

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 245

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

EDWARD C. SANDOVAL

AN ACT

RELATING TO ELECTIONS; EXPANDING THE ABSENT VOTER ACT;
REPEALING THE ABSENTEE-EARLY VOTING ACT; CLARIFYING FILING
REQUIREMENTS AND NOMINATING PETITION REQUIREMENTS; PRESCRIBING
CERTAIN ELECTION FORMS; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE ELECTION CODE.

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

Section 1. Section 1-6-2 NMSA 1978 (being Laws 1987,
Chapter 327, Section 6, as amended) is amended to read:

"1-6-2. DEFINITIONS. -- As used in the Absent Voter Act:

A. "absent uniformed services voter" means:

(1) a member of a uniformed service on active
duty who, by reason of such active duty, is absent from the
place of residence where the member is otherwise qualified to
vote;

Underscored material = new
[bracketed material] = delete

1 (2) a member of the merchant marine who, by
2 reason of service in the merchant marine, is absent from the
3 place of residence where the member is otherwise qualified to
4 vote; or

5 (3) a spouse or dependent of a member
6 referred to in Paragraphs (1) and (2) of this subsection who,
7 by reason of the active duty or service of the member, is
8 absent from the place of residence where the spouse or
9 dependent is otherwise qualified to vote;

10 B. "election" means [~~any~~] a statewide election,
11 general election, primary election or special election to fill
12 vacancies in the office of United States representative and
13 regular or special school district elections [~~except as~~
14 ~~modified by the school election law~~];

15 C. "electronic ballot" means a paper ballot or
16 ballot face designed to be used on an electronic voting
17 machine to cast votes;

18 D. "electronic voting machine" means a computer-
19 controlled machine designed to electronically record and
20 tabulate votes cast;

21 [~~C.~~] E. "federal office" means the office of
22 president, vice president or of [a] senator or representative
23 in congress;

24 [~~D.~~] F. "federal qualified elector" means:

25 (1) an absent uniformed services voter; or

Underscored material = new
[bracketed material] = del ete

1 (2) an absent uniformed [~~service~~] services
2 voter who, by reason of active duty or service, is absent from
3 the United States on the date of the election involved;

4 [~~E. "marksense ballot" means a paper ballot card~~
5 ~~used on an optical scan vote tabulating machine;~~

6 F.] G. "member of the merchant marine" means an
7 individual other than a member of a uniformed service or an
8 individual employed, enrolled or maintained on the Great Lakes
9 or the inland waterways who:

10 (1) is employed as an officer or crew member
11 of a vessel documented under the laws of the United States, a
12 vessel owned by the United States or a vessel of a foreign-
13 flag registry under charter to or control of the United
14 States; or

15 (2) is enrolled with the United States for
16 employment or training for employment or maintained by the
17 United States for emergency relief service as an officer or
18 crew member of any such vessel;

19 [~~G.~~] H. "overseas voter" means:

20 (1) a person who resides outside the United
21 States and is qualified to vote in the last place in which the
22 person was domiciled before leaving the United States; or

23 (2) a person who resides outside the United
24 States and, but for such residence, would be qualified to vote
25 in the last place in which the person was domiciled before

Underscored material = new
[bracketed material] = delete

1 leaving the United States; and

2 [H-] I. "uniformed services" means the army, navy,
3 air force, marine corps and coast guard and the commissioned
4 corps of the national oceanic and atmospheric administration."

5 Section 2. Section 1-6-3 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 129, as amended by Laws 1993, Chapter 19,
7 Section 1 and also by Laws 1993, Chapter 21, Section 1) is
8 amended to read:

9 "1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT [~~RIGHT TO~~
10 ~~VOTE~~]. --

11 A. Any voter may vote by absentee ballot for all
12 candidates and on all questions appearing on the ballot [~~at~~
13 ~~his precinct poll~~] as if he were able to cast his ballot in
14 person at [~~the precinct poll~~] his regular polling place on
15 election day.

16 B. Any federal qualified elector may register
17 absentee and vote by an absentee ballot for any federal
18 office. "

19 Section 3. Section 1-6-4 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 130, as amended) is amended to read:

21 "1-6-4. ABSENTEE BALLOT APPLICATION. --

22 A. Application by a federal qualified elector for
23 an absentee ballot shall be made on the official postcard form
24 prescribed or authorized by the federal government to the
25 county clerk of the county of his residence.

Underscored material = new
[bracketed material] = delete

1 B. Application by a voter for an absentee ballot
2 shall be made only on a form prescribed, printed and furnished
3 by the secretary of state to the county clerk of the county in
4 which [~~he~~] the voter resides. The form shall identify the
5 applicant and contain information to establish his
6 qualification for issuance of an absentee ballot under the
7 Absent Voter Act; provided that on the application form for a
8 general election ballot there shall be no box, space or place
9 provided for designation of the voter's political party
10 affiliation.

11 C. Each application for an absentee ballot shall
12 be subscribed by the applicant."

13 Section 4. Section 1-6-4.1 NMSA 1978 (being Laws 1987,
14 Chapter 327, Section 9) is amended to read:

15 "1-6-4.1. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS
16 VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICES. --

17 A. Except as provided in Subsection C of this
18 section, a federal write-in absentee ballot for federal
19 offices in a general election shall be processed in the same
20 manner as provided by law for other absentee ballots.

21 B. In completing the ballot, the overseas voter
22 may designate a candidate by writing in the name of the
23 candidate or by writing in the name of a political party, in
24 which case the ballot shall be counted for all candidates of
25 that political party for federal office. Any abbreviation,

Underscored material = new
[bracketed material] = delete

1 misspelling or other minor variation in the form of the name
2 of a candidate or a political party shall be disregarded in
3 determining the validity of the ballot if the intention of the
4 overseas voter can be ascertained.

5 C. A federal write-in absentee ballot of an
6 overseas voter shall not be counted if:

7 (1) the ballot is submitted from any location
8 in the United States;

9 (2) the application of the overseas voter for
10 [~~a New Mexico~~] an absentee ballot is received by the county
11 clerk less than thirty days before the election; or

12 (3) the [~~New Mexico~~] absentee ballot of the
13 overseas voter is received by the county clerk later than
14 [~~seven~~] 7:00 p. m. on election day. "

15 Section 5. Section 1-6-5 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 131, as amended by Laws 1993, Chapter
17 314, Section 43 and also by Laws 1993, Chapter 316, Section
18 43) is amended to read:

19 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
20 [~~MAKING~~] MARKING AND DELIVERY OF BALLOT IN PERSON.--

21 A. The county clerk shall mark each completed
22 absentee ballot application with the date and time of receipt
23 in the clerk's office and enter the required information in
24 the absentee ballot register. The county clerk shall then
25 determine if the applicant is a voter, an absent uniformed

Underscored material = new
[bracketed material] = delete

1 services voter or an overseas voter.

2 B. If the applicant has no valid certificate of
3 registration on file in the county and he is not a federal
4 qualified elector or if the applicant states he is a federal
5 qualified elector but his application indicates he is not a
6 federal qualified elector, no absentee ballot shall be issued
7 [~~and~~]. The county clerk shall mark the application "rejected"
8 and file the application in a separate file from those
9 accepted.

10 C. The county clerk shall notify in writing each
11 applicant of the fact of acceptance or rejection of his
12 application and, if rejected, shall explain why the
13 application was rejected.

