

HOUSE BILL 4

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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and D. Wonda Johnson and Raymundo Lara

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ELECTIONS; AMENDING AND ENACTING AUTOMATIC VOTER REGISTRATION AND UPDATES TO REGISTRATION PROVISIONS; REPEALING AND REPLACING THE DRIVER'S LICENSE VOTER REGISTRATION PROVISIONS; REPEALING AND REPLACING THE REGISTRATION AT VOTING LOCATION PRIOR TO VOTING PROVISIONS; DEFINING THE UNLAWFUL USE OR DISPOSITION OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS; SRC→~~LIMITING THE USE AND DISPOSITION OF VOTER INFORMATION;~~←SRC PROVIDING THAT INMATES ARE ELIGIBLE TO VOTE AND REGISTER TO VOTE UPON RELEASE; ELIMINATING A REQUIREMENT

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THAT A VOTER'S REGISTRATION BE CANCELED UPON FELONY CONVICTION AND CONFORMING THE RESTORATION OF CITIZENSHIP PROVISION ACCORDINGLY; CREATING A VOLUNTARY PERMANENT ABSENTEE VOTER LIST; PROVIDING REQUIREMENTS FOR THE PROVISION OF MONITORED SECURED CONTAINERS; ENACTING THE NATIVE AMERICAN VOTING RIGHTS ACT TO PROTECT POLLING PLACE ACCESS AND ADDRESS OTHER ELECTION ISSUES INVOLVING VOTERS ON INDIAN NATION, TRIBAL AND PUEBLO LAND; DECLARING THE DAY OF A GENERAL ELECTION AND A REGULAR LOCAL ELECTION A SCHOOL HOLIDAY; MAKING CONFORMING AND TECHNICAL CHANGES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 1-3-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 58, as amended) is amended to read:

"1-3-8. PRECINCT CHANGES--NOTICE AND PUBLICATION.--~~[A.]~~

Upon the adoption of any resolution, or upon the final action of any district court upon a petition creating, abolishing, dividing or consolidating any precinct, or changing any precinct boundary, or changing any designated polling place, the board of county commissioners shall:

~~[(1)]~~ A. send a certified copy of the resolution or court order to the secretary of state and to the county chair of each of the major political parties; and

~~[(2)]~~ B. publish once the resolution in a newspaper

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as provided in the Election Code.

~~[B. A polling place located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other polling locations without the written agreement of the Indian nation, tribe or pueblo on which the polling place is located.]"~~

SECTION 2. Section 1-4-5.2 NMSA 1978 (being Laws 1995, Chapter 198, Section 3) is amended to read:

"1-4-5.2. AGENCY REGISTRATION--FORM.--

A. A qualified elector may register to vote at certain state government offices.

B. Pursuant to Section 1-4-47 NMSA 1978, a qualified elector who applies for a driver's license, license renewal or motor vehicle identification card who is not registered to vote in this state and who is not automatically registered to vote pursuant to the automatic voter registration provisions of Section 1-4-47 NMSA 1978 may simultaneously register to vote or file a change of address for voter registration purposes.

C. Pursuant to Section 1-4-48 NMSA 1978, a qualified elector may register to vote in any state agency that provides public assistance or services to persons with disabilities. The secretary of state may designate other state or local public offices with the agreement of those offices.

D. Pursuant to Sections 1-4-47 and 1-4-47.1 NMSA

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1978, a qualified elector may become registered to vote by automatic voter registration at the motor vehicle division of the taxation and revenue department or other state or local public offices designated by the secretary of state."

SRC→~~SECTION 3. Section 1-4-5.5 NMSA 1978 (being Laws 1975, Chapter 255, Section 78, as amended) is amended to read:~~

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

~~A. The county clerk or secretary of state shall furnish voter data, mailing labels or special voter lists only upon written request to the county clerk or the secretary of state and after compliance with the requirements of this section; provided, however, all requesters shall be treated equally in regard to the charges and the furnishing of the materials.~~

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

~~C. Each requester of voter data, mailing labels or special voter lists shall sign an affidavit that the voter data, mailing labels and special voter lists shall be used for~~

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~~governmental or [election and] election campaign purposes only, shall not be transferred, copied, shared or conveyed to any person outside the requesting party's agency or organization, shall not be made accessible by the general public on the internet or through other means and shall not be made available or used for unlawful purposes.~~

~~D. The secretary of state shall prescribe the form of the affidavit.~~

~~E. As used in this section:~~

~~(1) "election campaign purposes" means [relating in any way to] use by a campaign in an election conducted by a federal, state or local government;~~

~~(2) "governmental purposes" means noncommercial purposes [relating in any way to] used by a government agency or organization to analyze the structure, operation or decision-making of a federal, state or local government;~~

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

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

~~(5) "voter data" means selected information~~

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~~derived from the voter file.~~←SRC

SECTION SRC→4.←SRC SRC→3.←SRC Section 1-4-5.6 NMSA 1978
(being Laws 1975, Chapter 255, Section 79, as amended) is
amended to read:

"1-4-5.6. UNLAWFUL USE OR DISPOSITION OF VOTER DATA,
MAILING LABELS OR SPECIAL VOTER LISTS--PENALTIES.--

A. Unlawful use of voter data, mailing labels or
special voter lists consists of:

(1) the knowing and willful [~~use of such~~
~~information for purposes prohibited by the Voter Records System~~
~~Act~~] selling, loaning, providing access to or otherwise
surrendering of voter data, mailing labels or special voter
lists by a person for purposes prohibited by the Election Code;
or

(2) causing voter data, mailing labels or
special voter lists or any part of the voter data, mailing
label or special voter lists that identifies, or that could be
used to identify, a specific voter or the voter's name, mailing
or residence address to be made publicly available on the
internet or through other means.

