12-65. [EMERGENCY SITUATIONS] PAPER BALLOTS--COUNTING AND TALLYING PROCEDURES.--

A. The presiding judge and the election judges, assisted by the election clerks, shall count the number of paper ballots that were not tabulated by the electronic vote tabulator, write the number of such ballots on each copy of the

.215799.4AIC   February 13, 2020 (11:27am)

certificate of returns for that polling place and place the paper ballots that were not tabulated by the electronic vote tabulator in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for machine-tabulation or hand-tallying of the ballots.

B. The presiding judge and the election judges, assisted by the election clerks, shall count the number of machine-tabulated paper ballots with write-in votes, write the number of such ballots on each copy of the certificate of returns for that polling place and place those paper ballots with write-in votes in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for manual counting of the write-in votes.

C. [The tallying of paper ballots that were not tabulated by the electronic vote tabulator at the polling place and the counting of ballots with write-in votes shall be in accordance with procedures prescribed by the secretary of state] If the county clerk receives an envelope pursuant to Subsection A or B of this section and the absent voter election board has not adjourned, the envelope shall be logged and transmitted to the absent voter election board to be tallied immediately. If the envelope is received by the county clerk after the absent voter election board has adjourned, the

.215799.4AIC   February 13, 2020 (11:27am)

envelope shall be logged and transmitted to the county canvass election board to be tallied and included in the canvass report of that county for the appropriate precinct."

SECTION 14. Section 1-13-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 306, as amended) is amended to read:

"1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--METHOD.-- The county clerk shall:

A. appoint a county canvass election board to conduct a machine-tabulation or hand-tally if the county clerk has received and logged any:

(1) paper ballots not previously tabulated;

(2) absentee ballots delivered to an election board not previously tabulated;

(3) provisional paper ballots that have been qualified and contain votes that are to be counted; or

(4) ballots with write-in votes not previously counted;

[A.] B. prepare the report of the canvass of the election returns by carefully examining the returns of each precinct to ascertain if they contain the properly executed certificates required by the Election Code and to ascertain whether any discrepancy, omission or error appears on the face of the election returns; and

[B.] C. present the report of the canvass to the county canvassing board for the board's consideration and

approval."

SECTION 15. Section 1-17-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 393) is amended to read:

"1-17-8. REFERENDUM PETITIONS--APPROVAL BEFORE CIRCULATION.--

A. Before any referendum petition is circulated for signatures, the sponsors shall submit the original draft thereof to the secretary of state to determine whether or not it meets the requirements of law for referendum petitions. At the same time the original draft is submitted to the secretary of state, the sponsors shall also submit a suggested popular name for the law [which] that is the object of the petition.

B. Within [ten] thirty days after submission of the original draft and suggested popular name, the secretary of state shall:

(1) approve and certify the original draft of the petition and approve and certify the suggested popular name or a more suitable and correct popular name; or

(2) disapprove the original draft and specify each deficiency not in compliance with the law."

SECTION 16. Section 1-17-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 395) is amended to read:

"1-17-10. REFERENDUM PETITIONS--SUFFICIENCY OR INSUFFICIENCY.--The secretary of state shall ascertain and declare the sufficiency or insufficiency of each complete

.215799.4AIC   February 13, 2020 (11:27am)

- 39 -

referendum petition within [~~fifteen~~] thirty days after it is filed in [~~his~~] the secretary's office."

SECTION 17. Section 1-22-4 NMSA 1978 (being Laws 2018, Chapter 79, Section 19, as amended) is amended to read:

"1-22-4. REGULAR LOCAL ELECTION--PROCLAMATION--PUBLICATION.--

A. Between one hundred twenty and one hundred fifty days before the next regular local election, each local government shall notify the county clerk of the county in which the primary administrative office of the local government is situate of all local government positions that are to be filled at the next regular local election. Each county clerk shall inform the secretary of state of all positions to be filled no later than one hundred twelve days before the regular local election.