14 D. If the county clerk finds that the applicant is
15 [~~determined to be~~] a voter or a federal qualified elector, the
16 county clerk shall mark the application "accepted" and deliver
17 an absentee ballot to the voter in the county clerk's office
18 or mail to the applicant an absentee ballot and the required
19 envelopes for use in returning the ballot. Acceptance of an
20 application of a federal qualified elector constitutes
21 registration for the election in which the ballot is to be
22 cast. Acceptance of an application from an overseas voter who
23 is not an absent uniformed services voter constitutes a
24 request for changing information on the certificate of
25 registration of any such voter. No absent voter shall be

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 permitted to change his party affiliation during those periods
2 when change of party affiliation is prohibited by the Election
3 Code. Upon delivery of an absentee ballot to a voter in the
4 county clerk's office or mailing of an absentee ballot to
5 [~~any~~] an applicant who is a voter, an appropriate designation
6 shall be made on the signature line of the signature roster
7 next to the name of the [~~person~~] voter who has been [~~sent~~]
8 provided or mailed an absentee ballot.

9 E. If an application for an absentee ballot is
10 delivered in person to the county clerk and is accepted, the
11 county clerk shall [~~deliver the~~] provide the voter an absentee
12 ballot and it shall be marked by the applicant in a voting
13 booth of a type prescribed by the secretary of state [~~in the~~
14 ~~courthouse~~], sealed in the proper envelopes and otherwise
15 properly executed and returned to the county clerk or his
16 authorized representative before the [~~applicant~~] voter leaves
17 the office of the county clerk. The act of marking the
18 absentee ballot in the office of the county clerk shall be a
19 convenience to the voter in the delivery of the absentee
20 ballot and does not make the office of the county clerk a
21 polling place subject to the requirements of a polling place
22 in the Election Code other than is provided in this
23 subsection. It shall be unlawful to solicit votes, display or
24 otherwise make accessible any posters, signs or other forms of
25 campaign literature whatsoever in the clerk's office.

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 Absentee ballots may be marked in person during the regular
2 hours and days of business at the county clerk's office from
3 8:00 a. m. on the fortieth day preceding the election up until
4 5:00 p. m. on the Saturday immediately prior to the date of the
5 election.

6 F. In marking the absentee ballot, the voter may
7 be assisted by one person of the voter's [own] choice [upon
8 the execution with the county clerk of an affidavit for
9 assistance stating therein that the voter meets at least one
10 of the conditions for receiving such assistance as is set
11 forth by the provisions of Section 1-12-12 NMSA 1978].

12 G. Commencing with the twentieth day prior to an
13 election, an absent voter may vote in person at the county
14 clerk's office or on an electronic voting machine at an
15 alternate location established by the county clerk. In class
16 A counties, the county clerk shall establish not less than
17 four alternate locations as a convenience to the voters.
18 Absentee voting may be done at the county clerk's office or an
19 alternate location during the regular hours of business from
20 8:00 a. m. on the twentieth day prior to the election until
21 5:00 p. m. on the Thursday immediately prior to the election.
22 The county clerk shall ensure that procedures established for
23 processing an absent voter application and for voting by
24 absentee ballot are complied with at each alternate location.

25 [F.] H. Absentee ballots shall be air mailed to

Underscored material = new
[bracketed material] = delete

1 applicants temporarily domiciled inside or outside the
2 continental limits of the United States not later than on the
3 Thursday immediately prior to the date of the election.

4 ~~[G.]~~ I. No absentee ballot shall be delivered or
5 mailed by the county clerk to any person other than the
6 applicant for such ballot.

7 ~~[H.]~~ J. The county clerk shall accept and process
8 with respect to a primary or general election for any federal
9 office, any otherwise valid voter registration application
10 from an absent uniformed services voter or overseas voter if
11 the application is received not less than thirty days before
12 the election. The county clerk shall also accept and process
13 federal write-in absentee ballots from overseas voters in
14 general elections for federal offices in accordance with the
15 provisions of Section 103 of the federal Uniformed and
16 Overseas Citizens Absentee Voting Act.

17 K. The secretary of state and each county clerk
18 shall make reasonable efforts to publicize and inform voters
19 of the times and locations for absentee voting. "

20 Section 6. A new section of the Absent Voter Act is
21 enacted to read:

22 "[NEW MATERIAL] PREPARATION OF ELECTRONIC VOTING
23 MACHINES. --

24 A. Five days before an electronic voting machine
25 is issued for absentee voting as provided in Section 1-6-9.1

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 NMSA 1978, the county clerk may begin to prepare, inspect and
2 seal the voting machine in accordance with the specifications
3 for electronic voting machines adopted by the secretary of
4 state.

5 B. One day before any electronic voting machine is
6 used for absentee voting, the county clerk shall certify to
7 the secretary of state and all county party chairmen the type
8 and serial number of each voting machine to be used."

9 Section 7. A new section of the Absent Voter Act is
10 enacted to read:

11 "[NEW MATERIAL] SECRETARY OF STATE--EMERGENCY AUTHORITY. --
12 The secretary of state shall have emergency authority to
13 prescribe by regulation procedures to accommodate the special
14 absentee ballot requirements brought on by activation of the New
15 Mexico national guard and reserve units or for individuals who
16 are overseas voters, and procedures for a special write-in
17 absentee ballot available at least ninety days prior to an
18 election to cover candidates for federal offices."

19 Section 8. Section 1-6-6 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 132, as amended) is amended to read:

21 "1-6-6. ABSENTEE BALLOT REGISTER. --

22 A. For each election, the county clerk shall keep
23 an "absentee ballot register" in which he shall enter:

- 24 (1) the name and [county] address of each
25 absentee ballot applicant;

Underscored material = new
[bracketed material] = delete

- 1 (2) the date and time of receipt of the
2 application;
- 3 (3) whether the application was accepted or
4 rejected;
- 5 (4) the date of [~~delivery or~~] issue of an
6 absentee ballot in the county clerk's office or at an
7 alternate location or the mailing of an absentee ballot to the
8 applicant;
- 9 (5) the applicant's precinct;
- 10 (6) whether the applicant is a voter, a
11 federal voter, a federal qualified elector or an overseas
12 citizen voter; and
- 13 (7) the date and time the completed absentee
14 ballot was received from the applicant by the county clerk or
15 the absent voter voted in the county clerk's office or at an
16 alternate location.
- 17 B. Within twenty-four hours after receipt of a
18 voter's application for an absentee ballot, the county clerk
19 shall mail either the ballot or a notice of rejection to the
20 applicant.
- 21 C. The absentee ballot register is a public record
22 open to public inspection in the county clerk's office during
23 regular office hours.
- 24 D. The county clerk shall deliver to the
25 [~~absentee~~] absent voter precinct board on election day a

Underscored material = new
[bracketed material] = delete

1 complete list of all absentee ballot applicants with
2 applicable information shown in the absentee ballot register
3 for each applicant up to [~~noon of the day~~] 5:00 p.m. on the
4 Thursday preceding the election. The county clerk shall
5 deliver a signature roster containing the same information as
6 the lists to the [~~absentee~~] absent voter precinct board.

7 E. The county clerk shall transmit to the
8 secretary of state and to the county chairman of each of the
9 major political parties in the county a complete copy of
10 entries made in the absentee ballot register. Such
11 transmissions shall be made once each week beginning four
12 weeks immediately prior to the election. A final copy shall
13 be transmitted on the Friday immediately following the
14 election. "

15 Section 9. Section 1-6-7 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 133, as amended) is amended to read:

17 "1-6-7. FORM OF ABSENTEE BALLOT.--As soon as candidates
18 and questions to be voted upon have been determined for each
19 election, the county clerk shall procure a supply of suitable
20 absentee ballots. The absentee [~~ballot~~] ballots shall be
21 numbered and shall be, as nearly as [~~practicable~~] possible, in
22 the same form as prescribed by the secretary of state for
23 emergency ballots. However, to reduce weight and bulk for
24 transport of absentee ballots, the size and weight of the
25 paper for envelopes, ballots and instructions shall be reduced

Underscored material = new
[bracketed material] = delete

1 as much as possible. Absentee ballots shall be printed at
2 least forty days prior to the date of a primary election and
3 forty-nine days prior to the date of a general election.
4 Absentee ballots for any other election shall be printed at
5 least thirty-five days prior to the date of the election. "

6 Section 10. Section 1-6-8 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 134, as amended) is amended to read:

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

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

11 (1) official inner envelopes for use in
12 sealing the completed absentee ballot;

13 (2) official mailing envelopes for use in
14 returning the official inner envelope to the county clerk;
15 provided the official mailing envelope for absentee ballots in
16 a general election shall contain no designation of party
17 affiliation;

18 (3) absentee ballot instructions, describing
19 proper methods for completion of the ballot and returning it;
20 and

21 (4) official transmittal envelopes for use by
22 the county clerk in mailing absentee ballot materials.