B. Any person, organization or corporation or
agent, officer, representative or employee thereof who commits
unlawful use of voter data, mailing labels or special voter
lists is guilty of a fourth degree felony and upon conviction
shall be fined one hundred dollars (\$100) for each [~~and every~~]

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line of voter information that was unlawfully used.

C. Each [~~and every~~] unlawful use of voter data, mailing labels or special voter lists constitutes a separate offense."

SECTION SRC→5.←SRC SRC→4.←SRC Section 1-4-5.7 NMSA 1978 (being Laws 2019, Chapter 67, Section 1, as amended) is repealed and a new Section 1-4-5.7 NMSA 1978 is enacted to read:

"1-4-5.7. [NEW MATERIAL] REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions of 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 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 or any early or 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

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certificate of registration immediately before the qualified elector votes.

C. A voter whose political party affiliation on the voter's certificate of registration is with a major political party shall not be allowed to change party affiliation when updating an existing certificate of registration or registering to vote at a voting location immediately before voting in a primary election.

D. During a special 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 until 7:00 p.m. on election day; provided that the county clerk shall provide the voter with a ballot and balloting materials immediately after the qualified elector registers to vote or updates the existing certificate of registration.

E. A qualified elector seeking to register to vote or update an existing certificate of registration pursuant to this section shall provide a physical form of identification that is issued by the federal government, a state government, 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

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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 or after the date of the election; and

(4) shall either:

(a) contain an address that matches the address provided for the certificate of registration; or

(b) be accompanied by an original or copy of a utility bill, bank statement, government check, paycheck or other document issued by an educational institution or government, including a document issued by a federally recognized Indian nation, tribe or pueblo, dated within the ninety days prior to the qualified elector registering to vote or updating an existing certificate of registration and that contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration, and an address that matches the address provided for the certificate of registration.

F. If a voting location does not have real-time synchronization with the voting data at the office of the county clerk, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional paper ballot. A provisional paper ballot

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issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the voter did not vote any other ballot in the same election and if no challenge is successfully interposed."

SECTION SRC→6.←SRC SRC→5.←SRC Section 1-4-24 NMSA 1978 (being Laws 1969, Chapter 240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--GROUNDS.--The county clerk shall cancel certificates of registration for the following reasons:

- A. death of the voter;
- ~~B. a felony conviction of the voter;~~
- ~~C.]~~ B. at the request of the voter; or
- ~~D.]~~ C. at the direction of the board of

registration."

SECTION SRC→7.←SRC SRC→6.←SRC Section 1-4-27.1 NMSA 1978 (being Laws 2001, Chapter 46, Section 1, as amended) is amended to read:

"1-4-27.1. [~~CANCELLATION OF REGISTRATION FOLLOWING CONVICTION]~~--ELIGIBILITY [~~FOR VOTING UPON SATISFACTION OF CONDITIONS]~~ TO VOTE AND REGISTER TO VOTE UPON RELEASE.--

~~[A. When a voter has been convicted of a felony in any state or federal court, the voter's registration shall be canceled.~~

~~B. A person convicted of a felony who is otherwise~~

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~~a qualified elector is eligible to register to vote when that person:~~

~~(1) has been unconditionally discharged from a correctional facility or detention center;~~

~~(2) has completed all conditions of parole or supervised probation; or~~

~~(3) has had the conviction overturned on appeal.~~

~~C. The secretary of state shall each month maintain current in the statewide voter registration electronic management system the eligibility status of persons convicted of felonies to register to vote pursuant to this section.~~

~~D. The corrections department, the New Mexico sentencing commission and the administrative office of the courts shall deliver to the secretary of state information and data as needed to carry out the provisions of this section.~~

~~E. The secretary of state shall request from the United States attorney for the district of New Mexico, in conformance with 42 U.S.C. Section 1973gg-6(g), information and data as needed to carry out the provisions of this section.]~~

A. A voter is ineligible to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction. Except as provided in this section, an otherwise qualified elector is ineligible to register to vote while imprisoned in a correctional facility as part of a sentence for

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a felony conviction.

B. During the reentry phase of an inmate's sentence, if the inmate is a voter or otherwise a qualified elector, the inmate shall be given an opportunity to register to vote or update an existing registration by means of a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody. If the inmate does not conduct a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody, the corrections department shall provide the inmate an opportunity to register to vote or update an existing registration by means of an online portal provided by the secretary of state or, if such a portal is not available, by means of a paper registration form.

C. The corrections department shall deliver to the secretary of state information and data necessary to carry out the provisions of this section. The secretary of state shall maintain current information in the statewide voter registration electronic management system on the ineligibility status of an inmate to vote or register to vote pursuant to this section, as well as an inmate's eligibility status to vote upon release and to register to vote or update an existing voter registration while preparing for release.

