

1 AN ACT

2 RELATING TO ELECTIONS; PROVIDING DEFINITIONS; PRESCRIBING  
3 DUTIES AND TRAINING PROCEDURES; UPDATING LANGUAGE IN ARTICLES  
4 4, 5 AND 12 OF THE ELECTION CODE; REQUIRING CERTIFICATION OF  
5 PRESIDING JUDGES; SPECIFYING HOW PRECINCTS MAY BE FORMED AND  
6 DESIGNATED; PROVIDING FOR COUNTY CANVASS OBSERVERS; CHANGING  
7 FILING DATES FOR INDEPENDENT AND WRITE-IN CANDIDATES;  
8 CHANGING REGISTRATION PROCEDURES; REQUIRING REGISTRATION OF  
9 THIRD-PARTY REGISTRATION ORGANIZATIONS; PROVIDING FOR EARLY  
10 PROCESSING OF ABSENTEE BALLOTS; PROVIDING FOR ABSENTEE VOTING  
11 PROCEDURES; REQUIRING A PAPER RECORD OF VOTES; REQUIRING  
12 VOTER IDENTIFICATION FOR IN-PERSON AND ABSENTEE VOTING;  
13 PRESCRIBING POLL WORKER DUTIES ON ELECTION DAY; REQUIRING  
14 STANDARDS FOR COUNTING PROVISIONAL BALLOTS; CHANGING  
15 PROVISIONS FOR POLLWATCHERS; PROVIDING FOR DEPOSITS ON  
16 RECOUNTS AND RECHECKS; PROVIDING FOR AUTOMATIC AUDITS AND  
17 RECOUNTS; PROVIDING PENALTIES; RECONCILING MULTIPLE  
18 AMENDMENTS TO THE SAME SECTION OF LAW; AMENDING, REPEALING,  
19 ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

20  
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 Section 1. A new section of Chapter 1, Article 1 NMSA  
23 1978 is enacted to read:

24 "COMPUTATION OF TIME--DEADLINES.--For the purpose of the  
25 Election Code, time periods of less than eleven days shall be

1 computed as calendar days; provided, however, that if an  
2 actual deadline falls on a weekend or state-recognized  
3 holiday, the next business day shall be the deadline."

4 Section 2. A new section of Chapter 1, Article 1 NMSA  
5 1978 is enacted to read:

6 "NEW REGISTRANT.--As used in the Election Code, "new  
7 registrant" means a person who was not registered to vote in  
8 the state at the time the person registered to vote."

9 Section 3. A new section of Chapter 1, Article 1 NMSA  
10 1978 is enacted to read:

11 "REGISTRATION AGENT.--As used in the Election Code,  
12 "registration agent" means a state or federal employee who  
13 provides voter registration at a state agency, or a tribal  
14 registration agent office, or any other individual who  
15 assists another person in completion of a voter registration  
16 application."

17 Section 4. Section 1-1-16 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 16, as amended) is amended to read:

19 "1-1-16. REGISTRATION OFFICER.--As used in the Election  
20 Code, "registration officer" means the secretary of state, a  
21 county clerk or a clerk's authorized deputy, a member of the  
22 board of registration or a state employee performing  
23 registration duties in accordance with the federal National  
24 Voter Registration Act of 1993 or Section 1-4-5.2 NMSA 1978."

25 Section 5. A new section of Chapter 1, Article 1 NMSA

1 1978 is enacted to read:

2 "UNIQUE IDENTIFIER.--As used in the Election Code,  
3 "unique identifier" means the last four digits of a voter's  
4 social security number."

5 Section 6. A new section of Chapter 1, Article 1 NMSA  
6 1978 is enacted to read:

7 "REQUIRED VOTER IDENTIFICATION.--As used in the Election  
8 Code, "required voter identification" means any of the  
9 following forms of identification as chosen by the voter:

10 A. a physical form of identification, which may  
11 be:

12 (1) an original or copy of a current and  
13 valid photo identification with or without an address, which  
14 address is not required to match the voter's certificate of  
15 registration or a voter identification card; or

16 (2) an original or copy of a utility bill,  
17 bank statement, government check, paycheck, student  
18 identification card or other government document, including  
19 identification issued by an Indian nation, tribe or pueblo,  
20 that shows the name and address of the person, the address of  
21 which is not required to match the voter's certificate of  
22 registration; or

23 B. a verbal or written statement by the voter of  
24 the voter's name, year of birth and unique identifier;  
25 provided, however, that the statement of the voter's name

1 need not contain the voter's middle initial or suffix."