23 B. Official transmittal envelopes and official
24 mailing envelopes for transmission of absentee ballot
25 materials to and from the county clerk and federal qualified

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 electors shall be printed in red in the form prescribed by the
2 federal Uniformed and Overseas Citizens Absentee Voting Act.
3 Official transmittal envelopes and official mailing envelopes
4 for transmission of absentee ballot materials to and from the
5 county clerk and voters shall be printed in black in
6 substantially similar form. All official inner envelopes
7 shall be printed in black.

8 C. The reverse of each official mailing envelope
9 shall contain a form to be executed by the [~~person~~] voter
10 completing the absentee ballot. The form shall identify the
11 [~~person~~] voter and shall contain the following statement: "I
12 will not vote in this election other than by the enclosed
13 ballot. I will not receive or offer any compensation or
14 reward for giving or withholding any vote." "

15 Section 11. Section 1-6-9 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 135, as amended) is amended to read:

17 "1-6-9. MANNER OF VOTING BY ABSENTEE BALLOT.--

18 A. Any person voting [~~under provisions of~~]
19 pursuant to the Absent Voter Act shall secretly mark his
20 absentee ballot in the manner provided in the Election Code
21 for marking emergency paper ballots, place it in the official
22 inner envelope and securely seal the envelope. The voter
23 shall then place the official inner envelope inside the
24 official mailing envelope and securely seal the envelope. The
25 voter shall then complete the form on the reverse of the

Underscored material = new
[bracketed material] = delete

1 official mailing envelope, which shall include an affirmation
2 by the voter under penalty of perjury that the facts stated in
3 the form are true.

4 B. Federal qualified electors shall either deliver
5 or mail the official mailing envelope to the county clerk of
6 their county of residence or deliver it to a person designated
7 by federal authority to receive executed ballots for
8 transmission to the county clerk of the county of residence or
9 former residence as the case may be. Voters shall either
10 deliver or mail the official mailing envelope to the county
11 clerk of their county of residence. "

12 Section 12. Section 1-6-9.1 NMSA 1978 (being Laws 1991,
13 Chapter 105, Section 13, as amended) is amended to read:

14 "1-6-9.1. [~~USING THE MARKSENSE~~] VOTING BY ELECTRONIC
15 BALLOT. -- [~~Any person~~] An absent voter voting on [~~the~~
16 ~~marksense~~] an electronic ballot shall secretly mark the ballot
17 [~~by completing the arrow () () in pencil directly to the~~
18 ~~right of the candidate's name or the proposed question. The~~
19 ~~voter shall then place the marked ballot in the official inner~~
20 ~~envelope and securely seal the envelope and then place the~~
21 ~~official inner envelope inside the official mailing envelope~~
22 ~~and securely seal the envelope. The voter shall then complete~~
23 ~~the form on the reverse of the official mailing envelope] in
24 accordance with the instructions on that ballot, and the vote
25 cast shall be recorded on an electronic voting machine. "~~

Underscored material = new
[bracketed material] = delete

1 Section 13. Section 1-6-10 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 136, as amended) is amended to read:

3 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK. --

4 A. The county clerk shall mark on each completed
5 official mailing envelope the date and time of receipt in the
6 clerk's office, record this information in the absentee ballot
7 register and safely keep the official mailing envelope
8 unopened in a locked and number-sealed ballot box, except as
9 provided in Subsection H of Section 1-6-14 NMSA 1978, until it
10 is delivered on election day to the proper absent voter
11 precinct board or until it is canceled and destroyed in
12 accordance with law.

13 B. The county clerk shall accept completed
14 official mailing envelopes until 7:00 p.m. on election day.
15 Any completed official mailing envelope received after that
16 time shall not be delivered to a precinct board but shall be
17 preserved by the county clerk until the time for election
18 contests has expired. In the absence of a restraining order
19 after expiration of the time for election contests, the county
20 clerk shall destroy all late official mailing envelopes
21 without opening or permitting the contents to be examined,
22 cast, counted or canvassed. Before their destruction, the
23 county clerk shall count the numbers of late absentee ballots
24 from voters, federal voters, overseas citizen voters and
25 federal qualified electors and report the number from each

Underscored material = new
[bracketed material] = delete

1 category to the secretary of state.

2 C. At 5:00 p.m. on the Monday immediately
3 preceding the date of election, the county clerk shall record
4 the numbers of the unused absentee ballots and shall publicly
5 destroy in the county clerk's office all such unused ballots.
6 The county clerk shall execute a certificate of [~~such~~]
7 destruction, which shall include the numbers on the absentee
8 ballots destroyed. A copy of the certificate of destruction
9 shall be sent to the secretary of state. "

10 Section 14. Section 1-6-11 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 137, as amended) is amended to read:

12 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER
13 PRECINCTS. --

14 A. On election day, the county clerk shall deliver
15 the absentee ballots received [~~by him~~] prior to 7:00 p.m. on
16 election day to the special deputy county clerks for delivery
17 to the absent voter precinct boards. The absentee ballots for
18 each absent voter precinct shall be separately wrapped, and
19 the special deputy county clerk shall issue a receipt for all
20 ballots [~~taken by him~~] delivered for the county clerk. Upon
21 delivery of the absentee ballots to the absent voter precinct
22 board, the special deputy county clerk shall remain in the
23 polling place of the absent voter precinct until he has
24 observed the opening of the official mailing envelope, the
25 deposit of the ballot in the locked ballot box and the listing

Underscored material = new
[bracketed material] = delete

1 of the names on the official mailing envelope in the signature
2 rosters. Upon [~~such~~] delivery of absentee ballots, the
3 special deputy county clerk shall obtain a receipt executed by
4 the presiding judge and each election judge and he shall
5 return [~~such~~] the receipt to the county clerk for filing. The
6 receipts shall specify the number of envelopes received by the
7 special deputy county clerk from the county clerk for each
8 absent voter precinct and the number of envelopes received by
9 the absent voter precinct board from the special deputy county
10 clerk.

11 B. At 7:00 a.m. on election day, the county clerk
12 shall deliver the electronic voting machines used for absentee
13 voting to the absent voter precinct board. The machines shall
14 not be used to vote on or count additional ballots for that
15 election. A special deputy county clerk shall issue a receipt
16 for each voting machine. Upon delivery of a voting machine,
17 the special deputy shall obtain a receipt executed by the
18 presiding judge and each election judge specifying the serial
19 number and the seal number of the machine and shall verify the
20 public counter number on the machine, and he shall return the
21 receipt to the county clerk for filing. Thereafter, the
22 absent voter precinct board shall proceed as specified in
23 Sections 1-6-1 through 1-6-25 NMSA 1978. "

24 Section 15. Section 1-6-14 NMSA 1978 (being Laws 1971,
25 Chapter 317, Section 11, as amended) is amended to read:

. 119880. 2

Underscored material = new
[bracketed material] = delete

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

3 A. Before opening any official mailing envelope,
4 the presiding judge and the election judges shall determine
5 that the required information has been completed on the
6 reverse side of the official mailing envelope.