D. Notwithstanding a person's status in the statewide voter registration electronic management system, a

voter or a qualified elector who appears personally before a county clerk, the clerk's authorized representative or a precinct board member, at an office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities is presumed to meet the eligibility requirement of non-imprisonment for voting and registering to vote pursuant to the provisions of this section. SRC→"←SRC

SRC→E. For the purposes of this section,

"correctional facility" means a jail, prison or other detention facility that is used for the confinement of an adult, whether operated by the state or a political subdivision of the state or a private contractor on behalf of the state or a political subdivision of the state."←SRC

SECTION SRC→8.←SRC SRC→7.←SRC Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is repealed and a new Section 1-4-47 NMSA 1978 is enacted to read:

"1-4-47. [NEW MATERIAL] DRIVER'S LICENSE VOTER REGISTRATION--AUTOMATIC VOTER REGISTRATION AND UPDATES.--

A. Unless a person is automatically registered to vote pursuant to the automatic voter registration provisions of Subsections B through D of this section, when a person who is a qualified elector or qualified resident but not registered to vote in the state conducts a transaction to apply for or renew a driver's license, state-issued identification card, learner's

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permit or provisional license, the person shall be offered the opportunity to simultaneously register to vote. A person registering to vote pursuant to this subsection shall not be required to provide a second time any information that duplicates information required in the driver's license, state-issued identification card, learner's permit or provisional license portion of the transaction.

B. A qualified elector or qualified resident who provides a document demonstrating United States citizenship in the course of conducting an in-person transaction to apply for or renew a driver's license, state-issued identification card, learner's permit or provisional license shall be confirmed in a database maintained by the motor vehicle division of the taxation and revenue department as satisfying the citizenship requirement for eligibility to vote. If the person is not already registered to vote based on an automated database check, the person shall be registered to vote and shall be informed that the person is being registered to vote and that the person will receive a notice from the county clerk providing additional information, including how to decline to be registered, and the person shall be offered the opportunity to designate affiliation with a qualified political party during the in-person transaction. Within seven days, the motor vehicle division of the taxation and revenue department shall electronically transmit to the secretary of state an electronic

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record containing the person's full name, full social security number, date of birth, driver's license or state-issued identification card number, residence address, mailing address if different from residence address, county of residence, citizenship status, an electronic image of the person's signature, any affiliation with a qualified political party and any other available information requested by the secretary of state.

C. Upon receiving an electronic record pursuant to Subsection B of this section, the secretary of state shall forward the person's electronic record to the county clerk of the county in which the person resides. The county clerk shall accept and process the electronic record received as a certificate of registration pursuant to the provisions of Section 1-4-11 NMSA 1978.

D. Upon receiving an electronic record pursuant to Subsection C of this section, the county clerk shall send to the person's mailing address, by nonforwardable mail, a notice that the person has been registered to vote. The notice shall include a postage prepaid and pre-addressed return card by which the person may decline to be registered to vote. The notice shall be prescribed by the secretary of state with conforming language depending on whether the person is a qualified elector or a qualified resident, and may be combined with a voter information document and shall include:

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(1) an explanation of the voter eligibility requirements, a statement of the penalties for registering to vote when a person is not eligible and a statement that if the person is not eligible to vote that the person should decline to register by returning the card;

(2) a statement that:

(a) if the person declines to register to vote, the fact that the person has declined registration will remain confidential and will be used only to process the declination and for reporting election administration statistics; and

(b) if the person does not decline the registration, the office from which the person's electronic record was received will remain confidential and will be used only for reporting election administration statistics;

(3) information on how a person may become a participant in the confidential substitute address program;

(4) an opportunity for the person to designate affiliation with a qualified political party by returning the card; and

(5) an opportunity for the person to request a mailed ballot for the next statewide election, on a form prescribed by the secretary of state, which shall serve as an application for a mailed ballot pursuant to Section 1-6-4 NMSA 1978.

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E. After a person returns the card described in Subsection D of this section:

(1) if the person declines to be registered to vote by returning the card, the person's registration shall be canceled and the person shall be deemed to have not registered to vote. Information relating to a person declining to be registered to vote pursuant to this section shall not be used for any purpose other than to process the declination and for reporting election administration statistics;

(2) if the person votes in an election after registration under this section and subsequently returns the card to decline the registration, the declination shall not be effective until after the election in which the person voted; and

(3) if the person returns the card to designate affiliation with a qualified political party, the person's political party affiliation shall be effective pursuant to Section 1-4-8 NMSA 1978.

F. If a person who is registered to vote in the state conducts a transaction to apply for or renew, update, correct or replace the person's driver's license, state-issued identification card, learner's permit or provisional license or files a notice of change of address and the information provided to the motor vehicle division of the taxation and revenue department indicates a different address or name from

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the person's existing certificate of registration, the motor vehicle division of the taxation and revenue department shall electronically transmit to the secretary of state an electronic record containing the person's full name, date of birth, driver's license or state-issued identification card number, residence address, mailing address if different from residence address, county of residence, an electronic image of the person's signature and any other available information requested by the secretary of state. The secretary of state shall issue standards for what is considered a different address. If the new address is in:

(1) the same county, or the person's name has changed, the secretary of state shall send the information to the county clerk of the county where the person is registered and the county clerk shall process the change to the official list of eligible voters in accordance with the change of residence information provided; or

(2) a different county, the secretary of state shall send the information to the county clerk of the county where the person's new address is located and the county clerk shall process the change of residence as a transferred registration into the county.

G. Immediately at the conclusion of each in-person transaction to apply for or renew a driver's license or state-issued identification card, a person shall receive written

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notification by the motor vehicle division of the taxation and revenue department informing the person if a voter registration transaction was processed and, if so, providing information regarding any voter registration transaction delivered to the secretary of state by the motor vehicle division as a result of the application for or renewal of a driver's license or state-issued identification card.

H. In carrying out the provisions of this section, a motor vehicle division employee or contractor shall not intentionally influence a 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 a voter registration pursuant to this section to anyone other than a registration officer.

