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HOUSE BILL 650

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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; REPEALING
AND ENACTING SECTIONS OF THE ELECTION CODE.

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

Section 1. A new section of the Absent Voter Act is
enacted to read:

" NEW MATERIAL PREPARATION OF ELECTRONIC VOTING
MACHINES. --

A. Five days before an electronic voting machine
is issued for absentee voting as provided in Section 1-6-9.1
NMSA 1978, the county clerk may begin to prepare, inspect and
seal the voting machine in accordance with the specifications
for electronic voting machines adopted by the secretary of

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1 state.

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

6 Section 2. A new section of the Absent Voter Act is
7 enacted to read:

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

17 Section 3. A new section of the Absent Voter Act is
18 enacted to read:

19 "[NEW MATERIAL] SECURITY--COUNTING AND CANVASSING.--The
20 secretary of state shall adopt rules for protecting the
21 integrity, security and secrecy of the absentee ballots,
22 including procedures specifying that machines and ballot
23 containers remain locked and that ballots not be removed prior
24 to election day; procedures for voting by absentee ballot;
25 separation of absentee ballots voted on electronic voting

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1 machines twenty days before the election from those received
2 through the mail; disposition of absentee ballots rejected by
3 a voting machine; handling of, counting and canvassing of
4 absentee ballots; and sorting of absentee ballots by
5 representative district for canvassing purposes. "

6 Section 4. Section 1-6-2 NMSA 1978 (being Laws 1987,
7 Chapter 327, Section 6, as amended) is amended to read:

8 "1-6-2. DEFINITIONS. --As used in the Absent Voter Act:

9 A. "absent uniformed services voter" means:

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

14 (2) a member of the merchant marine who, by
15 reason of service in the merchant marine, is absent from the
16 place of residence where the member is otherwise qualified to
17 vote; or

18 (3) a spouse or dependent of a member
19 referred to in Paragraphs (1) and (2) of this subsection who,
20 by reason of the active duty or service of the member, is
21 absent from the place of residence where the spouse or
22 dependent is otherwise qualified to vote;

23 B. "election" means [any] a statewide election,
24 general election, primary election or special election to fill
25 vacancies in the office of United States representative and

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1 regular or special school district elections [~~except as~~
2 ~~modified by the school election law~~];

3 C. "electronic ballot" means a paper ballot or
4 ballot face designed to be used on an electronic voting
5 machine to cast votes;

6 D. "electronic voting machine" means a computer-
7 controlled machine designed to electronically record and
8 tabulate votes cast;

9 [E.] E. "federal office" means the office of
10 president, vice president or [of a] senator or representative
11 in congress;

12 [D.] F. "federal qualified elector" means:
13 (1) an absent uniformed services voter; or
14 (2) an absent uniformed [~~service~~] services
15 voter who, by reason of active duty or service, is absent from
16 the United States on the date of the election involved;

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

19 [F.] G. "member of the merchant marine" means an
20 individual other than a member of a uniformed service or an
21 individual employed, enrolled or maintained on the Great Lakes
22 or the inland waterways who:

23 (1) is employed as an officer or crew member
24 of a vessel documented under the laws of the United States, a
25 vessel owned by the United States or a vessel of a foreign-

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1 flag registry under charter to or control of the United
2 States; or

3 (2) is enrolled with the United States for
4 employment or training for employment or maintained by the
5 United States for emergency relief service as an officer or
6 crew member of any such vessel;

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

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

11 (2) a person who resides outside the United
12 States and, but for such residence, would be qualified to vote
13 in the last place in which the person was domiciled before
14 leaving the United States; and

15 [~~H.~~] I. "uniformed services" means the army, navy,
16 air force, marine corps and coast guard and the commissioned
17 corps of the national oceanic and atmospheric administration."

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

22 "1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT [~~RIGHT TO~~
23 ~~VOTE~~]. --

24 A. Any voter may vote by absentee ballot for all
25 candidates and on all questions appearing on the ballot [at

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1 ~~his precinct poll~~] as if he were able to cast his ballot in
2 person at [~~the precinct poll~~] his regular polling place on
3 election day.

4 B. Any federal qualified elector may register
5 absentee and vote by an absentee ballot for any federal
6 office. "

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

9 "1-6-4. ABSENTEE BALLOT APPLICATION. --

10 A. Application by a federal qualified elector for
11 an absentee ballot shall be made on the official postcard form
12 prescribed or authorized by the federal government to the
13 county clerk of the county of his residence.

14 B. Application by a voter for an absentee ballot
15 shall be made only on a form prescribed, printed and furnished
16 by the secretary of state to the county clerk of the county in
17 which [~~he~~] the voter resides. The form shall identify the
18 applicant and contain information to establish his
19 qualification for issuance of an absentee ballot under the
20 Absent Voter Act; provided that on the application form for a
21 general election ballot there shall be no box, space or place
22 provided for designation of the voter's political party
23 affiliation.