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

17 C. The accredited challengers may examine the
18 official mailing envelope and may challenge the ballot of any
19 absent voter for the following reasons:

20 (1) the official mailing envelope has been
21 opened prior to being received by the absent voter precinct
22 board; or

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

Underscored material = new
[bracketed material] = delete

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

10 D. If the official mailing envelopes have been
11 properly subscribed and the voters have not been challenged:

12 (1) the election judges shall open the
13 official mailing envelopes and deposit the ballots in their
14 still-sealed official inner envelopes in the locked ballot
15 box; and

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

21 E. Prior to the closing of the polls, the election
22 judges and the presiding election judge may either remove the
23 absentee ballots from the official inner envelopes and count
24 and tally the results of absentee balloting or, under the
25 personal supervision of the presiding election judge and one

Underscored material = new
[bracketed material] = delete

1 election judge from each party, [~~register the results of each~~
2 ~~absentee ballot on a~~] count and tally the absentee ballots on
3 an electronic voting machine the same as if the absent voter
4 had been present and voted in person. It [~~shall be~~] is
5 unlawful for any person to disclose the results of [~~such~~] a
6 count and tally [~~or such registration on a voting machine~~] of
7 absentee ballots prior to the closing of the polls.

8 F. Absentee ballots shall be counted and tallied
9 [~~or registered on a lever voting machine or~~] on an electronic
10 voting machine as provided in the Election Code [~~provided that~~
11 ~~any county with a population in excess of one hundred thousand~~
12 ~~shall count and tally or register absentee ballots on an~~
13 ~~electronic voting machine~~].

14 G. Absent voter precinct polls shall close at the
15 time prescribed by the Election Code for other polling places,
16 and the results of the election shall be certified as
17 prescribed by the secretary of state.

18 H. The county clerk may convene the absent voter
19 precinct board no more than three days before the day of the
20 election to alphabetize, enter on the roster and sort the
21 absentee ballots by legislative district; provided that no
22 member of the absent voter precinct board shall open an
23 official mailing envelope or count and canvass any absentee
24 ballot prior to the day of the election. "

25 Section 16. Section 1-6-15 NMSA 1978 (being Laws 1977,

Underscored material = new
[bracketed material] = delete

1 Chapter 222, Section 13, as amended) is amended to read:
2 "1-6-15. CANVASS--RECOUNT OR RECHECK--DISPOSITION. --
3 [~~Where no~~] If voting machines are not used to register
4 absentee ballots, [~~such~~] the absentee ballots shall be
5 canvassed, recounted and disposed of in the manner provided by
6 the Election Code for the canvassing, recounting and
7 disposition of emergency paper ballots. [~~Where~~] If voting
8 machines are used to register absentee ballots, [~~such~~] the
9 ballots shall be canvassed and rechecked in the manner
10 provided by the Election Code for the canvassing and recheck
11 of ballots cast on a voting machine; provided, in the event of
12 a contest, voting machines used to register absentee ballots
13 shall not be rechecked but the absentee ballots shall be
14 recounted in the manner provided by the Election Code for the
15 recounting of emergency paper ballots. As used in this
16 section, "voting machines" means [~~lever voting machines or~~]
17 electronic voting machines as provided in the Election Code."

18 Section 17. Section 1-6-16 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 141, as amended by Laws 1989, Chapter
20 368, Section 2 and also by Laws 1989, Chapter 392, Section 15)
21 is amended to read:

22 "1-6-16. VOTING IN PERSON PROHIBITED. --
23 A. Except as provided in Section 1-6-16.1 NMSA
24 1978, no person who has been issued an [~~absent voter~~] absentee
25 ballot shall vote in person at his precinct poll.

Underscored material = new
[bracketed material] = delete

1 B. At any time prior to 5:00 p.m. on the Monday
2 immediately preceding the date of the election, [~~any~~] a person
3 whose absentee ballot application has been accepted and who
4 was mailed an absentee ballot but who has not received the
5 absentee ballot may execute, in the office of the county clerk
6 of the county where he is registered to vote, a sworn
7 affidavit stating that he did not receive or vote his absentee
8 ballot. Upon receipt of the sworn affidavit, the county clerk
9 shall issue the voter a replacement absentee ballot.

10 C. The secretary of state shall prescribe the form
11 of the affidavit and the manner in which the county clerk
12 shall void the first ballot mailed to the applicant."

13 Section 18. Section 1-6-16.1 NMSA 1978 (being Laws 1989,
14 Chapter 368, Section 1, as amended) is amended to read:

15 "1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
16 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
17 COUNTING.--

18 A. [~~Any applicant~~] A voter who applies for an
19 absentee ballot [~~who~~] but has not received the absentee ballot
20 by mail as of the date of the election may present himself at
21 his assigned [~~precinct~~] polling place and, after executing an
22 affidavit of nonreceipt of absentee ballot, shall be permitted
23 to vote on an emergency paper ballot [~~or a marksense ballot~~].

24 B. The completed ballot shall be placed in an
25 official inner envelope substantially as prescribed by Section

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 1-6-8 NMSA 1978 and sealed. The official inner envelope shall
2 then be placed in an official envelope substantially as
3 prescribed for a transmittal envelope or mailing envelope in
4 Section 1-6-8 NMSA 1978. This envelope shall contain a form on
5 its back that identifies the voter by name and signature
6 roster number and [~~the~~] a printed statement to the effect that
7 the voter made application for an absentee ballot but had not
8 received it as of the date of the election and is permitted to
9 vote by emergency paper ballot [~~or a marksense ballot~~].

10 C. The presiding election judge shall put all
11 [~~such~~] absentee ballots in a special envelope provided for
12 that purpose by the county clerk, seal it and return it to the
13 county clerk along with the machine tally sheets. The sealed
14 envelope shall not be put in the locked ballot box.

15 D. Upon receipt of the envelope containing [~~such~~
16 absentee ballots, the county clerk, no later than forty-eight
17 hours after the close of the election, shall remove the
18 transmittal envelopes and, without removing or opening the
19 inner envelopes, determine [~~that~~]:

20 (1) [~~such~~] if a voter did in fact make
21 application for an absentee ballot; and

22 (2) [~~no-such~~] if an absentee ballot was
23 received by the county clerk from the voter by 7:00 p. m. on
24 election day.

25 E. Upon making [~~such~~] that determination, the

Underscored material = new
[bracketed material] = delete

1 county clerk shall remove the inner envelope without opening
2 it, [~~destroy the transmittal envelope~~] retain the transmittal
3 envelope with the other election returns and place the
4 unopened inner envelope in a secure [~~place~~] container to be
5 transmitted to the county canvassing board to be tallied and
6 included in the canvass of that county for the appropriate
7 precinct.

8 F. The secretary of state shall prescribe and
9 furnish the necessary envelopes for purposes of this section
10 and shall adopt rules and regulations deemed necessary to
11 preserve the secrecy of [~~the ballot~~] emergency paper ballots."

12 Section 19. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
13 Chapter 353, Section 1) is amended to read:

14 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING. --

15 A. After the close of the period for requesting
16 absentee [~~voter~~] ballots by mail, any voter who is unable to
17 go to the polls due to unforeseen illness or disability
18 resulting in his confinement in a hospital, sanatorium,
19 nursing home or residence and who is unable to vote at his
20 regular polling place [~~voting booth or voting apparatus or~~
21 ~~machinery~~] or alternate location may request in writing that
22 an alternative ballot be made available to him. The written
23 request shall be signed by the voter and a health care
24 provider under penalty of perjury.

25 B. The alternative ballot shall be made available

Underscored material = new
[bracketed material] = delete

1 by the clerk of the county in which the voter resides to any
2 authorized representative of the voter who through his
3 representative has presented the written request to the office
4 of the clerk.

5 C. Before releasing the alternative ballot, the
6 county clerk shall compare the signature on the written
7 request with the signature on the voter's affidavit of
8 registration. If the county clerk determines that the
9 signature on the written request is not the signature of the
10 voter, he shall reject the request for an alternative ballot.