2 Section 7. A new section of Chapter 1, Article 1 NMSA  
3 1978 is enacted to read:

4 "VOTER IDENTIFICATION CARD.--As used in the Election  
5 Code, "voter identification card" means a document containing  
6 the person's name, address and precinct number that is issued  
7 by the county clerk or the voter's copy of the voter's  
8 certificate of registration."

9 Section 8. Section 1-1-6 NMSA 1978 (being Laws 1977,  
10 Chapter 222, Section 1) is amended to read:

11 "1-1-6. RECHECK AND RECOUNT.--As used in the Election  
12 Code:

13 A. "recheck" pertains to electronic voting systems  
14 and means a verification procedure where a printout of the  
15 electronic record of votes cast in an election is made from  
16 each electronic memory device in the electronic voting system  
17 and the results are compared with the results shown on the  
18 official returns; and

19 B. "recount" pertains to emergency paper ballots,  
20 absentee ballots, provisional paper ballots, optical scan  
21 paper ballots, voter verifiable and auditable paper ballots  
22 printed by electronic voting systems and any other paper  
23 ballot and means a verification procedure whereby the voters'  
24 selections on the paper ballots may be counted by hand and  
25 the results compared with the results shown on the official

1 returns."

2 Section 9. A new section of the Election Code is  
3 enacted to read:

4 "VOTER IDENTIFICATION CARDS--DISTRIBUTION.--

5 A. Between sixty and forty days before each  
6 primary election, the county clerk shall send to each  
7 registered voter in the county a voter identification card  
8 indicating the voter's name, address and voting precinct;  
9 provided, however, that a registrant shall still be sent a  
10 voter identification card upon filing of the registrant's  
11 certificate of registration with the county clerk as provided  
12 in Section 1-4-12 NMSA 1978.

13 B. The county clerk may apply to the office of the  
14 secretary of state for reimbursement of costs related to  
15 supplying voter identification cards.

16 C. The secretary of state shall promulgate rules  
17 to ensure that all registered voters receive a voter  
18 identification card before each primary election and  
19 reimburse the county for the costs of supplying and  
20 distributing the cards."

21 Section 10. Section 1-2-2 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 23, as amended) is amended to read:

23 "1-2-2. SECRETARY OF STATE--GENERAL DUTIES.--The  
24 secretary of state shall:

25 A. generally supervise all elections;

1           B. administer the Election Code in its statewide  
2 application especially as it relates to federal and state  
3 elective offices;

4           C. prepare instructions for the conduct of  
5 election and registration matters in accordance with the laws  
6 of the state;

7           D. advise county clerks, boards of county  
8 commissioners and boards of registration as to the proper  
9 methods of performing their duties prescribed by the Election  
10 Code;

11           E. report possible violations of the Election Code  
12 of which the secretary of state has knowledge to the district  
13 attorney or the attorney general for prosecution;

14           F. cause to be published in pamphlet form and  
15 distributed to the county clerk of each county for use by  
16 precinct boards a sufficient number of copies of the Election  
17 Code as it is from time to time amended and supplemented;

18           G. be responsible for the education and training  
19 of county clerks regarding elections;

20           H. be responsible for the education and training  
21 of voting machine technicians; and

22           I. assist the county clerks in the education and  
23 training of registration officers, in the recruitment and  
24 training of poll workers and other election workers and in  
25 the certification of the presiding judges of the precinct

1 boards."

2 Section 11. Section 1-2-4 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 25, as amended) is amended to read:

4 "1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS  
5 TO PRECINCT BOARDS--TRAINING MANUAL.--

6 A. The secretary of state shall provide:

7 (1) instructions for the precinct board,  
8 which shall include a brief nontechnical explanation of their  
9 duties as required by the Election Code; and

10 (2) a single training manual containing  
11 standard guidelines for the operations and processes of  
12 statewide elections, including pre-election day activities,  
13 election-day activities and post-election-day activities and  
14 county and state canvassing processes.

15 B. When any specific duty is imposed by the  
16 instructions issued under the Election Code, the duty shall  
17 be deemed to be a requirement of the law."