24 C. Each application for an absentee ballot shall
25 be subscribed by the applicant. "

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1 Section 7. Section 1-6-4.1 NMSA 1978 (being Laws 1987,
2 Chapter 327, Section 9) is amended to read:

3 "1-6-4.1. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS
4 VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICES. --

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

9 B. In completing the ballot, the overseas voter
10 may designate a candidate by writing in the name of the
11 candidate or by writing in the name of a political party, in
12 which case the ballot shall be counted for all candidates of
13 that political party for federal office. Any abbreviation,
14 misspelling or other minor variation in the form of the name
15 of a candidate or a political party shall be disregarded in
16 determining the validity of the ballot if the intention of the
17 overseas voter can be ascertained.

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

20 (1) the ballot is submitted from any location
21 in the United States;

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

25 (3) the [~~New Mexico~~] absentee ballot of the

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1 overseas voter is received by the county clerk later than
2 [~~seven~~] 7:00 p. m. on election day. "

3 Section 8. Section 1-6-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 131, as amended by Laws 1993, Chapter
5 314, Section 43 and also by Laws 1993, Chapter 316, Section
6 43) is amended to read:

7 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
8 [~~MAKING~~] MARKING AND DELIVERY OF BALLOT IN PERSON.--

9 A. The county clerk shall mark each completed
10 absentee ballot application with the date and time of receipt
11 in the clerk's office and enter the required information in
12 the absentee ballot register. The county clerk shall then
13 determine if the applicant is a voter, an absent uniformed
14 services voter or an overseas voter.

15 B. If the applicant has no valid certificate of
16 registration on file in the county and he is not a federal
17 qualified elector or if the applicant states he is a federal
18 qualified elector but his application indicates he is not a
19 federal qualified elector, no absentee ballot shall be issued
20 and the county clerk shall mark the application "rejected" and
21 file the application in a separate file from those accepted.

22 C. The county clerk shall notify in writing each
23 applicant of the fact of acceptance or rejection of his
24 application and, if rejected, shall explain why the
25 application was rejected.

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1 D. If the county clerk finds that the applicant is
2 ~~[determined to be]~~ a voter or a federal qualified elector, the
3 county clerk shall mark the application "accepted" and deliver
4 an absentee ballot to the voter in the county clerk's office
5 or mail to the applicant an absentee ballot and the required
6 envelopes for use in returning the ballot. Acceptance of an
7 application of a federal qualified elector constitutes
8 registration for the election in which the ballot is to be
9 cast. Acceptance of an application from an overseas voter who
10 is not an absent uniformed services voter constitutes a
11 request for changing information on the certificate of
12 registration of any such voter. No absent voter shall be
13 permitted to change his party affiliation during those periods
14 when change of party affiliation is prohibited by the Election
15 Code. Upon delivery of an absentee ballot to a voter in the
16 county clerk's office or mailing of an absentee ballot to
17 ~~[any]~~ an applicant who is a voter, an appropriate designation
18 shall be made on the signature line of the signature roster
19 next to the name of the ~~[person]~~ voter who has been ~~[sent]~~
20 provided or mailed an absentee ballot.

21 E. If an application for an absentee ballot is
22 delivered in person to the county clerk and is accepted, the
23 county clerk shall ~~[deliver the]~~ provide the voter an absentee
24 ballot and it shall be marked by the applicant in a voting
25 booth of a type prescribed by the secretary of state ~~[in the~~

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1 courthouse], sealed in the proper envelopes and otherwise
2 properly executed and returned to the county clerk or his
3 authorized representative before the [applicant] voter leaves
4 the office of the county clerk. The act of marking the
5 absentee ballot in the office of the county clerk shall be a
6 convenience to the voter in the delivery of the absentee
7 ballot and does not make the office of the county clerk a
8 polling place subject to the requirements of a polling place
9 in the Election Code other than is provided in this
10 subsection. It shall be unlawful to solicit votes, display or
11 otherwise make accessible any posters, signs or other forms of
12 campaign literature whatsoever in the clerk's office.

13 Absentee ballots may be marked in person during the regular
14 hours and days of business at the county clerk's office from
15 8:00 a. m. on the fortieth day preceding the election up until
16 5:00 p. m. on the Saturday immediately prior to the date of the
17 election. In marking the absentee ballot, the voter may be
18 assisted by one person of the voter's [own] choice [upon the
19 execution with the county clerk of an affidavit for assistance
20 stating therein that the voter meets at least one of the
21 conditions for receiving such assistance as is set forth by
22 the provisions of Section 1-12-12 NMSA 1978].

23 G. Commencing with the twentieth day prior to an
24 election, an absent voter may vote in person at the county
25 clerk's office or on an electronic voting machine at an

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1 alternate location established by the county clerk. In class
2 A counties, the county clerk shall establish not less than
3 four alternate locations as a convenience to the voters.
4 Absentee voting may be done at the county clerk's office or an
5 alternate location during the regular hours of business from
6 8:00 a. m. on the twentieth day prior to the election until
7 5:00 p. m. on Thursday immediately prior to the election. The
8 county clerk shall ensure that procedures established for
9 processing an absent voter application and for voting by
10 absentee ballot are complied with at each alternative
11 location.

12 [F-] H. Absentee ballots shall be air mailed to
13 applicants temporarily domiciled inside or outside the
14 continental limits of the United States not later than on the
15 Thursday immediately prior to the date of the election.