11 D. The voter shall mark the alternative ballot,
12 place it in an identification envelope similar to that used
13 for absentee ballots, fill out and sign the envelope and
14 return the ballot to the office of the clerk of the county in
15 which the voter resides no later than the time of closing of
16 the polls on election day. The voter's name shall be compared
17 to the roster of voters and the alternative ballot shall only
18 be counted if there is no signature for that voter on the
19 roster of the precinct where that voter's name appears.

20 E. Alternative ballots shall be processed and
21 counted in the same manner as absentee ballots.

22 F. The secretary of state shall prescribe the form
23 of alternative ballots and shall distribute an appropriate
24 number of alternative ballots to each county clerk."

25 Section 20. Section 1-6-17 NMSA 1978 (being Laws 1969,

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 Chapter 240, Section 142) is amended to read:

2 "1-6-17. CANCELLATION OF ABSENTEE BALLOT AT DEATH. -- If
3 any person voting under the provisions of the Absent Voter Act
4 dies after mailing or delivering his absentee ballot to the
5 county clerk but before the absentee ballot is [~~delivered to~~
6 ~~the deceased person's precinct board, his~~] counted, the
7 official outer envelope shall be marked ["~~cancelled by board~~
8 ~~of registration~~"] "canceled" and preserved by the county clerk
9 in the same manner as provided for other uncast ballots in
10 Subsection B of Section [~~3-6-10B NMSA 1953~~] 1-6-10 NMSA 1978."

11 Section 21. Section 1-6-21 NMSA 1978 (being Laws 1975,
12 Chapter 255, Section 93, as amended) is amended to read:

13 "1-6-21. CONSOLIDATION OF ABSENT VOTER PRECINCTS. --
14 Absent voter precincts may be consolidated [~~if~~] by the
15 governing authority if it deems it desirable and so directs by
16 resolution. "

17 Section 22. Section 1-6-23 NMSA 1978 (being Laws 1975,
18 Chapter 255, Section 95, as amended) is amended to read:

19 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE-- HOURS ON
20 ELECTION DAY AND SUBSEQUENT DAYS. -- The county clerk or
21 statutorily appointed supervisor of the election shall
22 determine the hours [~~in~~] during which the absent voter
23 precinct polling place shall be open for delivery and counting
24 of ballots [~~shall be set by the county clerk or statutorily~~
25 ~~appointed supervisor of the election~~] on election day and

Underscored material = new
[bracketed material] = delete

1 subsequent days until all ballots are counted."

2 Section 23. Section 1-6-24 NMSA 1978 (being Laws 1969,
3 Chapter 54, Section 5, as amended) is amended to read:

4 "1-6-24. ABSENT VOTER PRECINCT BOARD APPOINTMENT. --

5 A. The county clerk of each county shall appoint
6 [and compensate] absent voter precinct board members and their
7 respective alternates for each absent voter precinct [in the
8 manner specified in the Election Code for other precinct board
9 members] and shall compensate them at an hourly rate set by
10 the county clerk.

11 B. A minimum of three precinct board members shall
12 be appointed to the absent voter precinct board with no more
13 than two members belonging to the same political party. "

14 Section 24. A new section of the Absent Voter Act is
15 enacted to read:

16 "[NEW MATERIAL] SECURITY--COUNTING AND CANVASSING. --The
17 secretary of state shall adopt rules and regulations for
18 protecting the integrity, security and secrecy of the absentee
19 ballots, including procedures specifying that machines and
20 ballot containers remain locked and that ballots not be
21 removed prior to election day; procedures for voting by
22 absentee ballot; separation of absentee ballots voted on
23 electronic voting machines twenty days before the election
24 from those received through the mail; disposition of absentee
25 ballots rejected by a voting machine; handling of, counting

Underscored material = new
[bracketed material] = delete

1 and canvassing of absentee ballots; and sorting of absentee
2 ballots by representative district for canvassing purposes. "

3 Section 25. Section 1-8-13 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 162, as amended) is amended to read:

5 "1-8-13. PRIMARY ELECTION LAW - CONTENTS OF
6 PROCLAMATION. -- The proclamation calling a primary election
7 shall contain:

8 A. the names of the major political parties
9 participating in the primary election;

10 B. the offices for which each political party
11 shall nominate candidates; provided that if any law is enacted
12 by the legislature in the year in which the primary election
13 is held and [~~such~~] the law does not take effect until after
14 the date of the proclamation but prior to the date of the
15 primary election, the proclamation shall conform to the intent
16 of [~~such~~] the law with respect to the offices for which each
17 political party shall nominate candidates;

18 C. the date on which declarations of candidacy and
19 nominating petitions for United States representative, any
20 office voted upon by all the voters of the state, a
21 legislative office, the office of district judge, district
22 attorney, state board of education or magistrate shall be
23 filed and the places where they shall be filed in order to
24 have the candidates' names printed on the official ballot of
25 their party at the primary election;

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 D. the date on and place at which declarations of
2 candidacy shall be filed for any other office and filing fees
3 paid or, in lieu thereof, a pauper's statement of inability to
4 pay;

5 ~~[E. the date on and place at which declarations of~~
6 ~~intent to be a write-in candidate for a statewide office or~~
7 ~~office of United States representative shall be filed;~~

8 ~~F. the date on and place at which declarations of~~
9 ~~intent to be a write-in candidate for any other office shall~~
10 ~~be filed;~~

11 ~~G.]~~ E. the final date on and place at which
12 candidates for the office of United States representative and
13 for any statewide office seeking preprimary convention
14 designation by the major parties shall file petitions and
15 declarations of candidacy;

16 ~~[H.]~~ F. the final date on which the major
17 political parties shall hold state preprimary conventions for
18 the designation of candidates; and

19 ~~[I.]~~ G. the final date on and place at which
20 certificates of designation of primary election candidates
21 shall be filed by political parties with the secretary of
22 state.

23 As used in the Primary Election Law, "statewide office"
24 means any office voted on by all the voters of the state. "

25 Section 26. Section 1-8-30 NMSA 1978 (being Laws 1973,

Underscored material = new
[bracketed material] = delete

1 Chapter 228, Section 4, as amended) is amended to read:

2 "1-8-30. PRIMARY ELECTION LAW-DECLARATION OF
3 CANDIDACY--NOMINATING PETITION--FILING AND FORM --

4 A. As used in the Primary Election Law,
5 "nominating petition" means the authorized form used for
6 obtaining the required number of signatures of voters, which
7 is signed on behalf of the person wishing to become a
8 candidate for a political office in the primary election
9 requiring a nominating petition.

10 B. In making a declaration of candidacy, the
11 candidate at the same time shall file a nominating petition,
12 which shall be on [~~forms~~] the form prescribed by law.

13 C. The nominating petition shall be on paper
14 approximately eight and one-half inches wide and fourteen
15 inches long with numbered lines for signatures spaced
16 approximately three-eighths of an inch apart and shall be in
17 the following form:

18 "NOMINATING PETITION

19 I, the undersigned, a registered voter of the
20 county of _____, New Mexico, and a member of
21 the _____ party, hereby nominate _____,
22 who resides at _____ in the county of
23 _____, New Mexico, for the party nomination for
24 the office of _____, to be voted for
25 at the primary election to be held on the first Tuesday

Underscored material = new
[bracketed material] = delete

1 of June, [19]____, and I declare that I am a resident of
2 the state, district, county or area to be represented by
3 the office for which the person being nominated is a
4 candidate. I also declare that I have not signed, and
5 will not sign, any nominating petition for more persons
6 than the number of candidates necessary to fill such
7 office at the next ensuing general election.