18 Section 12. Section 1-2-7 NMSA 1978 (being Laws 1969,  
19 Chapter 240, Section 29, as amended) is amended to read:

20 "1-2-7. PRECINCT BOARD--QUALIFICATION OF MEMBERS--  
21 QUALIFICATION OF PRESIDING JUDGES.--

22 A. In order to qualify as a member of the precinct  
23 board, a person shall:

24 (1) be a resident of the representative  
25 district and county in which the precinct where he is a voter

1 is located;

2 (2) be able to read and write;

3 (3) have the necessary capacity to carry out  
4 his functions with acceptable skill and dispatch; and

5 (4) execute the precinct board member's oath  
6 of office.

7 B. Before serving as a presiding judge of a  
8 precinct board, a person shall receive training in the duties  
9 of that position and be certified for the position by the  
10 county clerk.

11 C. No person shall be qualified for appointment or  
12 service on a precinct board:

13 (1) who is a candidate for any federal,  
14 state, district or county office;

15 (2) who is a spouse, parent, child, brother  
16 or sister of any candidate to be voted for at the election;  
17 or

18 (3) who is a sheriff, deputy sheriff,  
19 marshal, deputy marshal or state or municipal policeman."

20 Section 13. Section 1-2-17 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 37, as amended) is amended to read:

22 "1-2-17. PRECINCT BOARD--SCHOOLS OF INSTRUCTION.--

23 A. The secretary of state may supervise and the  
24 county clerk shall cause to be held a public school of  
25 instruction for all presiding judges, precinct boards and

1 others who will be officially concerned with the conduct of  
2 elections.

3 B. The schools for instruction provided for in  
4 this section shall be as follows:

5 (1) one school not less than seven days  
6 before the primary election;

7 (2) one school not less than seven days  
8 before the general election; and

9 (3) one school not less than seven days  
10 before any other statewide election.

11 C. All major details of the conduct of elections  
12 shall be covered by the secretary of state or the secretary's  
13 authorized representative or the county clerk or the clerk's  
14 authorized representative at such school, with special  
15 emphasis being given to recent changes in the Election Code.

16 D. The school of instruction shall be open to any  
17 interested person, and notice of the school shall be given to  
18 the public press at least four days before the school is to  
19 be held. Each member of the precinct board shall be notified  
20 by mail at least seven days prior to commencement of the  
21 school.

22 E. A person shall not serve as a judge or member  
23 of a precinct board in any election unless that person has  
24 attended at least one such school of instruction in the  
25 calendar year of the election at which the person is

1 appointed to serve or has been certified by the county clerk  
2 with respect to the person's completion of the school of  
3 instruction. This subsection shall not apply to filling of  
4 vacancies on election day as provided in Subsection B of  
5 Section 1-2-15 NMSA 1978."

6 Section 14. Section 1-2-27 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 46, as amended) is amended to read:

8 "1-2-27. WATCHERS--APPOINTMENT.--

9 A. The county chairman of each political party  
10 represented on the ballot may appoint in writing two watchers  
11 for each precinct. If any county chairman fails to make the  
12 appointments, the precinct chairman of the political party  
13 may appoint in writing two watchers for the precinct. If any  
14 precinct chairman fails to make the appointments, or if no  
15 person properly appointed is present at the polling place and  
16 offers to serve, the voters present belonging to that  
17 political party may appoint in writing two watchers.

18 B. In a general election, a candidate for elected  
19 office and an election-related organization may appoint one  
20 watcher per polling place if the candidate or organization  
21 makes a written request to the secretary of state at least  
22 ten days prior to the election date and specifies the polling  
23 place to be watched and the name of the qualified appointee.  
24 The secretary of state shall notify the county clerk of the  
25 qualified appointees at least five days before the election.

1 For the purposes of this section, "election-related  
2 organization" means an organization involved in voter turnout  
3 activities.

4 C. In a primary election any group of six  
5 candidates for county office for each political party  
6 participating in the election may appoint in writing an  
7 additional watcher for each precinct. No candidate, however,  
8 shall join in more than one request for an additional  
9 watcher.

10 D. In a primary election any group of three  
11 candidates seeking nomination for statewide or district  
12 office may appoint in writing one watcher for each of those  
13 precincts as they may desire. No candidate, however, shall  
14 join in more than one request for an additional watcher at  
15 any precinct."