16 [G-] I. No absentee ballot shall be delivered or
17 mailed by the county clerk to any person other than the
18 applicant for such ballot.

19 [H-] J. The county clerk shall accept and process
20 with respect to a primary or general election for any federal
21 office, any otherwise valid voter registration application
22 from an absent uniformed services voter or overseas voter if
23 the application is received not less than thirty days before
24 the election. The county clerk shall also accept and process
25 federal write-in absentee ballots from overseas voters in

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1 general elections for federal offices in accordance with the
2 provisions of Section 103 of the federal Uniformed and
3 Overseas Citizens Absentee Voting Act.

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

7 Section 9. Section 1-6-6 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 132, as amended) is amended to read:

9 "1-6-6. ABSENTEE BALLOT REGISTER. --

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

12 (1) the name and [~~county~~] address of each
13 absentee ballot applicant;

14 (2) the date and time of receipt of the
15 application;

16 (3) whether the application was accepted or
17 rejected;

18 (4) the date of [~~delivery or~~] issue of an
19 absentee ballot in the county clerk's office or at an
20 alternate location or the mailing of an absentee ballot to the
21 applicant;

22 (5) the applicant's precinct;

23 (6) whether the applicant is a voter, a
24 federal voter, a federal qualified elector or an overseas
25 citizen voter; and

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1 (7) the date and time the completed absentee
2 ballot was received from the applicant by the county clerk or
3 the absent voter voted in the county clerk's office or at an
4 alternate location.

5 B. Within twenty-four hours after receipt of a
6 voter's application for an absentee ballot, the county clerk
7 shall mail either the ballot or a notice of rejection to the
8 applicant.

9 C. The absentee ballot register is a public record
10 open to public inspection in the county clerk's office during
11 regular office hours.

12 D. The county clerk shall deliver to the [~~absentee~~
13 ~~board~~] absent voter precinct on election day a complete list
14 of all absentee ballot applicants with applicable information
15 shown in the absentee ballot register for each applicant up to
16 [~~noon of the day~~] 5:00 p.m. on the Thursday preceding the
17 election. The county clerk shall deliver a signature roster
18 containing the same information as the lists to the [~~absentee~~]
19 absent voter precinct board.

20 E. The county clerk shall transmit to the
21 secretary of state and to the county chairman of each of the
22 major political parties in the county a complete copy of
23 entries made in the absentee ballot register. Such
24 transmissions shall be made once each week beginning four
25 weeks immediately prior to the election. A final copy shall

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1 be transmitted on the Friday immediately following the
2 election. "

3 Section 10. Section 1-6-7 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 133, as amended) is amended to read:

5 "1-6-7. FORM OF ABSENTEE BALLOT. -- As soon as candidates
6 and questions to be voted upon have been determined for each
7 election, the county clerk shall procure a supply of suitable
8 absentee ballots. The absentee [~~ballot~~] ballots shall be
9 numbered and shall be, as nearly as [~~practicable~~] possible, in
10 the same form as prescribed by the secretary of state for
11 emergency ballots. However, to reduce weight and bulk for
12 transport of absentee ballots, the size and weight of the
13 paper for envelopes, ballots and instructions shall be reduced
14 as much as possible. Absentee ballots shall be printed at
15 least forty days prior to the date of a primary election and
16 forty-nine days prior to the date of a general election.
17 Absentee ballots for any other election shall be printed at
18 least thirty-five days prior to the date of the election. "

19 Section 11. Section 1-6-8 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 134, as amended) is amended to read:

21 "1-6-8. ABSENTEE BALLOT ENVELOPES. --

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

- 24 (1) official inner envelopes for use in
25 sealing the completed absentee ballot;

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1 (2) official mailing envelopes for use in
2 returning the official inner envelope to the county clerk;
3 provided the official mailing envelope for absentee ballots in
4 a general election shall contain no designation of party
5 affiliation;

6 (3) absentee ballot instructions, describing
7 proper methods for completion of the ballot and returning it;
8 and

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

11 B. Official transmittal envelopes and official
12 mailing envelopes for transmission of absentee ballot
13 materials to and from the county clerk and federal qualified
14 electors shall be printed in red in the form prescribed by the
15 federal Uniformed and Overseas Citizens Absentee Voting Act.
16 Official transmittal envelopes and official mailing envelopes
17 for transmission of absentee ballot materials to and from the
18 county clerk and voters shall be printed in black in
19 substantially similar form. All official inner envelopes
20 shall be printed in black.

21 C. The reverse of each official mailing envelope
22 shall contain a form to be executed by the [~~person~~] voter
23 completing the absentee ballot. The form shall identify the
24 [~~person~~] voter and shall contain the following statement: "I
25 will not vote in this election other than by the enclosed

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1 ballot. I will not receive or offer any compensation or
2 reward for giving or withholding any vote. ". "

3 Section 12. Section 1-6-9 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 135, as amended) is amended to read:

5 "1-6-9. MANNER OF VOTING. --

6 A. Any person voting [~~under provisions of~~]
7 pursuant to the Absent Voter Act shall secretly mark his
8 absentee ballot in the manner provided in the Election Code
9 for marking emergency paper ballots, place it in the official
10 inner envelope and securely seal the envelope. The voter
11 shall then place the official inner envelope inside the
12 official mailing envelope and securely seal the envelope. The
13 voter shall then complete the form on the reverse of the
14 official mailing envelope, which shall include an affirmation
15 by the voter under penalty of perjury that the facts stated in
16 the form are true.