- 8 1. _____
- 9 (usual (name printed (address as (city or
- 10 signature) as registered) registered) rt. no.)
- 11 2. _____
- 12 (usual (name printed (address as (city or
- 13 signature) as registered) registered) rt. no.)."

14 D. In October of odd-numbered years, the secretary
15 of state shall furnish to each county clerk a sample of a
16 nominating petition form, a copy of which shall be made
17 available by the county clerk upon request of any candidate.

18 ~~[E. The signature of the voter shall not be~~
19 ~~counted unless the voter was a registered member of the~~
20 ~~candidate's party ten days prior to the filing of the~~
21 ~~nominating petition. The signature of the voter shall not be~~
22 ~~counted unless the entire line indicates the voter's usual~~
23 ~~signature, his name printed as registered and his address as~~
24 ~~registered and his city or route number and is upon the form~~
25 ~~furnished by the secretary of state to the county clerks or a~~

Underscored material = new
[bracketed material] = delete

1 ~~duplicate thereof.~~

2 ~~F.]~~ E. When more than one sheet is required for a
3 petition, each of the sheets shall be in the form prescribed
4 by this section and all sheets shall be firmly secured by a
5 staple or other suitable fastening. "

6 Section 27. Section 1-8-31 NMSA 1978 (being Laws 1973,
7 Chapter 228, Section 5, as amended by Laws 1993, Chapter 314,
8 Section 47 and also by Laws 1993, Chapter 316, Section 47) is
9 amended to read:

10 "1-8-31. PRIMARY ELECTION LAW - NOMINATING PETITION--
11 SIGNATURES TO BE COUNTED. --

12 A. [~~Each signer of]~~ A person who signs a
13 nominating petition shall sign but one petition for the same
14 office unless more than one candidate is to be elected to
15 [such] that office, and in that case a person may sign not
16 more than the number of nominating petitions equal to the
17 number of candidates to be elected to the office [shall be
18 signed].

19 B. A person who signs a nominating petition shall
20 indicate his residence as his address. If the person does not
21 have a residential address, he may provide his mailing
22 address.

23 ~~B.]~~ C. A signature shall be counted on a
24 nominating petition unless there is evidence presented that
25 the person signing [~~is not a~~]:

Underscored material = new
[bracketed material] = delete

1 (1) was not a registered member of the
2 candidate's political party ten days prior to the filing of
3 the nominating petition;

4 (2) failed to provide information required by
5 the nominating petition sufficient to determine that the
6 person is a qualified voter of the state, district, county or
7 area to be represented by the office for which the person
8 seeking the nomination is a candidate;

9 ~~(2)~~ (3) has signed more than one petition
10 for the same office, except as provided in Subsection A of
11 this section, or has signed one petition more than once;

12 ~~(3)~~ (4) is not of the same political party
13 as the candidate named in the nominating petition as shown by
14 the signer's certificate of registration; or

15 ~~(4)~~ (5) is not the person whose name
16 appears on the nominating petition.

17 ~~(C.)~~ D. The procedures set forth in this section
18 shall be used to validate signatures on any petition required
19 by the Election Code, except that Paragraphs (1) and (4) of
20 Subsection C of this section shall not apply to petitions
21 filed by unaffiliated candidates or petitions filed by
22 candidates of minor political parties. "

23 Section 28. Section 1-8-44 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 182, as amended) is amended to read:

25 "1-8-44. PRIMARY ELECTION LAW - WITHDRAWAL OF CANDIDATES--
 . 119880. 2

Underscored material = new
[bracketed material] = delete

1 DATE OF WITHDRAWAL. -- [~~No~~] A candidate [shalt] seeking to
2 withdraw from a primary election [unless he withdraws] shall
3 withdraw no later than the first [Friday after the filing date]
4 Tuesday in April before that primary election. "

5 Section 29. Section 1-8-49 NMSA 1978 (being Laws 1977,
6 Chapter 322, Section 5) is amended to read:

7 "1-8-49. INDEPENDENT CANDIDATES FOR GENERAL [~~OR UNITED~~
8 ~~STATES REPRESENTATIVE SPECIAL]~~ ELECTIONS-- CANDIDATES FOR
9 PRESIDENT AND VICE PRESIDENT. -- [~~If the person filing the~~
10 ~~declaration of independent candidacy is a candidate for~~
11 ~~president of the United States, he shall also file the names~~
12 ~~and addresses of the required number of presidential electors~~
13 ~~who intend to vote for such independent candidate in the~~
14 ~~electoral college]~~

15 A. Nomination as an independent candidate for
16 president or vice president shall be made by filing a
17 declaration of independent candidacy with the proper filing
18 officer. The candidate for president shall also at the same
19 time file a nominating petition with the required number of
20 signatures.

21 B. In making a declaration of independent
22 candidacy for president, the candidate shall submit a sworn
23 statement in the following form:

24 "DECLARATION OF INDEPENDENT CANDIDACY FOR PRESIDENT
25 I, _____ (candidate's name), being duly sworn, say

Underscored material = new
[bracketed material] = delete

1 that I am a citizen of the United States, have been a resident
2 of the United States for at least fourteen years and have
3 attained the age of thirty-five.

4 I desire to become a candidate for the office of
5 president of the United States at the general election to be
6 held on the date set by law for this year. I will be eligible
7 and legally qualified to hold this office at the beginning of
8 its term.

9 The name of my vice presidential running mate, whom I
10 selected is _____ . The names and addresses of
11 the required number of presidential electors who intend to
12 vote for me and for my vice presidential running mate in the
13 electoral college are:

14	_____	_____
15	<u>(name)</u>	<u>(name)</u>
16	_____	_____
17	<u>(residence address)</u>	<u>(residence address)</u>
18	_____	_____
19	<u>(mailing address)</u>	<u>(mailing address)</u>
20	_____	_____
21	<u>(city)</u>	<u>(city)</u>
22	_____	_____
23	<u>(state and zip code)</u>	<u>(state and zip code)</u>
24	_____	_____
25	<u>(name)</u>	<u>(name)</u>

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 _____
2 (residence address) _____
3 _____
4 (mailing address) _____
5 _____
6 (city) _____
7 _____
8 (state and zip code) _____
9 _____
10 (name)
11 _____
12 (residence address)
13 _____
14 (mailing address)
15 _____
16 (city)
17 _____
18 (state and zip code)
19 I submit with this statement a nominating petition in the
20 form and manner prescribed by the Election Code. I make the
21 foregoing affidavit under oath, knowing that any false
22 statement herein constitutes a felony punishable in accordance
23 with the criminal laws of New Mexico.
24 _____
25 (declarant)

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(residence address)

(mailing address)

(city)

(state and zip code)

Subscribed and sworn to me this _____ day of _____

_____,

(year)

notary public

My commission expires:

_____".

C. In making a declaration of independent candidacy for vice president, the candidate shall submit a sworn statement in the following form:

"DECLARATION OF INDEPENDENT CANDIDACY FOR VICE PRESIDENT

I, _____ (candidate's name), being duly sworn, say that I am a citizen of the United States, have been a resident of the United States for at least fourteen years and have attained the age of thirty-five.

I have been selected by independent presidential candidate _____ as his vice presidential running mate

Underscored material = new
[bracketed material] = delete

1 and desire to be that candidate for vice president. I will be
2 eligible and legally qualified to hold this office at the
3 beginning of its term.

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

7 _____
8 (declarant)

9 _____
10 (residence address)

11 _____
12 (mailing address)

13 _____
14 (city)

15 _____
16 (state and zip code)

17 Subscribed and sworn to me this _____ day of _____

18 _____,
19 (year)

20 _____
21 (notary public)

22 My commission expires:
23 _____"

24 D. The independent presidential electors whom the
25 independent candidate for president is required to name shall

Underscored material = new
[bracketed material] = delete

1 be registered voters of New Mexico; they may or may not be
2 affiliated with a political party in New Mexico. United
3 States senators, United States representatives and persons
4 holding federal offices of trust or profit are not eligible to
5 be electors.