I. Unless a person who is not a qualified elector or is ineligible to register to vote knowingly and willfully takes voluntary action to register to vote knowing that the person is not a qualified elector or is ineligible to register to vote, the transfer of an electronic record or the failure of a person to decline voter registration pursuant to this section shall not be considered a violation of Section 1-20-3 NMSA 1978.

J. A person who is not a qualified elector or who is ineligible to vote but who becomes registered to vote under this section and votes or attempts to vote in an election held

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after the effective date of the person's registration commits false voting under Section 1-20-8 NMSA 1978 only if the person knowingly and willfully took voluntary action to register to vote with knowledge that the person is not a qualified elector or is ineligible to register or knowingly and willfully voted with knowledge that the person is not a qualified elector or is ineligible to vote.

K. By January 1 following each general election, the secretary of state shall submit to the legislature and make publicly available a report on the implementation of this section. Excluding any personal identifying information, the report shall include:

- (1) the number of electronic records transmitted to the secretary of state by the motor vehicle division of the taxation and revenue department pursuant to this section;
- (2) the number of new voters statewide as a result of the automatic voter registration system;
- (3) the number of voters whose information was updated because of the automatic voter registration system, reported by the type of information updated; and
- (4) the number of people who declined to be registered to vote through the automatic voter registration system.

L. The secretary of state shall adopt rules and

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coordinate as necessary with the motor vehicle division of the taxation and revenue department and other state agencies and Indian nations, tribes and pueblos designated pursuant to Section 1-4-47.1 NMSA 1978."

SECTION SRC→9.←SRC SRC→8.←SRC A new Section 1-4-47.1 NMSA 1978 is enacted to read:

"1-4-47.1. [NEW MATERIAL] STATE AGENCY--INDIAN NATION, TRIBE OR PUEBLO--AUTOMATIC VOTER REGISTRATION REQUIREMENTS.--

A. Upon a determination by the secretary of state that a state agency, including an agency that participates in the state-agency-based voter registration program pursuant to Section 1-4-48 NMSA 1978, collects sufficient information consistent with Section 1-4-47 NMSA 1978 to transmit electronic records for automatic voter registration in accordance with the provisions of that section, including verification of United States citizenship by document or database verification for any agency clients not already registered to vote, the secretary of state shall enter into a memorandum of understanding with the agency requiring the agency to comply with the provisions of Section 1-4-47 NMSA 1978. The secretary of state and county clerks shall process the electronic records according to the provisions of Section 1-4-47 NMSA 1978, subject to any modifications necessary to comply with federal law.

B. An Indian nation, tribe or pueblo that collects sufficient information consistent with Section 1-4-47 NSMA 1978

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to transmit electronic records for automatic voter registration in accordance with the provisions of that section, including verification of United States citizenship by document or database verification for any persons not already registered to vote, may in its discretion transmit the records to the secretary of state. The secretary of state shall enter into a memorandum of understanding with the Indian nation, tribe or pueblo detailing compliance with the provisions of Section 1-4-47 NMSA 1978. The secretary of state and county clerks shall process the electronic records according to the provisions of Section 1-4-47 NMSA 1978, subject to any modifications necessary to comply with federal law.

C. If a state agency or an Indian nation, tribe or pueblo is able to transmit electronic records that are complete for automatic voter registration except for an electronic signature image, the records shall be processed as complete records for automatic voter registration. The secretary of state shall adopt rules to obtain a signature from the qualified elector or qualified resident, including through a mailing requesting a signature, uploading a signature through an electronic system, providing a signature on a mailed ballot envelope or providing a signature at an early voting location or polling place."

SECTION SRC→10.←SRC SRC→9.←SRC Section 1-4-48 NMSA 1978
(being Laws 1995, Chapter 198, Section 13, as amended) is

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amended to read:

"1-4-48. STATE-AGENCY-BASED VOTER REGISTRATION PROGRAM--
ESTABLISHED--HUMAN SERVICES DEPARTMENT.--

A. The secretary of state shall adopt and publish in accordance with the State Rules Act rules for the administration of a state-agency-based voter registration program. The rules shall provide for distribution of voter registration forms, provisions for the acceptance of voter registration forms and procedures for reporting voter registration activity in accordance with the federal National Voter Registration Act of 1993.

B. Voter registration shall be made available at all state agencies providing public assistance or services to people with disabilities. The secretary of state may [~~with the agreement of those offices~~] designate other state and local public offices to provide voter registration services with the agreement of those offices.

C. Each state agency participating in the voter registration program shall maintain sufficient records for the secretary of state to comply with federal voter registration reporting requirements and the federal Help America Vote Act of 2002. Any records maintained by a state agency regarding voter registration activities in that agency are confidential and shall not be released as public records.

D. Any voter registration made or accepted at a

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state agency pursuant to this section shall be transmitted to the appropriate registration officer within ten calendar days.

E. A state agency employee or agency contractor who participates in the voter registration process may not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A state agency employee or agency contractor who participates in the voter registration process may not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

F. The human services department shall develop procedures to be approved by the secretary of state to ensure that each benefit program administered by the department appropriately ensures that qualified electors receiving benefits are offered the opportunity to register to vote or update an existing certificate of registration without duplication of information contained by the department or by the secretary of state. No later than the last day of August of each calendar year, the human services department shall issue an annual report detailing implementation of the requirements of this subsection. The report shall be sent to the legislative council service, the secretary of state and each county clerk.

G. If a person who is not a qualified elector becomes registered to vote pursuant to this section, the

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person's registration shall be canceled and the person shall be deemed to have never registered."