17 B. Federal qualified electors shall either deliver
18 or mail the official mailing envelope to the county clerk of
19 their county of residence or deliver it to a person designated
20 by federal authority to receive executed ballots for
21 transmission to the county clerk of the county of residence or
22 former residence as the case may be. Voters shall either
23 deliver or mail the official mailing envelope to the county
24 clerk of their county of residence. "

25 Section 13. Section 1-6-9.1 NMSA 1978 (being Laws 1991,

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1 Chapter 105, Section 13, as amended) is amended to read:

2 "1-6-9. 1. [~~USING THE MARKSENSE BALLOT~~] VOTING BY
3 ELECTRONIC BALLOT. -- [~~Any person~~] An absent voter voting on
4 [~~the marksense~~] an electronic ballot shall secretly mark the
5 ballot [~~by completing the arrow () () in pencil directly~~
6 ~~to the right of the candidate's name or the proposed question.~~
7 ~~The voter shall then place the marked ballot in the official~~
8 ~~inner envelope and securely seal the envelope and then place~~
9 ~~the official inner envelope inside the official mailing~~
10 ~~envelope and securely seal the envelope. The voter shall then~~
11 ~~complete the form on the reverse of the official mailing~~
12 ~~envelope] in accordance with the instructions on that ballot,
13 and the vote cast shall be recorded on an electronic voting
14 machine. "~~

15 Section 14. Section 1-6-10 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 136, as amended) is amended to read:

17 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK. --
18 A. The county clerk shall mark on each completed
19 official mailing envelope the date and time of receipt in the
20 clerk's office, record this information in the absentee ballot
21 register and safely keep the official mailing envelope
22 unopened in a locked and number-sealed ballot box, except as
23 provided in Subsection H of Section 1-6-14 NMSA 1978, until it
24 is delivered on election day to the proper absent voter
25 precinct board or until it is canceled and destroyed in

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1 accordance with law.

2 B. The county clerk shall accept completed
3 official mailing envelopes until 7:00 p.m. on election day.
4 Any completed official mailing envelope received after that
5 time shall not be delivered to a precinct board but shall be
6 preserved by the county clerk until the time for election
7 contests has expired. In the absence of a restraining order
8 after expiration of the time for election contests, the county
9 clerk shall destroy all late official mailing envelopes
10 without opening or permitting the contents to be examined,
11 cast, counted or canvassed. Before their destruction, the
12 county clerk shall count the numbers of late ballots from
13 voters, federal voters, overseas citizen voters and federal
14 qualified electors and report the number from each category to
15 the secretary of state.

16 C. At 5:00 p.m. on the Monday immediately
17 preceding the date of election, the county clerk shall record
18 the numbers of the unused absentee ballots and shall publicly
19 destroy in the county clerk's office all such unused ballots.
20 The county clerk shall execute a certificate of [such]
21 destruction, which shall include the numbers on the absentee
22 ballots destroyed. A copy of the certificate of destruction
23 shall be sent to the secretary of state. "

24 Section 15. Section 1-6-11 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 137, as amended) is amended to read:

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

3 A. On election day, the county clerk shall deliver
4 the absentee ballots received [~~by him~~] prior to 7:00 p.m. on
5 election day to the special deputy county clerks for delivery
6 to the absent voter precinct boards. The absentee ballots for
7 each absent voter precinct shall be separately wrapped, and
8 the special deputy county clerk shall issue a receipt for all
9 ballots [~~taken by him~~] delivered for the county clerk. Upon
10 delivery of the absentee ballots to the absent voter precinct
11 board, the special deputy county clerk shall remain in the
12 polling place of the absent voter precinct until he has
13 observed the opening of the official mailing envelope, the
14 deposit of the ballot in the locked ballot box and the listing
15 of the names on the official mailing envelope in the signature
16 rosters. Upon such delivery of absentee ballots, the special
17 deputy county clerk shall obtain a receipt executed by the
18 presiding judge and each election judge and he shall return
19 such receipt to the county clerk for filing. The receipts
20 shall specify the number of envelopes received by the special
21 deputy county clerk from the county clerk for each absent
22 voter precinct and the number of envelopes received by the
23 absent voter precinct board from the special deputy county
24 clerk.

25 B. At 7:00 p.m. on election day, the county clerk

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1 shall deliver the electronic voting machines used for absentee
2 voting to the absent voter precinct board. The machines shall
3 not be used to vote on or count additional ballots for that
4 election. A special deputy county clerk shall issue a receipt
5 for each voting machine. Upon delivery of a voting machine,
6 the special deputy shall obtain a receipt executed by the
7 presiding judge and each election judge specifying the serial
8 number and the seal number of the machine and shall verify the
9 public counter number on the machine, and he shall return the
10 receipt to the county clerk for filing. "

11 Section 16. Section 1-6-14 NMSA 1978 (being Laws 1971,
12 Chapter 317, Section 11, as amended) is amended to read:

13 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
14 PRECINCT BOARDS. --

15 A. Before opening any official mailing envelope,
16 the presiding judge and the election judges shall determine
17 that the required information has been completed on the
18 reverse side of the official mailing envelope.