B. The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election. The proclamation shall be issued and filed by the secretary of state in the office of the secretary of state ninety days preceding the date of the regular local election, and upon filing the proclamation, the secretary of state shall post the proclamation and certify it to each county clerk.

C. The proclamation shall specify:

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

(2) each elective office, local governing body

and judicial position to be filled;

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

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

           (5)   the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.

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

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

           (2)   for each local government situated in whole or in part in the county, each elective executive, local governing body and judicial position to be filled by voters of any precinct in the county;

           (3)   the date on which declarations of candidacy are to be filed and the date on which declarations of

intent to be a write-in candidate are to be filed;

    (4) the location, days and hours for voting at the office of the county clerk;

    (5) the location, days and hours for early voting at each alternate voting location and mobile alternate voting location;

    (6) the location, date and hours for voting at each election day polling place; and

    (7) the date certificates of registration shall be subscribed and sworn 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 ___".]~~"

  SECTION 18. Section 1-26-5 NMSA 1978 (being Laws 2019, Chapter 212, Section 176) is amended to read:

  "1-26-5. JUDICIAL RETENTION--DISTRICT COURT JUDGES.--

.215799.4AIC February 13, 2020 (11:27am)

A. Each eligible district court judge shall be subject to retention or rejection at the general election in the last year of the six-year term of office for the position in which the judge is serving.

[B. Terms of office for positions on the district court in each judicial district shall be staggered, as follows:

(1) the term of office for division 1 and for every third division number thereafter shall expire in 2020 and every six years thereafter;

(2) the term of office for division 2 and for every third division number thereafter shall expire in 2022 and every six years thereafter; and

(3) the term of office for division 3 and for every third division number thereafter shall expire in 2024 and every six years thereafter.

C.] B. The administrative office of the courts shall maintain current on its website a list of the names and division numbers of the currently serving judges of each judicial district and the year in which the term of office for each position expires.

[D.] C. As used in this section, "division" means the divisions established pursuant to Section 34-6-18 NMSA 1978."

SECTION 19. Section 1-26-6 NMSA 1978 (being Laws 2019, Chapter 212, Section 177) is amended to read:

.215799.4AIC   February 13, 2020 (11:27am)

"1-26-6.   JUDICIAL RETENTION--METROPOLITAN COURT JUDGES.--

A.   Each eligible metropolitan court judge shall be subject to retention or rejection at the general election in the last year of the four-year term of office for the position in which the judge is serving.

[B.   ~~Terms of office for positions on each metropolitan court shall be staggered, as follows:~~

~~(1)   the term of office for division 1 and for every second division number thereafter shall expire in 2022 and every four years thereafter; and~~

~~(2)   the term of office for division 2 and for every second division number thereafter shall expire in 2024 and every four years thereafter.~~

~~C.~~] B.   The administrative office of the courts shall maintain current on its website a list of the names and division numbers of the currently serving judges of the metropolitan court and the year in which the term of office for each position expires.

[~~D.~~] C.   As used in this section, "division" means the divisions established pursuant to Subsection B of Section 34-8A-4 NMSA 1978."

SECTION 20.   TEMPORARY PROVISION--RECOMPILATION.--The compiler shall recompile Section 2-21-1 NMSA 1978 (being Laws 2019, Chapter 262, Section 15) as part of the Campaign Reporting Act.

.215799.4AIC   February 13, 2020 (11:27am)

HSEIC→SECTION 21. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--The New Mexico compilation commission shall rename in tables of contents and headings Chapter 2, Article 21 NMSA 1978 as "Recompiled".

SECTION 22. REPEAL.--Laws 2018, Chapter 79, Section 162 is repealed.←HSEIC

SECTION HSEIC→21←HSEIC HSEIC→23←HSEIC. APPLICABILITY.--The provisions of this act apply to the procedures for conducting any election occurring on or after the effective date of this act.

SECTION HSEIC→22←HSEIC HSEIC→24←HSEIC. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

- 45 -