6 E. When independent candidates for president and
7 vice president appear on the general election ballot, a vote
8 for that pair of nominees is a vote for that presidential
9 candidate's electors.

10 F. If the independent candidates for president and
11 vice president receive the highest number of votes at the
12 general election, the independent presidential candidate's
13 electors shall be the presidential electors of the state of
14 New Mexico. As such, each elector shall be granted a
15 certificate of election by the state canvassing board, and
16 each elector shall be subject to the provisions of Sections
17 1-15-5 through 1-15-10 NMSA 1978. "

18 Section 30. Section 1-8-50 NMSA 1978 (being Laws 1977,
19 Chapter 322, Section 6) is amended to read:

20 "1-8-50. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
21 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITION
22 FORM --

23 A. As used in Sections [~~3-8-27.1 through 3-8-27.8~~
24 ~~NMSA 1953~~] 1-8-45 through 1-8-52 NMSA 1978, "nominating
25 petition" means the authorized form [~~or forms~~] used for

Underscored material = new
[bracketed material] = delete

1 obtaining the required number of signatures of voters [~~which~~
2 that is signed on behalf of the person wishing to become an
3 independent candidate for a political office in a general or
4 United States representative special election requiring a
5 nominating petition.

6 B. In making a declaration of candidacy, the
7 candidate shall file a nominating petition at the same time,
8 which shall be on forms prescribed by law.

9 ~~[B-]~~ C. The nominating petition for an independent
10 candidate for any office except president of the United States
11 shall be on paper approximately eight and one-half inches wide
12 and fourteen inches long with numbered lines for signatures
13 spaced approximately three-eighths of an inch apart and shall
14 be in the following form:

15 "NOMINATING PETITION FOR INDEPENDENT CANDIDACY
16 FOR ANY OFFICE EXCEPT PRESIDENT OF THE UNITED STATES

17 I, the undersigned, a registered voter of the
18 county of _____, New Mexico, hereby
19 nominate _____, who resides
20 at _____ in the county of _____,
21 New Mexico, as an independent candidate for the office of
22 _____, to be voted for at the general
23 election [~~(United States representative special~~
24 ~~election)~~] to be held on November ____, [19] ____, or
25 United States representative special election to be held

Underscored material = new
[bracketed material] = delete

1 on _____ , _____

2 (month) (day) (year)

3 and I declare that I am a resident of the state,
4 district, county or area to be represented by the office
5 for which the person being nominated is a candidate. I
6 also declare that I have not signed, and will not sign,
7 any nominating petition for more persons than the number
8 of candidates necessary to fill [~~such~~] the office at the
9 next ensuing general election or at a United States
10 representative special election.

- 11 1. _____ _____ _____ _____
- 12 (usual (name printed (address as (city)
- 13 signature) as registered) registered)
- 14 2. _____ _____ _____ _____
- 15 (usual (name printed (address as (city)".
- 16 signature) as registered) registered)

17 D. The nominating petition for an independent
18 candidate for the office of president of the United States
19 shall be on paper approximately eight and one-half inches wide
20 and fourteen inches long with numbered lines for signatures
21 spaced approximately three-eighths of an inch apart and shall
22 be in the following form:

23 "NOMINATING PETITION FOR INDEPENDENT CANDIDACY
24 FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES

25 I, the undersigned, a registered voter of the

Underscored material = new
[bracketed material] = delete

1 county of _____, New Mexico, by endorsement
2 hereon, petition that the name of _____ be
3 printed on the general election ballot as an independent
4 candidate for the office of president of the United
5 States, to be voted on at the general election to be held
6 on November _____, _____. I also declare that I am
7 that person whose name appears hereon and that I have not
8 signed, nor will I sign, any nominating petition for any
9 other candidate seeking the office of president of the
10 United States at the next ensuing general election." .

11 [~~C.~~] E. The secretary of state shall furnish to
12 each county clerk a sample of the nominating petition form, a
13 copy of which shall be made available by the county clerk upon
14 request of any candidate as provided by the Election Code.

15 ~~[D. The signature of the voter shall not be~~
16 ~~counted unless the entire line is filled out in full and is~~
17 ~~upon the form prescribed by this section.]~~

18 ~~E.]~~ F. When more than one sheet is required for a
19 petition, each of the sheets shall be in the form prescribed
20 by this section, and all sheets shall be firmly secured by a
21 staple or other suitable fastening. "

22 Section 31. Section 1-12-7 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 246, as amended by Laws 1993, Chapter
24 314, Section 54 and also by Laws 1993, Chapter 316, Section
25 54) is amended to read:

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 "1-12-7. CONDUCT OF ELECTION-- PERSONS NOT PERMITTED TO
2 VOTE. --

3 A. No person shall vote in any primary, general or
4 statewide special election unless he is a voter of the
5 precinct in which he offers to vote. A valid original
6 certificate of registration in the county register is prima
7 facie evidence of being a voter in the precinct.

8 B. No person shall vote in any primary election
9 whose party affiliation is not designated on his original
10 certificate of registration.

11 C. No ~~[voter]~~ person at any primary election shall
12 be permitted to vote for the candidate of any party other than
13 the party designated on his ~~[original]~~ current certificate of
14 registration ~~[at the time the governor issues the primary~~
15 ~~election proclamation.]~~

16 ~~D. No person shall vote in any primary, general or~~
17 ~~statewide special election whose name and certificate of~~
18 ~~registration number appears on the list of voters purged from~~
19 ~~the rolls. The list shall be placed with the signature~~
20 ~~rosters and delivered to the polls with the other election~~
21 ~~supplies by the county clerk and shall consist of those voters~~
22 ~~in the precinct purged since the last preceding general~~
23 ~~election]. "~~

24 Section 32. Section 1-15-23 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 373) is amended to read:

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 "1-15-23. EXPIRING TERM AND [~~NEXT~~] SUCCEEDING TERM
2 [~~BALLOT--WRITE-IN~~]. -- [A.] If the same individual is a
3 candidate at a general election for both the expiring term and
4 the [~~next~~] succeeding term, his name shall appear but once on
5 the ballot, and the name of the office, followed by the words,
6 "full and expiring terms".

7 ~~[B. Provisions shall be made in the general~~
8 ~~election to permit any voter to write in a separate name for~~
9 ~~the expiring term and a separate name for the next succeeding~~
10 ~~term. A voter may write in the name of any candidate he~~
11 ~~chooses for either term, and such vote shall be valid and~~
12 ~~counted even though the candidate's name is printed on the~~
13 ~~paper ballot or ballot label.]"~~

14 Section 33. Section 1-22-2 NMSA 1978 (being Laws 1985,
15 Chapter 168, Section 4, as amended) is amended to read:

16 "1-22-2. DEFINITIONS. -- As used in the School Election
17 Law:

- 18 A. "board" means the governing authority of the
19 local school district;
- 20 B. "county clerk" means the clerk of each county
21 in which the school district is situate;
- 22 C. "proper filing officer" means the county clerk
23 or, in the case of a multicounty school district, the clerk of
24 the county in which the administrative office of the school
25 district is situate;

Underscored material = new
[bracketed material] = delete

1 D. "magistrate" means the magistrate whose office
2 is situated in the municipality where the administrative
3 office of the school district is located or in close proximity
4 to the municipality;

5 E. "school district election" means [~~any~~] a
6 regular or special school district election [~~except~~] but does
7 not include a recall election; and

8 F. "superintendent" means the superintendent of
9 schools of the local school district. "

10 Section 34. Section 1-22-7 NMSA 1978 (being Laws 1985,
11 Chapter 168, Section 9) is amended to read:

12 "1-22-7. DECLARATION OF CANDIDACY-- FILING DATE--
13 PENALTY. --

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

22 B. [~~A declaration of candidacy for membership on~~
23 ~~the board to~~] A candidate for a school board position that
24 will be filled at a special school district election shall [~~be~~
25 ~~filed~~] file a declaration of candidacy with the proper filing

Underscored material = new
[bracketed material] = delete

1 officer during the period commencing at 9:00 a. m. on the
2 forty-eighth day before the election and ending at 5:00 p. m.
3 on the same day.