19 B. If the voter's signature is missing, the
20 presiding judge shall write "Rejected" on the front of the
21 official mailing envelope. The election clerks shall enter
22 the voter's name in the signature rosters and shall write the
23 notation "Rejected--Missing Signature" in the "Notations"
24 column of the signature rosters. The presiding judge shall
25 place the official mailing envelope unopened in an envelope

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1 provided for rejected ballots, seal the envelope and write the
2 voter's name on the front of the envelope and deposit it in
3 the locked ballot box.

4 C. The accredited challengers may examine the
5 official mailing envelope and may challenge the ballot of any
6 absent voter for the following reasons:

7 (1) the official mailing envelope has been
8 opened prior to being received by the absent voter precinct
9 board; or

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

13 Upon the challenge of an absentee ballot, the election
14 judges and the presiding election judge shall follow the same
15 procedure as when ballots are challenged when a person
16 attempts to vote in person. If a challenge is upheld, the
17 official mailing envelope shall not be opened but shall be
18 placed in an envelope provided for challenged ballots. The
19 same procedure shall be followed in canvassing and determining
20 the validity of challenged absentee ballots as with other
21 challenged ballots.

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

24 (1) the election judges shall open the
25 official mailing envelopes and deposit the ballots in their

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1 still-sealed official inner envelopes in the locked ballot
2 box; and

3 (2) the election clerks shall enter the
4 absent voter's name and residence address as shown on the
5 official mailing envelope in the signature rosters and shall
6 mark the notation "AB" opposite the voter's name in the
7 "Notations" column of the signature rosters.

8 E. Prior to the closing of the polls, the election
9 judges and the presiding election judge may either remove the
10 absentee ballots from the official inner envelopes and count
11 and tally the results of absentee balloting or, under the
12 personal supervision of the presiding election judge and one
13 election judge from each party, [~~register the results of each~~
14 ~~absentee ballot on a~~] count and tally the absentee ballots on
15 an electronic voting machine the same as if the absent voter
16 had been present and voted in person. It [~~shall be~~] is
17 unlawful for any person to disclose the results of [~~such~~] a
18 count and tally or [~~such~~] the registration on a voting machine
19 of absentee ballots prior to the closing of the polls.

20 F. Absentee ballots shall be counted and tallied
21 [~~or registered on a lever voting machine or~~] on an electronic
22 voting machine as provided in the Election Code [~~provided that~~
23 ~~any county with a population in excess of one hundred thousand~~
24 ~~shall count and tally or register absentee ballots on an~~
25 ~~electronic voting machine~~].

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1 G. Absent voter precinct polls shall close at the
2 time prescribed by the Election Code for other polling places,
3 and the results of the election shall be certified as
4 prescribed by the secretary of state.

5 H. The county clerk may convene the absent voter
6 precinct board no more than three days before the day of the
7 election to alphabetize, enter on the roster and sort the
8 absentee ballots by legislative district; provided that no
9 member of the absent voter precinct board shall open an
10 official mailing envelope or count and canvass any absentee
11 ballot prior to the day of the election. "

12 Section 17. Section 1-6-15 NMSA 1978 (being Laws 1977,
13 Chapter 222, Section 13, as amended) is amended to read:

14 "1-6-15. CANVASS--RECOUNT OR RECHECK--DISPOSITION.--
15 [~~Where no~~] If voting machines are not used to register
16 absentee ballots, [~~such~~] the absentee ballots shall be
17 canvassed, recounted and disposed of in the manner provided by
18 the Election Code for the canvassing, recounting and
19 disposition of emergency paper ballots. [~~Where~~] If voting
20 machines are used to register absentee ballots, [~~such~~] the
21 ballots shall be canvassed and rechecked in the manner
22 provided by the Election Code for the canvassing and recheck
23 of ballots cast on a voting machine; provided, in the event of
24 a contest, voting machines used to register absentee ballots
25 shall not be rechecked but the absentee ballots shall be

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1 recounted in the manner provided by the Election Code for the
2 recounting of emergency paper ballots. As used in this
3 section, "voting machines" means [~~lever voting machines or~~]
4 electronic voting machines as provided in the Election Code."

5 Section 18. Section 1-6-16 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 141, as amended by Laws 1989, Chapter
7 368, Section 2 and also by Laws 1989, Chapter 392, Section 15)
8 is amended to read:

9 "1-6-16. VOTING IN PERSON PROHIBITED. --

10 A. Except as provided in Section 1-6-16.1 NMSA
11 1978, no person who has been issued an [~~absent voter~~] absentee
12 ballot shall vote in person at his precinct poll.