SECTION SRC→11.←SRC SRC→10.←SRC A new section of the Absent Voter Act is enacted to read:

"[NEW MATERIAL] VOLUNTARY PERMANENT ABSENTEE VOTER LIST-- PROCEDURES.--

A. A voter, except a federal qualified elector who is subject to the provisions of the Uniform Military and Overseas Voters Act or the Intimate Partner Violence Survivor Suffrage Act, may apply to be added to the voluntary permanent absentee voter list for the county in which the voter is registered by completing a paper or online application that conforms to the mailed ballot application requirements of Section 1-6-4 NMSA 1978, except that the voluntary permanent absentee voter application shall provide an additional checkbox for the voter to affirm that reads:

"[] I am requesting to be added to the voluntary permanent absentee voter list in my county. This means that the county clerk shall automatically send a mailed ballot to the mailing address listed on my certificate of voter registration each time there is a statewide election that includes my precinct."

B. Upon receipt of an application from a voter requesting to be added to the voluntary permanent absentee voter list, the county clerk shall process the application in

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the same manner as an application for a mailed ballot, except that the county clerk shall not accept an application to be added to the voluntary permanent absentee voter list if the voter's mailing address on the certificate of registration is outside of New Mexico.

C. Upon acceptance of the application to be added to the voluntary permanent absentee voter list, the county clerk shall add the voter's name to the voluntary permanent absentee voter list in the county. The voluntary permanent absentee voter list shall contain the voter's name, year of birth, address and precinct in the county.

D. A voter whose name appears on the voluntary permanent absentee voter list shall remain on the list, except as provided in Subsection F of this section, and shall be sent a mailed ballot by the county clerk for each statewide election conducted that includes the precinct in which the voter is eligible to vote. The mailed ballot shall be sent in the first batch of mailed ballots delivered to voters in that election.

E. At least forty-nine days before each statewide election, the county clerk shall send to each voter on the voluntary permanent absentee voter list a notice reminding the voter that the voter will be receiving a mailed ballot for that election. The notice shall also inform the voter of how to remove the voter's name from the voluntary permanent absentee voter list if the voter would like to do so. The notice shall

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be sent using non-forwardable mail with return postage prepaid.

F. A voter shall be removed from the voluntary permanent absentee voter list by the county clerk for the following reasons:

(1) the voter fails to return a mailed ballot in two consecutive elections, including at least one general election;

(2) the county clerk has sent a mailed ballot or other piece of election mail to the voter's mailing address that was subsequently returned as undeliverable;

(3) the voter's certificate of registration is canceled pursuant to the provisions of Chapter 1, Article 4 NMSA 1978;

(4) the voter updates the voter's certificate of registration indicating an address that is outside of the county for which the voter is listed on the voluntary permanent absentee voter list; or

(5) the voter submits a written request to the county clerk requesting to be removed from the voluntary permanent absentee voter list.

G. A county clerk shall take the necessary steps to attempt to contact and notify a voter who is removed from the voluntary permanent absentee voter list. If a voter is removed from the voluntary permanent absentee voter list, the voter shall only be added again if the voter submits a new voluntary

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permanent absentee voter application.

H. A county clerk shall maintain the voluntary permanent absentee voter list for the county and shall make the voluntary permanent absentee voter list available on request pursuant to the provisions of Section 1-4-5.5 NMSA 1978."

SECTION SRC→12.←SRC SRC→11.←SRC A new Section 1-11-12.2 NMSA 1978 is enacted to read:

"1-11-12.2. [NEW MATERIAL] MONITORED SECURED CONTAINERS-- DISTRIBUTION TO COUNTIES.--

A. Each county shall have at least two monitored secured containers SRC→; provided that, in consideration of geographic or security constraints existent in a county, a county clerk may request from the secretary of state a waiver from this requirement←SRC . The secretary of state may approve a request by a county clerk for additional monitored secured containers in a county.

B. In addition to the monitored secured containers provided pursuant to Subsection A of this section, a political subdivision of the state, including a municipality, school district or community college, may make a written request to the county clerk for one or more monitored secured containers on or near the boundaries of the political subdivision. A county clerk who receives a written request for monitored secured containers from a political subdivision shall evaluate the population in and near the area of the request, the

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distance voters have to travel to get to the nearest monitored secured container and the number of monitored secured containers and early voting locations on or near the area of the request. The county clerk shall respond in writing to the requesting political subdivision within thirty days of receiving the written request. A written request for monitored secured containers for future statewide elections may be made between the second Tuesday in March and the second Tuesday in April of any year.

C. A political subdivision whose written request to a county clerk for monitored secured containers is denied may appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along with any response to the denial letter from the requesting political subdivision. The secretary of state may place a monitored secured container on or near an area that is the subject of the request in response to an appeal submitted pursuant to this subsection.

D. A monitored secured container located on or near the boundaries of a political subdivision shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is provided pursuant to this section, the requesting political subdivision shall provide the facility and services necessary for the monitored secured container."

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SECTION SRC→13.←SRC SRC→12.←SRC A new Section 1-21A-1
NMSA 1978 is enacted to read:

"1-21A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 1, Article
21A NMSA 1978 may be cited as the "Native American Voting
Rights Act"."