16 Section 15. A new section of Chapter 1, Article 2 NMSA  
17 1978 is enacted to read:

18 "COUNTY CANVASS OBSERVERS.--

19 A. A candidate for elected office and an  
20 election-related organization may each appoint one county  
21 canvass observer per county if the candidate or organization  
22 makes a written request to the secretary of state or county  
23 clerk at least ten days prior to the election date and  
24 specifies the county canvass to be watched and the name of  
25 the qualified appointee. A county chair of a qualified

1 political party may appoint as many observers as the chief  
2 election officer for that county determines is functional;  
3 provided that the state or county chair may appoint at least  
4 three observers and that the number of observers for each  
5 major political party is identical.

6 B. County canvass observers shall be voters of a  
7 precinct located in that county to which they are appointed.  
8 No sheriff, deputy sheriff, marshal, deputy marshal,  
9 municipal or state police officer, candidate or person who is  
10 a spouse, parent or child of a candidate being voted on at  
11 the election shall serve as a county canvass observer.

12 C. The county canvass observer, upon presentation  
13 of the observer's written appointment to the county clerk,  
14 shall be permitted to be present from the time the county  
15 canvassing begins until the completion of the canvass.

16 D. Only one county canvass observer for each  
17 candidate and each election-related organization in each  
18 county shall be permitted at one time in the room in which  
19 the canvass is being conducted. An observer is strictly  
20 limited to observing and documenting the canvassing process,  
21 and may not interrupt the canvassing process.

22 E. County canvass observers shall not interfere  
23 with the orderly conduct of the canvass, and may be removed  
24 by the chief election officer if the observer does not comply  
25 with the law.

1 F. As used in this section:

2 (1) "county canvass" means the process of  
3 qualifying and verifying paper ballots and counting and  
4 tallying votes for each precinct beginning upon the closing  
5 of the polls and ending with the certification and  
6 announcement of the results by the county canvassing board;  
7 and

8 (2) "election-related organization" means an  
9 organization involved in voter turnout activities."

10 Section 16. Section 1-3-12 NMSA 1978 (being Laws 1984  
11 (1st S.S.), Chapter 3, Section 4, as amended) is amended to  
12 read:

13 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

14 A. Before each federal decennial census, every  
15 precinct boundary shall be adjusted to coincide with a  
16 numbered or named street or road or with a visible terrain  
17 feature that is:

18 (1) shown on the standard base maps  
19 developed pursuant to Subsection B of this section;

20 (2) a designated census block boundary on  
21 the federal PL 94-171 2000 census block maps; or

22 (3) approved by the secretary of state and  
23 the bureau of the census.

24 B. Prior to commencement of the federal decennial  
25 census, the secretary of state shall have prepared and

1 furnish to each county clerk standard base maps of the  
2 county. The standard base map for nonurban areas of the  
3 county shall, as nearly as practical, show:

4 (1) all state and federal highways;

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

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

9 (4) all major railroad lines; and

10 (5) other major terrain features such as  
11 flowing rivers and streams, arroyos, powerlines, pipelines  
12 and ridgelines and other acceptable census block boundaries.

13 C. The board of county commissioners and the  
14 county clerks, upon receipt of the standard base maps from  
15 the secretary of state, shall:

16 (1) adjust all urban precinct boundaries to  
17 coincide with numbered or named street boundaries;

18 (2) adjust all nonurban precinct boundaries  
19 to coincide with suitable visible terrain features shown on  
20 the standard base map; provided that in order to make an  
21 adjustment, two or more existing precincts may be  
22 consolidated without consolidating existing polling places;  
23 and provided further that the precincts shall be composed of  
24 contiguous and compact areas, and state, county and municipal  
25 boundary lines may serve as precinct boundaries; and

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

7                   D. The precincts shown upon the standard base maps  
8 submitted pursuant to the provisions of this section and as  
9 revised and approved by the secretary of state pursuant to  
10 the Precinct Boundary Adjustment Act shall become the  
11 official precincts of each county for the 2001 redistricting.  
12 For the 2002 and subsequent primary and general elections,  
13 changes in precincts shall be made in accordance with the  
14 provisions of Chapter 1, Article 3 NMSA 1978.

15                  E. A county commission shall not split a precinct  
16 into two or more districts for any elected office.