13 B. At any time prior to 5:00 p.m. on the Monday
14 immediately preceding the date of the election, [~~any~~] a person
15 whose absentee ballot application has been accepted and who
16 was mailed an absentee ballot but who has not received the
17 absentee ballot may execute, in the office of the county clerk
18 of the county where he is registered to vote, a sworn
19 affidavit stating that he did not receive or vote his absentee
20 ballot. Upon receipt of the sworn affidavit, the county clerk
21 shall issue the voter a replacement absentee ballot.

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

25 Section 19. Section 1-6-16.1 NMSA 1978 (being Laws 1989,

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1 Chapter 368, Section 1, as amended) is amended to read:

2 "1-6-16. 1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
3 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
4 COUNTING.--

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

11 B. The completed ballot shall be placed in an
12 official inner envelope substantially as prescribed by Section
13 1-6-8 NMSA 1978 and sealed. The official inner envelope shall
14 then be placed in an official envelope substantially as
15 prescribed for a transmittal envelope or mailing envelope in
16 Section 1-6-8 NMSA 1978. This envelope shall contain a form
17 on its back that identifies the voter by name and signature
18 roster number and [~~the~~] a printed statement to the effect that
19 the voter made application for an absentee ballot but had not
20 received it as of the date of the election and is permitted to
21 vote by emergency paper ballot [~~or a marksense ballot~~].

22 C. The presiding election judge shall put all
23 [~~such~~] absentee ballots in a special envelope provided for
24 that purpose by the county clerk, seal it and return it to the
25 county clerk along with the machine tally sheets. The sealed

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1 envelope shall not be put in the locked ballot box.

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

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

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

12 E. Upon making [~~such~~] that determination, the
13 county clerk shall remove the inner envelope without opening
14 it, [~~destroy the transmittal envelope~~] retain the transmittal
15 envelope with the other election returns and place the inner
16 unopened envelope in a secure [~~place~~] container to be
17 transmitted to the county canvassing board to be tallied and
18 included in the canvass of that county for the appropriate
19 precinct.

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

24 Section 20. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
25 Chapter 353, Section 1) is amended to read:

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1 "1-6-16. 2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING. --

2 A. After the close of the period for requesting
3 absentee [~~voter~~] ballots by mail, any voter who is unable to
4 go to the polls due to unforeseen illness or disability
5 resulting in his confinement in a hospital, sanatorium,
6 nursing home or residence and who is unable to vote at his
7 regular polling place [~~voting booth or voting apparatus or~~
8 ~~machinery~~] or alternate location may request in writing that
9 an alternative ballot be made available to him. The written
10 request shall be signed by the voter and a health care
11 provider under penalty of perjury.

12 B. The alternative ballot shall be made available
13 by the clerk of the county in which the voter resides to any
14 authorized representative of the voter who through his
15 representative has presented the written request to the office
16 of the clerk.

17 C. Before releasing the alternative ballot, the
18 county clerk shall compare the signature on the written
19 request with the signature on the voter's affidavit of
20 registration. If the county clerk determines that the
21 signature on the written request is not the signature of the
22 voter, he shall reject the request for an alternative ballot.

23 D. The voter shall mark the alternative ballot,
24 place it in an identification envelope similar to that used
25 for absentee ballots, fill out and sign the envelope and

underscored material = new
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1 return the ballot to the office of the clerk of the county in
2 which the voter resides no later than the time of closing of
3 the polls on election day. The voter's name shall be compared
4 to the roster of voters and the ballot shall only be counted
5 if there is no signature for that voter on the roster of the
6 precinct where that voter's name appears.

7 E. Alternative ballots shall be processed and
8 counted in the same manner as absentee ballots.

9 F. The secretary of state shall prescribe the form
10 of alternative ballots and shall distribute an appropriate
11 number of alternative ballots to each county clerk."

12 Section 21. Section 1-6-17 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 142) is amended to read:

14 "1-6-17. CANCELLATION OF ABSENTEE BALLOT AT DEATH. -- If
15 any person voting under the provisions of the Absent Voter Act
16 dies after mailing or delivering his absentee ballot to the
17 county clerk but before the absentee ballot is [delivered to
18 the deceased person's precinct board, his] counted, the
19 official outer envelope shall be marked "[~~cancelled~~] cancel
20 by the precinct board [of registration]" and preserved by the
21 county clerk in the same manner as provided for other uncast
22 ballots in Subsection B of Section [3-6-10B NMSA 1953] 1-6-10
23 NMSA 1978. "

24 Section 22. Section 1-6-21 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 93, as amended) is amended to read:

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

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

7 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
8 ELECTION DAY AND SUBSEQUENT DAYS. --The county clerk or
9 statutorily appointed supervisor of the election shall
10 determine the hours [~~in~~] during which the absent voter
11 precinct polling place shall be open for delivery and counting
12 of ballots [~~shall be set by the county clerk or statutorily~~
13 ~~appointed supervisor of the election~~] on election day and
14 subsequent days until all ballots are counted. "

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

17 "1-6-24. ABSENT VOTER PRECINCT BOARD APPOINTMENT. --

18 A. The county clerk of each county shall appoint
19 [~~and compensate~~] absent voter precinct board members and their
20 respective alternates for each absent voter precinct [~~in the~~
21 ~~manner specified in the Election Code for other precinct board~~
22 ~~members~~] and shall compensate them at an hourly rate set by
23 the county clerk.