SECTION SRC→14.←SRC SRC→13.←SRC A new Section 1-21A-2
NMSA 1978 is enacted to read:

"1-21A-2. [NEW MATERIAL] DEFINITIONS.--As used in the
Native American Voting Rights Act:

A. "early voting location" means an alternate
voting location and a mobile alternate voting location;

B. "Indian nation, tribe or pueblo" means a
federally recognized Indian nation, tribe or pueblo located
wholly or partially in New Mexico;

C. "polling place" means an early voting location
and an election day polling place; Hf11→and←Hf11

Hf11→D.←~~"tribal absentee ballot assistant" means a
person designated as a tribal vote coordinator or community
health representative by an Indian nation, tribe or pueblo or
by the federal Indian health service; and~~←Hf11

Hf11→E.←Hf11 Hf11→D.←Hf11 "written request" means
a request sent in writing by the president, governor or
governing body of an Indian nation, tribe or pueblo, including
a request sent by a person designated by the president,
governor or governing body of an Indian nation, tribe or pueblo

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to submit written requests pursuant to the Native American Voting Rights Act; provided that the designation has been communicated in writing to the secretary of state and county clerk by the president, governor or governing body of the Indian nation, tribe or pueblo."

SECTION SRC→15.←SRC SRC→14.←SRC A new Section 1-21A-3 NMSA 1978 is enacted to read:

"1-21A-3. [NEW MATERIAL] PRECINCT BOUNDARIES.--

A. When adjusting precinct boundaries for any group of census blocks that are on Indian nation, tribal or pueblo lands, the board of county commissioners shall inquire of each Indian nation, tribe or pueblo in the county to provide internal and external political boundaries for the Indian nation, tribe or pueblo that the Indian nation, tribe or pueblo has provided to the United States census bureau.

B. The board of county commissioners shall adjust precinct boundaries to correspond to the internal and external political boundaries that each Indian nation, tribe or pueblo in the county has provided to the United States census bureau.

C. The secretary of state shall reject any precinct boundary maps that do not comply with the provisions of this section."

SECTION SRC→16.←SRC SRC→15.←SRC A new Section 1-21A-4 NMSA 1978 is enacted to read:

"1-21A-4. [NEW MATERIAL] REQUESTS FOR POLLING PLACES AND

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MONITORED SECURED CONTAINERS.--

A. An Indian nation, tribe or pueblo may submit a written request to a county clerk for locating early voting locations, election day polling places or monitored secured containers on or near the Indian nation's, tribe's or pueblo's lands.

B. A written request for election day polling places for all statewide elections in the next election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each even-numbered year.

C. A written request for early voting locations for all statewide elections in the current election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each odd-numbered year.

D. A written request for early voting locations for the general election in that year by an Indian nation, tribe or pueblo that has not already done so shall be made between the first business day in January and the day the secretary of state issues the proclamation for the general election.

E. A written request for monitored secured containers for future statewide elections may be made by July 15, 2023 for the 2023 regular local election and between the second Tuesday in March and the second Tuesday in April of any year for all subsequent elections."

SECTION SRC→17.←SRC SRC→16.←SRC A new Section 1-21A-5

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NMSA 1978 is enacted to read:

"1-21A-5. [NEW MATERIAL] ELECTION DAY POLLING PLACES--
REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more election day polling places on or near Indian nation, tribal or pueblo land shall consider the request when submitting recommendations to the board of county commissioners for the biennial election day polling place resolution establishing voter convenience centers for the subsequent election cycle pursuant to Section 1-3-4 NMSA 1978; provided that:

(1) any voter of the county shall have access to and be permitted to vote at the election day polling place;

(2) the location of the election day polling place conforms to the requirements for election day polling places, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the election day polling places; and

(4) if the election day polling place is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo provides the facility and services for the election day polling place.

B. In considering the written request, the county clerk shall evaluate the distance voters have to travel to get

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to the nearest election day polling place and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo lands.

C. At the time of submitting the election day polling place resolution to the board of county commissioners, the county clerk shall inform the board of county commissioners of any written requests received by an Indian nation, tribe or pueblo for an election day polling place.

D. Once the election day polling place resolution is adopted, an election day polling place located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other election day polling places in that election cycle without the written agreement of the Indian nation, tribe or pueblo on whose lands the election day polling place is located."

SECTION SRC→18.←SRC SRC→17.←SRC A new Section 1-21A-6 NMSA 1978 is enacted to read:

"1-21A-6. [NEW MATERIAL] EARLY VOTING LOCATIONS-- REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more early voting locations shall provide at least one alternate voting or mobile alternate voting location on or near the Indian nation, tribal or pueblo land; provided that:

(1) any voter of the county shall have access

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to and be permitted to vote at the early voting location;

(2) the location of the early voting location on Indian nation, tribal or pueblo land conforms to the requirements for alternate voting locations, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the early voting locations;

(4) the Indian nation, tribe or pueblo provides the facility and services for the early voting location; and

(5) the early voting location may operate for less than the full early voting period, to be decided upon between the Indian nation, tribe or pueblo and the county clerk.

B. When responding to a written request, the county clerk shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land."

SECTION SRC→19.←SRC SRC→18.←SRC A new Section 1-21A-7 NMSA 1978 is enacted to read:

"1-21A-7. [NEW MATERIAL] MONITORED SECURED CONTAINERS-- REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more

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monitored secured containers on or near Indian nation, tribal or pueblo land shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land. The county clerk shall respond in writing to the Indian nation, tribe or pueblo regarding the provision of monitored secured containers on or near Indian nation, tribal or pueblo land within thirty days of receiving the written request.

B. An Indian nation, tribe or pueblo whose written request to a county clerk for monitored secured containers is denied may appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along with any response to the denial letter from the Indian nation, tribe or pueblo. The secretary of state may place a monitored secured container on or near Indian nation, tribal or pueblo land in response to an appeal submitted by an Indian nation, tribe or pueblo.

C. A monitored secured container located on or near Indian nation, tribal or pueblo land shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo shall provide the facility and services necessary for the monitored secured container."