4 C. A candidate shall file for only one school
5 board position during a filing period.

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

11 Section 35. Section 1-22-19 NMSA 1978 (being Laws 1985,
12 Chapter 168, Section 21, as amended) is amended to read:

13 "1-22-19. ABSENTEE VOTING. --

14 A. [~~Any registered qualified elector of the school~~
15 ~~district who cannot be present at his precinct polling place~~
16 ~~on the day of the school district election because of illness,~~
17 ~~injury or disability; who will be absent from his school~~
18 ~~district of residence because his duties, occupation, business~~
19 ~~or vacation requires him to be elsewhere; or who cannot attend~~
20 ~~his precinct polling place because of the tenets of his~~
21 ~~religion] A voter may vote in a school district election by
22 absentee ballot for all candidates and on all questions
23 appearing on the ballot [~~at the election~~] in his precinct as
24 if he were [~~able to cast~~] casting his ballot in person at the
25 [~~precinct~~] polling place on election day.~~

Underscored material = new
[bracketed material] = delete

1 B. The provisions of the Absent Voter Act of the
2 Election Code apply to absentee voting in school district
3 elections, provided that absentee ballots may be marked in
4 person during the regular hours and days of business at the
5 county clerk's office from 8:00 a.m. on the twenty-fifth day
6 preceding the election until 5:00 p.m. on the Friday
7 immediately prior to the date of the election. Absentee
8 ballots shall be printed at least thirty days prior to the
9 date of the election. Provisions may be made by the board in
10 the proclamation for absentee voting by electronic voting
11 machine from 8:00 a.m. on the twentieth day preceding an
12 election until 5:00 p.m. on the Friday immediately prior to
13 the date of the election.

14 C. A regular precinct board may be designated to
15 serve as the absent voter precinct board. [~~Members~~] A member
16 of the absent voter precinct board shall receive the same
17 compensation as [~~other~~] a regular precinct board [~~members, but~~
18 ~~in no case shall~~] member. A regular precinct board member who
19 also serves as a member of the absent voter precinct board
20 shall not be entitled to extra compensation for serving on
21 [~~the absent voter precinct~~] more than one board."

22 Section 36. REPEAL. -- Sections 1-6-5.2 and 1-6A-1 through
23 1-6A-12 NMSA 1978 (being Laws 1991, Chapter 105, Section 11,
24 Laws 1993, Chapter 37, Sections 1 through 9, Chapter 165,
25 Sections 4 through 6, as amended) are repealed.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
4
5

6 February 5, 1998
7

8 Mr. Speaker:
9

10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 245
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 1, line 15, after "CODE" insert "; DECLARING
18 AN EMERGENCY".
19

20 2. On page 3, between lines 18 and 19, insert the
21 following new subsection:
22

23 "H. "memory cartridge" or "results memory cartridge"
24 means a transportable cassette-type case or memory card used in
25 an electronic voting machine that records and retains the total
vote counted and tallied for each candidate on the electronic

. 119880. 2

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HVEC/HB 245

Page 51

4 voting machine;".

6 3. Reletter the succeeding subsections accordingly.

8 4. On page 9, line 19, strike "during the regular hours
9 of business".

11 5. On page 9, line 20, strike "8:00 a.m. on" and strike
12 "until" and on line 21, strike the line through "Thursday" and
13 insert in lieu thereof "through the Saturday".

14 6. On page 10, line 25, strike "issued" and insert in
15 lieu thereof "used".

17 7. On page 19, line 15, strike the period and insert in
18 lieu thereof:

19 ", except that the absent voter precinct board may count
20 and tally any paper absentee ballots on the voting machine after
21 any ballots already counted and tallied have been secured in a
22 locked ballot box and provided a blank memory cartridge is
23 used. "

25 8. On page 19, line 23, strike "1-6-1" and insert in lieu

. 119880. 2

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HVFC/HB 245

Page 52

4 thereof "1-6-14".

5
6 9. On page 22, line 9, after the closing bracket insert
7 "by hand or".

8
9 10. On page 25, line 11, before "absentee" insert
10 "emergency".

11 11. On page 25, line 16, before "absentee" insert
12 "emergency".

13
14 12. On page 28, line 20, strike "AND SUBSEQUENT DAYS".

15
16 13. On page 28, line 20, strike "or".

17 14. On page 28, line 21, strike "statutorily appointed
18 supervisor of the election".

19
20 15. On page 28, line 25, after the closing bracket strike
21 the remainder of the line, and on page 29, line 1, strike the
22 line up
23 to the period.

24
25 16. On page 29, line 9, after "them" strike the remainder
of the line and strike line 10 in its entirety and insert in

. 119880. 2

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HVEC/HB 245

Page 53

4 lieu thereof "as provided in Section 1-2-16 NMSA 1978."

5
6 17. On page 31, lines 5 through 10, restore the stricken
7 language.

8
9 18. Reletter succeeding subsections accordingly.

10
11 19. On page 46, line 1, after "TERM" insert a dash and on
12 line 2, restore the stricken language.

13
14 20. On page 46, lines 7 through 13, restore the stricken
15 language.

16
17 21. On page 49, between lines 21 and 22, insert the
18 following new section:

19 "Section 36. EMERGENCY.--It is necessary for the public
20 peace, health and safety that this act take effect
21 immediately."

22 22. Renumber the succeeding section accordingly.,

23
24 and thence referred to the JUDICIARY COMMITTEE.
25

. 119880. 2

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HVEC/HB 245

Page 54

Respectfully submitted,

Edward C. Sandoval, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Lujan, Sanchez

Absent: None

122937.1

G:\BILLTEXT\BILLW_98\H0245

. 119880. 2

Underscored material = new
[bracketed material] = delete

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3

4 February 16, 1998
5

6
7 Mr. Speaker:
8

9 Your JUDICIARY COMMITTEE, to whom has been referred
10

11 HOUSE BILL 245, as amended
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15 1. On page 13, line 4, strike "Thursday" and insert in
16 lieu thereof "Saturday".

17 2. On page 23, line 12, strike "absentee" and insert in
18 lieu thereof "paper".

19 3. On page 23, line 13, strike "absentee" and insert in
20 lieu thereof "paper".
21

22 4. On page 34, line 20, after the first occurrences of
23 "his" strike the remainder of the line, strike lines 21 and 22
24 and insert in lieu thereof:
25

. 119880. 2

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HJC/HB 245, aa

Page 56

residential address as registered; provided that if the person did not register with a residential address, he may indicate his mailing address as stated on his current certificate of registration. "

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HJC/HB 245, aa

Page 57

4 The roll call vote was 10 For 0 Against

5 Yes: 10

6 Excused: Carpenter, Larrañaga, Sanchez

7 Absent: None

10 123177. 1

12 G: \BILLTEXT\BILLW_98\H0245

Underscored material = new
[bracketed material] = delete

. 119880. 2

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3
4 February 17, 1998

5
6
7 Mr. Speaker:

8
9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 245, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

15
16 Respectfully submitted,

17
18
19
20 _____
21 Max Coll, Chairman
22
23
24
25

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 59

4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 16 For 0 Against

11 Yes: 16

12 Excused: Marquardt, Saavedra

13 Absent: None

14
15 G:\BILLTEXT\BILLW_98\H0245

16
17
18
19
20
21
22
23
24
25
Underscored material = new
[bracketed material] = delete