24 B. A minimum of three precinct board members shall
25 be appointed to the absent voter precinct board with no more

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1 than two members belonging to the same political party."

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

4 "1-8-13. PRIMARY ELECTION LAW - CONTENTS OF
5 PROCLAMATION. -- The proclamation calling a primary election
6 shall contain:

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

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

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

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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,

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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 county of
20 _____, New Mexico, and a member of the
21 _____ 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 at
25 the primary election to be held on the first Tuesday of

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

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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]~~ only one petition for the
14 same 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]~~:

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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

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1 CANDIDATES. -- ~~[No]~~ A candidate [shall] seeking to withdraw from
2 a primary election [unless he withdraws] shall withdraw no
3 later than the first [Friday after the filing date] Tuesday in
4 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 declaration
17 of independent candidacy with the proper filing officer. The
18 candidate for president shall also at the same time file a
19 nominating petition with the required number of signatures.

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

23 "DECLARATION OF INDEPENDENT CANDIDACY FOR PRESIDENT
24 I, _____ (candidate's name), being duly sworn,
25 say that I am a citizen of the United States, have been a

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1 resident of the United States for at least fourteen years and
2 have attained the age of thirty-five.

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

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

12 _____

13 (name) (name)

14 _____

15 (residence address) (residence address)

16 _____

17 (mailing address) (mailing address)

18 _____

19 (city) (city)

20 _____

21 (state and zip code) (state and zip code)

22 _____

23 (name) (name)

24 _____

25 (residence address) (residence address)

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<u>(city)</u>	<u>(city)</u>
_____	_____
<u>(state and zip code)</u>	<u>(state and zip code)</u>
_____	_____
<u>(name)</u>	

<u>(residence address)</u>	

<u>(mailing address)</u>	

<u>(city)</u>	

<u>(state and zip code)</u>	

I submit with this statement a nominating petition in the form and manner prescribed by the Election Code. I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable in accordance with the criminal laws of New Mexico.

(declarant)

(residence address)

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(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
and desire to be that candidate for vice president. I will be
eligible and legally qualified to hold this office at the

underscored material = new
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1 beginning of its term.

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

5 _____

6 (declarant)

7 _____

8 (residence address)

9 _____

10 (mailing address)

11 _____

12 (city)

13 _____

14 (state and zip code)

15 Subscribed and sworn to me this _____ day of _____

16 _____,

17 (year)

18 _____

19 (notary public)

20 My commission expires:

21 _____".

22 D. The independent presidential electors whom the
23 independent candidate for president is required to name shall
24 be registered voters of New Mexico; they may or may not be
25 affiliated with a political party in New Mexico. United

underscored material = new
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1 States senators, United States representatives and persons
2 holding federal offices of trust or profit are not eligible to
3 be electors.

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

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

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

18 "1-8-50. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
19 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITION
20 FORM --

21 A. As used in Sections [~~3-8-27.1 through 3-8-27.8~~
22 ~~NMSA 1953~~] 1-8-45 through 1-8-52 NMSA 1978, "nominating
23 petition" means the authorized form [~~or forms~~] used for
24 obtaining the required number of signatures of voters [~~which~~
25 that is signed on behalf of the person wishing to become an

underscored material = new
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1 independent candidate for a political office in a general or
2 United States representative special election requiring a
3 nominating petition.

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

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

13 "NOMINATING PETITION FOR INDEPENDENT CANDIDACY
14 FOR ANY OFFICE EXCEPT PRESIDENT OF THE UNITED STATES

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

underscored material = new
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(month) (day) (year)

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

1. _____
(usual signature) (name printed as registered) (address as registered) (city)
2. _____
(usual signature) (name printed as registered) (address as registered) (city). "

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

"NOMINATING PETITION FOR INDEPENDENT CANDIDACY
FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES
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
4 independent candidate for the office of president
5 of the United States, to be voted on at the
6 general election to be held on November _____,
7 ____. I also declare that I am that person whose
8 name appears hereon and that I have not signed,
9 nor will I sign, any nominating petition for any
10 other candidate seeking the office of president of
11 the United States at the next ensuing general
12 election. ".

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

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

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

25 Section 31. Section 1-12-7 NMSA 1978 (being Laws 1969,

underscored material = new
[bracketed material] = delete

1 Chapter 240, Section 246, as amended by Laws 1993, Chapter
2 314, Section 54 and also by Laws 1993, Chapter 316, Section
3 54) is amended to read:

4 "1-12-7. CONDUCT OF ELECTION-- PERSONS NOT PERMITTED TO
5 VOTE. --

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

11 B. No person shall vote in any primary election
12 whose party affiliation is not designated on his original
13 certificate of registration.