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SECTION SRC→20.←SRC SRC→19.←SRC A new Section 1-21A-8

NMSA 1978 is enacted to read:

"1-21A-8. [NEW MATERIAL] USE OF GOVERNMENTAL AND OFFICIAL BUILDINGS AS MAILING ADDRESSES ON VOTER REGISTRATION CERTIFICATES AND MAILED BALLOT APPLICATIONS.--

A. The secretary of state shall maintain a list of government and official buildings on Indian nation, tribal and pueblo land where members of the Indian nation, tribe or pueblo may request delivery of mailed ballots. The list shall include the common name for each building and the mailing address for the building. The list shall be provided by county to each county clerk with an Indian nation, tribe or pueblo in the county.

B. If a county clerk receives a voter registration certificate or an application for a mailed ballot that lists a government or official building on Indian nation, tribal or pueblo land by name only, the county clerk shall not reject the certificate or application for lack of a mailing address and, if the certificate or application is otherwise in the proper form, shall mail the ballot and balloting materials to the voter using the address for the government or official building."

SECTION SRC→21.←SRC SRC→20.←SRC A new Section 1-21A-9

NMSA 1978 is enacted to read:

"1-21A-9. [NEW MATERIAL] EMERGENCY SITUATIONS.--If the

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president, governor or governing body of an Indian nation, tribe or pueblo has declared a state of emergency or has invoked emergency powers pursuant to other laws:

A. a polling place located on the Indian nation, tribal or pueblo land shall not be eliminated or consolidated with other polling places, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo;

B. no later than ninety-eight days before a statewide election by means of a written request or no later than forty-nine days before a statewide election with a court order, the county clerk shall provide to an Indian nation, tribe or pueblo that has not previously requested for that election cycle at least one alternate voting or mobile alternate voting location for that election; provided that the alternate voting or mobile alternate voting location shall otherwise comply with the requirements of Section 1-21A-6 NMSA 1978;

C. no later than eighty-four days before a statewide election by means of a written request or no later than thirty-five days before a statewide election with a court order, the county clerk shall provide an election day polling place to an Indian nation, tribe or pueblo that does not already have an election day polling place within its boundaries if voters registered within the Indian nation, tribe

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or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for a statewide election; and

D. the requirement that a polling place be available to all voters in the county shall be waived if an Indian nation, tribe or pueblo is inaccessible or the borders are closed."

Hf11 → ~~SECTION 22. A new Section 1-21A-10 NMSA 1978 is enacted to read:~~

~~"1-21A-10. [NEW MATERIAL] TRIBAL ABSENTEE BALLOT ASSISTANTS.--~~

~~A. An Indian nation, tribe or pueblo may in a statewide or special election appoint up to five tribal absentee ballot assistants within the Indian nation's, tribe's or pueblo's boundaries if the Indian nation, tribe or pueblo provides a written notice to the secretary of state at least three days prior to the individual serving as a tribal absentee ballot assistant and specifies the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at the time of appointment. The secretary of state may approve a request by an Indian nation, tribe or pueblo for additional tribal absentee ballot assistants.~~

~~B. Beginning ten days before election day, a tribal absentee ballot assistant may collect and transport voted~~

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~~ballots directly from qualified electors who are members of the Indian nation, tribe or pueblo that the tribal absentee ballot assistant has been appointed to; provided that the tribal members shall reside within the boundaries of the Indian nation, tribe or pueblo.~~

~~C. Each voted ballot shall be delivered to the county clerk in the county where the qualified elector resides within forty-eight hours of being collected, or by 7:00 p.m. on the day of the election, whichever time is shorter.~~

~~D. A tribal absentee ballot assistant engaged in the activity of collecting and transporting voted ballots shall:~~

~~(1) wear a button or other identification easily visible to the voter that identifies the tribal absentee ballot assistant as a tribal absentee ballot assistant;~~

~~(2) show government-issued identification upon request of the voter;~~

~~(3) provide a receipt to each voter from whom a voted ballot was collected. The receipt shall, at minimum, include:~~

~~(a) the name, address and phone number of the person collecting the ballot;~~

~~(b) the date and time that the ballot was collected; and~~

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~~(c) the tribal absentee ballot
assistant's signature; and~~

~~(4) maintain a log of all voted ballots
collected that includes:~~

~~(a) the name and address of the voter;
(b) the date and time that the ballot
was collected; and~~

~~(c) the voter's signature authorizing
the collection and transportation of the voted ballot.~~

~~E. The collection log required by Subsection D of
this section shall be maintained during the voting period, made
available to the county clerk when voted ballots are delivered
to the clerk and submitted to the county clerk for storage no
later than the day following each election. The collection log
shall be retained by the county clerk as a record requisite to
voting pursuant to the provisions of Section 1-12-69 NMSA
1979."~~ ←Hf11

SECTION Hf11→23. ←Hf11 SRC→Hf11→22. ←Hf11 ←SRC
SRC→21. ←SRC A new Section 1-21A-11 NMSA 1978 is enacted to
read:

"1-21A-11. [NEW MATERIAL] EXPENSES.--

A. All necessary and reasonable expenses incurred
by a county clerk for compliance with the Native American
Voting Rights Act, including the costs of voting equipment and
personnel for polling places and monitored secured containers

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on Indian nation, tribal or pueblo land, shall be paid for by the secretary of state or shall be reimbursed to the county by the secretary of state.

B. The secretary of state shall distribute from the election fund sufficient funds to each county for the costs related to compliance with the Native American Voting Rights Act, either as grants or reimbursement."