17                  F. Precincts shall be designated solely by whole  
18 numbers."

19                  Section 17. A new section of Chapter 1, Article 4 NMSA  
20 1978 is enacted to read:

21                  "THIRD-PARTY REGISTRATION AGENTS--REGISTRATION  
22 REQUIRED--PROCEDURES--REPORTS--PENALTY.--

23                  A. Registration agents who either register or  
24 assist persons to register to vote on behalf of an  
25 organization that is not a state or federal agency shall

1 register with the secretary of state and the organization  
2 shall provide the secretary of state with:

3 (1) the name and permanent address of the  
4 organization;

5 (2) the names, permanent addresses,  
6 temporary addresses, if any, dates of birth and social  
7 security numbers of each person registering persons to vote  
8 in the state on behalf of the organization; and

9 (3) a sworn statement from each registration  
10 agent employed by or volunteering for the organization  
11 stating that the agent will obey all state laws and rules  
12 regarding the registration of voters on a form that gives  
13 notice of the criminal penalties for false registration.

14 B. Organizations employing registration agents or  
15 using volunteer registration agents shall deliver a  
16 certificate of registration to the secretary of state or  
17 county clerk within forty-eight hours of its completion by  
18 the person registering to vote or the next business day if  
19 the appropriate office is closed for that forty-eight-hour  
20 period.

21 C. The secretary of state may issue rules to  
22 ensure the integrity of the registration process, including  
23 rules requiring that organizations account for all  
24 registration forms used by their registration agents.

25 D. A person who willfully violates the provisions

1 of this section is guilty of a petty misdemeanor and shall  
2 have his third-party registration agent status revoked."

3 Section 18. A new section of Chapter 1, Article 4 NMSA  
4 1978 is enacted to read:

5 "REGISTRATION--LACK OF PHYSICAL ADDRESS.--If a qualified  
6 elector resides in an area lacking a specific physical  
7 address, the qualified elector shall be allowed to substitute  
8 a map or give a description and, if available, a mailing  
9 address, indicating where the qualified elector resides for a  
10 physical address and register to vote. The voter shall be  
11 assigned to a precinct based on the geographic description of  
12 where the voter resides."

13 Section 19. Section 1-4-5 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 63, as amended) is amended to read:

15 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF  
16 INFORMATION--PENALTY.--

17 A. A qualified elector may apply to a registration  
18 officer or agent for registration.

19 B. The registration officer or agent or qualified  
20 elector shall fill out each of the blanks on the certificate  
21 of registration by typing or printing in ink. The voter  
22 shall be given a receipt for the original, and the  
23 registration agent shall receive a copy that omits the  
24 voter's social security number and date of birth and which  
25 shall contain a number traceable to the registration agent or

1 officer.

2 C. The qualified elector shall subscribe a  
3 certificate of registration as follows:

4 (1) by signing the certificate of  
5 registration using the qualified elector's given name, middle  
6 name or initial and last name; or

7 (2) if any qualified elector seeking to  
8 register is unable to read and write either the English or  
9 Spanish language or is unable to read or write because of  
10 some physical disability, the certificate of such person  
11 shall be filled out by a registration officer or agent and  
12 the name of the qualified elector so registering shall be  
13 subscribed by the making of the qualified elector's mark.

14 D. When properly executed by the registration  
15 agent or officer, or qualified elector, the original of the  
16 certificate of registration shall be presented, either in  
17 person or by mail by the qualified elector or by the  
18 registration agent or officer, to the county clerk of the  
19 county in which the qualified elector resides.

20 E. Only when the certificate of registration is  
21 properly filled out, subscribed by the qualified elector and  
22 accepted for filing by the county clerk as evidenced by the  
23 county clerk's signature or stamp and the date of acceptance  
24 thereon shall it constitute an official public record of the  
25 registration of the qualified elector. It is unlawful for

1 the voter's date of birth or any portion of the voter's  
2 social security number required on the certificate of  
3 registration to be copied, conveyed or used by anyone other  
4 than the person registering to vote, either before or after  
5 it is filed with the county clerk, except by elections  
6 administrators for purposes of the registration and voting  
7 process.

8 F. A person who unlawfully copies, conveys or uses  
9 information from a certificate of registration is guilty of a  
10 fourth degree felony."

11 Section 20. Section 1-4-5.1 NMSA 1978 (being Laws 1993,  
12 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,  
13 as amended) is amended to read:

14 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

15 A. A qualified elector may apply for registration  
16 by mail, in the office of the secretary of state or county  
17 clerk or with a registration agent or officer.

18 B. Certificate of registration forms may be  
19 requested from the secretary of state or any county clerk in  
20 person by telephone or by mail for oneself or for others.