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

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

underscored material = new
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1 ~~preceding general election]. "~~

2 Section 32. Section 1-15-23 NMSA 1978 (being Laws
3 1969, Chapter 240, Section 373) is amended to read:

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

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

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

19 "1-22-2. DEFINITIONS. -- As used in the School Election
20 Law:

- 21 A. "board" means the governing authority of the
- 22 local school district;
- 23 B. "county clerk" means the clerk of each county
- 24 in which the school district is situate;
- 25 C. "proper filing officer" means the county clerk

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[bracketed material] = delete

1 or, in the case of a multicounty school district, the clerk
2 of the county in which the administrative office of the
3 school district is situate;

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

8 E. "school district election" means [~~any~~] a
9 regular or special school district election [~~except~~] but
10 does not include a recall election; and

11 F. "superintendent" means the superintendent of
12 schools of the local school district. "

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

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

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

25 B. [~~A declaration of candidacy for membership on~~

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1 ~~the board to~~ A candidate for a school board position that
2 will be filled at a special school district election shall
3 ~~[be filed]~~ file a declaration of candidacy with the proper
4 filing officer during the period commencing at 9:00 a. m. on
5 the forty-eighth day before the election and ending at 5:00
6 p. m. on the same day.

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

9 ~~[C. Any person knowingly making]~~

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

14 Section 35. Section 1-22-19 NMSA 1978 (being Laws
15 1985, Chapter 168, Section 21, as amended) is amended to
16 read:

17 "1-22-19. ABSENTEE VOTING. --

18 A. ~~[Any registered qualified elector of the~~
19 ~~school district who cannot be present at his precinct~~
20 ~~polling place on the day of the school district election~~
21 ~~because of illness, injury or disability; who will be~~
22 ~~absent from his school district of residence because his~~
23 ~~duties, occupation, business or vacation requires him to be~~
24 ~~elsewhere; or who cannot attend his precinct polling place~~
25 ~~because of the tenets of his religion]~~ A voter may vote in

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1 a school district election by absentee ballot for all
2 candidates and on all questions appearing on the ballot [~~at~~
3 ~~the election~~] in his precinct as if he were [~~able to cast~~
4 casting his ballot in person at the [~~precinct~~ polling
5 place on election day.

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

19 C. A regular precinct board may be designated to
20 serve as the absent voter precinct board. [~~Members~~] A
21 member of the absent voter precinct board shall receive the
22 same compensation as [~~other~~] a regular precinct board
23 [~~members, but in no case shall a precinct board~~] member. A
24 regular precinct board member who also serves as a member
25 of the absent voter precinct board shall not be entitled to

1 extra compensation for serving on the absent voter precinct
2 board. "

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

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1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 March 2, 1999

7
8 Mr. Speaker:

9
10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 650

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

- 17 1. On page 9, line 3, before "deliver" insert "hand".
- 18
19 2. On page 11, line 2, strike "shall" and insert in lieu
20 thereof "may".
- 21
22 3. On page 11, line 3, strike "four" and insert in lieu
23 thereof "six".
- 24
25 4. On page 11, line 3, after the period, insert:

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HVEC/HB 650

Page 52

"In class B counties, the county clerk shall establish no less than two alternative locations as satellite polling places."

5. On page 12, line 25, strike "and".

6. On page 13, line 4, strike the period and insert in lieu thereof "; and".

7. On page 13, between lines 4 and 5, insert the following paragraph:

"(8) unused absentee ballots returned to the clerk shall be returned unopened and the name of the voter removed from the absentee roster as having received an absentee ballot."

8. On page 19, line 25, strike "p.m." and insert in lieu thereof "a.m."

9. On page 28, strike Section 21 in its entirety.

10. Renumber the succeeding sections accordingly.

11. On pages 30 and 31, strike Section 25 in its

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HVEC/HB 650

Page 53

entirety.

12. Renumber the succeeding sections accordingly.

13. On page 50, line 3, after "1-6-5.2" insert ", 1-6-17".

14. On page 50, line 5 after the first comma insert "Laws 1969, Chapter 240, Section 142, ".

Respectfully submitted,

Edward C. Sandoval, Chairman

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HVEC/HB 650

Page 54

4 Adopted _____

5 Not Adopted _____

6 (Chief Clerk)

8 (Chief Clerk)

10 Date _____

11 The roll call vote was 7 For 4 Against

12 Yes: 7

13 No: Buffett, Foley, Lutz, Vickers

14 Excused: Dana

15 Absent: None

17 127933.2

18 J:\99BillsWP\H0650

25 . 126236.1

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 13, 1999

5
6 Mr. President:

7
8 Your RULES COMMITTEE, to whom has been referred

9 HOUSE BILL 650, as amended

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

- 13
14 1. Strike all House Voters and Elections Committee
15 amendments. ,

16 and thence referred to the JUDICIARY COMMITTEE.

17
18 Respectfully submitted,

19
20
21
22 _____
23 Glori a Howes, Co-Chair

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

%%%

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief

Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Altamirano, Gorham, Romero

Absent: None

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1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSION, 1999

HB 650/a

3
4 March 15, 1999

5
6 Mr. Presi dent:

7
8 Your JUDI CIARY COMMI TTEE, to whom has been referred

9 HOUSE BILL 650, as amended

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

- 13
14 1. On page 19, line 25, strike "p. m ." and insert in
15 lieu
16 thereof "a. m .".

17 Respectfully submi tted,

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19
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22 _____
23 Mi chael S. Sanchez, Chai rman

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief

Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Davis

Absent: None

H0650JU1

. 129146. 1

. 126236. 1

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