SECTION Hf11→24.←Hf11 SRC→Hf11→23.←Hf11←SRC
SRC→22.←SRC Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended by Laws 2011, Chapter 35, Section 1 and by Laws 2011, Chapter 154, Section 1) is amended to read:

"22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--MINIMUM.--

A. Except as otherwise provided in this section, regular students shall be in school-directed programs, exclusive of lunch, for a minimum of the following:

(1) kindergarten, for half-day programs, two and one-half hours per day or four hundred fifty hours per year or, for full-day programs, five and one-half hours per day or nine hundred ninety hours per year;

(2) grades one through six, five and one-half hours per day or nine hundred ninety hours per year; and

(3) grades seven through twelve, six hours per day or one thousand eighty hours per year.

B. Up to thirty-three hours of the full-day

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kindergarten program may be used for home visits by the teacher or for parent-teacher conferences. Up to twenty-two hours of grades one through six programs may be used for home visits by the teacher or for parent-teacher conferences. Up to twelve hours of grades seven through twelve programs may be used to consult with parents to develop next step plans for students and for parent-teacher conferences.

C. Nothing in this section precludes a local school board from setting a school year or the length of school days in excess of the minimum requirements established by Subsection A of this section.

D. The secretary may waive the minimum length of school days in those school districts where such minimums would create undue hardships as defined by the department as long as the school year is adjusted to ensure that students in those school districts receive the same total instructional time as other students in the state.

E. Notwithstanding any other provision of this section, provided that instruction occurs simultaneously, time when breakfast is served or consumed pursuant to a state or federal program shall be deemed to be time in a school-directed program and is part of the instructional day.

F. Every general election and regular local election shall be a school holiday for students and staff at each public school in this state."

SECTION ~~Hf11~~→25.←~~Hf11~~ SRC→~~Hf11~~→24.←~~Hf11~~←SRC

SRC→23.←SRC Section 31-13-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-14, as amended) is amended to read:

"31-13-1. FELONY CONVICTION--RESTORATION OF [CITIZENSHIP] RIGHT TO HOLD OFFICE OF PUBLIC TRUST.--

~~[A.— A person who has been convicted of a felony shall not be permitted to vote in any statewide, county, municipal or district election held pursuant to the provisions of the Election Code, unless the person:~~

~~(1) has completed the terms of a suspended or deferred sentence imposed by a court;~~

~~(2) was unconditionally discharged from a correctional facility under the jurisdiction of the corrections department or was conditionally discharged from a correctional facility under the jurisdiction of the corrections department and has completed all conditions of probation or parole;~~

~~(3) was unconditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency or was conditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency and has completed all conditions of probation or parole; or~~

~~(4) has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the~~

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~~person's full rights of citizenship.~~

~~B. When a person has completed the terms of a suspended or deferred sentence imposed by a court for a felony conviction, the clerk of the district court shall notify the secretary of state. The secretary of state shall notify all county clerks that the person is eligible for registration.~~

~~C. A person who has served the entirety of a sentence imposed for a felony conviction, including a term of probation or parole shall be issued a certificate of completion by the corrections department. Upon issuance, the corrections department shall inform the person that the person is entitled to register to vote. The certificate of completion shall state that the person's voting rights are restored.~~

~~D. When the corrections department issues a person a certificate of completion, the corrections department shall notify the secretary of state that the person is entitled to register to vote. The secretary of state shall notify all county clerks that the person is eligible for registration. Additionally, a county clerk shall accept the following documents as proof that a person has served the entirety of the sentence for a felony conviction and is eligible for registration:~~

~~(1) a judgment and sentence from a court of this state, another state or the federal government, which shows on its face that the person has completed the entirety of~~

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~~the sentence;~~

~~(2) a certificate of completion from the corrections department; or~~

~~(3) a certificate of completion from another state or the federal government.~~

E.] A person who has been convicted of a felony shall not be permitted to hold an office of public trust for the state, a county, a municipality or a district, unless the person has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person's full rights of citizenship."

SECTION Hf11→26.←Hf11 SRC→Hf11→25.←Hf11←SRC
SRC→24.←SRC REPEAL.--

A. Sections 1-3-7.2 and 1-6-5.8 NMSA 1978 (being Laws 2021, Chapter 107, Section 1 and Laws 2009, Chapter 251, Section 2, as amended) are repealed effective July 1, 2023.

B. Section 1-4-5.8 NMSA 1978 (being Laws 2019, Chapter 67, Section 2) is repealed effective July 1, 2025.

SRC→SECTION Hf11→27.←Hf11 SRC→Hf11→26.←Hf11←SRC
SRC→25.←SRC EFFECTIVE DATE.--

~~A. The effective date of the provisions of Sections 1, 3 through 7, 12 through SRC→Hf11→23 and 25←Hf11 Hf11→22 and 24←Hf11←SRC SRC→23 and 25←SRC of this act is July 1, 2023.~~

.223093.5AIC February 1, 2023 (9:22am)

underscoring material = new

[bracketed material] = delete

Amendments: new = bold, blue, highlight

delete = bold, red, highlight, strikethrough

~~B. The effective date of the provisions of Sections 11 and SRC→Hf11→24←Hf11 Hf11→23←Hf11←SRC SRC→24←SRC of this act is January 1, 2024.~~

~~C. The effective date of the provisions of Sections 2 and 8 through 10 of this act is July 1, 2025.←SRC~~

SRC→SECTION 25. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 3 through 6, 11 through 21 and 23 of this act is July 1, 2023.

B. The effective date of the provisions of Sections 10 and 22 of this act is January 1, 2024.

C. The effective date of the provisions of Sections 2 and 7 through 9 of this act is July 1, 2025.←SRC