21 C. Except as provided in Subsection D of this  
22 section, a qualified elector who wishes to register to vote  
23 shall fill out completely and sign the certificate of  
24 registration. The qualified elector may seek the assistance  
25 of any person in completing the certificate of registration.

1           D. A qualified elector who has filed for an order  
2 of protection pursuant to the provisions of the Family  
3 Violence Protection Act and who presents a copy of that order  
4 from a state or tribal court to the registration officer  
5 shall not be required to provide address information on the  
6 certificate of registration.

7           E. Completed certificates of registration may be  
8 mailed or presented in person by the registrant or any other  
9 person to the secretary of state or presented in person by  
10 the registrant or any other person to the county clerk of the  
11 county in which the registrant resides.

12           F. If the registrant wishes to vote in the next  
13 election, the completed and signed certificate of  
14 registration shall be delivered or mailed and postmarked at  
15 least twenty-eight days before the election.

16           G. Upon receipt of a certificate of registration,  
17 the secretary of state shall send the certificate to the  
18 county clerk in the county where the qualified elector  
19 resides.

20           H. Only when the certificate of registration is  
21 properly filled out, signed by the qualified elector and  
22 accepted for filing by the county clerk as evidenced by the  
23 county clerk's signature or stamp and the date of acceptance  
24 thereon and when notice has been received by the registrant  
25 shall it constitute an official public record of the

1 registration of the qualified elector.

2 I. The secretary of state shall prescribe the form  
3 of the certificate of registration, which form shall be a  
4 postpaid mail-in format and shall be printed in Spanish and  
5 English. The certificate of registration form shall be clear  
6 and understandable to the average person and shall include  
7 brief but sufficient instructions to enable the qualified  
8 elector to complete the form without assistance. The form  
9 shall also include:

10 (1) the question "Are you a citizen of the  
11 United States of America?" and boxes for the applicant to  
12 check to indicate whether the applicant is or is not a  
13 citizen;

14 (2) the question "Will you be at least  
15 eighteen years of age on or before election day?" and boxes  
16 for the applicant to check to indicate whether the applicant  
17 will be eighteen years of age or older on election day;

18 (3) the statement "If you checked 'no' in  
19 response to either of these questions, do not complete this  
20 form.";

21 (4) a statement informing the applicant  
22 that:

23 (a) if the form is submitted by mail by  
24 the applicant and the applicant is registering for the first  
25 time in New Mexico, the applicant must submit with the form a

1 copy of: 1) a current and valid photo identification or  
2 voter identification card; or 2) a utility bill, bank  
3 statement, government check, paycheck, student identification  
4 card or other government document, including identification  
5 issued by an Indian nation, tribe or pueblo, that shows the  
6 name and address of the applicant; and

7 (b) if the applicant does not submit  
8 the required identification, he will be required to do so  
9 when voting in person or absentee; and

10 (5) a statement requiring the applicant to  
11 swear or affirm that the information supplied by the  
12 applicant is true."

13 Section 21. Section 1-4-8 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 66, as amended) is amended to read:

15 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
16 REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED  
17 ELECTORS AND OVERSEAS VOTERS--LATE REGISTRATION.--

18 A. For qualified electors other than federal  
19 qualified electors or overseas voters, the following  
20 provisions shall apply:

21 (1) the county clerk shall receive  
22 certificates of registration at all times during normal  
23 working hours, except that the clerk shall close registration  
24 at 5:00 p.m. on the twenty-eighth day immediately preceding  
25 any election at which the registration books are to be

1 furnished to the precinct board;

2 (2) registration shall be reopened on the  
3 Monday following the election;

4 (3) for purposes of a municipal or school  
5 election, the registration period for those precincts within  
6 the municipality or school district is closed at 5:00 p.m. on  
7 the twenty-eighth day immediately preceding the municipal or  
8 school election and is opened again on the Monday following  
9 the election;

10 (4) during the period when registration is  
11 closed, the county clerk shall receive certificates of  
12 registration and other documents pertaining thereto but shall  
13 not file the certificate of registration in the registration  
14 book until the Monday following the election, at which time a  
15 voter identification card shall be mailed to the registrant  
16 at the address shown on the certificate of registration;

17 (5) when the twenty-eighth day prior to any  
18 election referred to in this section is a Saturday, Sunday or  
19 legal holiday, registration shall be closed at 5:00 p.m. of  
20 the next succeeding regular business day for the office of  
21 the county clerk; and

22 (6) the county clerk shall accept for filing  
23 any certificate of registration that is subscribed and dated  
24 on or before the twenty-eighth day preceding the election and  
25 received by the county clerk before 5:00 p.m. on the Friday

1 immediately following the close of registration. The county  
2 clerk shall accept for filing any mailed certificate of  
3 registration postmarked not less than twenty-eight days prior  
4 to any election referred to in this section and received by  
5 5:00 p.m. on the Friday immediately following the close of  
6 registration. The county clerk shall accept for filing any  
7 certificate of registration accepted at a state agency  
8 designated pursuant to Section 1-4-5.2 NMSA 1978 not later  
9 than twenty-eight days prior to any election.

10 B. For federal qualified electors and overseas  
11 voters, the county clerk shall accept a certificate of  
12 registration by electronic transmission from a voter  
13 qualified to apply for and vote by absentee ballot in the  
14 county if the transmission is received before 5:00 p.m. on  
15 the Friday immediately preceding the election."

16 Section 22. Section 1-4-23 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 79, as amended) is amended to read:

18 "1-4-23. REVIEW OF REGISTRATION--BOARD OF  
19 REGISTRATION--INACTIVE VOTER LIST CREATION.--Beginning on the  
20 third Monday of March of each odd-numbered year, the board of  
21 registration shall review all certificates of registration  
22 and, based on that review, shall establish a list of inactive  
23 voters in accordance with the provisions of the federal  
24 National Voter Registration Act of 1993. The secretary of  
25 state shall issue rules on list maintenance in accordance

1 with the provisions of the federal National Voter  
2 Registration Act of 1993."

3 Section 23. Section 1-5-1 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 103, as amended) is amended to read:

5 "1-5-1. SHORT TITLE.--Sections 1-5-1 through 1-5-29  
6 NMSA 1978 may be cited as the "Voter Records System Act"."

7 Section 24. Section 1-5-2 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 104, as amended) is amended to read:

9 "1-5-2. DEFINITIONS.--As used in the Election Code:

10 A. "county" means any county in this state;

11 B. "county register" means an official file of  
12 original certificates of registration of the county or any of  
13 its precincts;

14 C. "county voter list" means a voter list arranged  
15 in alphabetical order of voter surname within and for each  
16 county;

17 D. "data processor" means a data processing  
18 facility and its associated employees and agents contracted  
19 to provide data processing services required by the Voter  
20 Records System Act;

21 E. "data recording media" means a manual,  
22 electronic or other device containing data capable of being  
23 read and processed by any means for the eventual preparation  
24 of voter lists;

25 F. "election campaign purposes" means relating in

1 any way to a campaign in an election conducted by a federal,  
2 state or local government;

3 G. "file maintenance list" means any prepared  
4 listing that reflects additions, deletions or changes to the  
5 voter file;

6 H. "governmental purposes" means noncommercial  
7 purposes relating in any way to the structure, operation or  
8 decision-making of a federal, state or local government;

9 I. "mailing labels" mean prepared mailing labels  
10 of selected voters arranged in the order in which requested  
11 and providing only the name and address of the voter;

12 J. "precinct voter list" means a voter list  
13 arranged in alphabetical order of voter surname within and  
14 for each precinct;

15 K. "signature roster" means a copy of a voter list  
16 with space provided opposite each voter's name for the  
17 voter's signature or witnessed mark;

18 L. "special voter list" means a prepared list of  
19 selected voters arranged in the order in which requested;

20 M. "voter data" means selected information derived  
21 from the voter file;

22 N. "voter file" means all voter registration  
23 information required by law and by the secretary of state  
24 that has been extracted from the certificate of registration  
25 of each voter in the county, stored on data recording media

1 and certified by the county clerk as the source of all  
2 information required by the Voter Records System Act; and

3 O. "voter list" means any prepared list of  
4 voters."

5 Section 25. Section 1-5-3 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 105, as amended by Laws 1993, Chapter  
7 314, Section 33 and also by Laws 1993, Chapter 316, Section  
8 33) is amended to read:

9 "1-5-3. ACT IS MANDATORY AND SUPPLEMENTAL TO ELECTION  
10 CODE.--

11 A. The Voter Records System Act is mandatory and  
12 supplemental to the provisions of the Election Code. The  
13 provisions of that act shall be implemented in all counties  
14 by order of the secretary of state in accordance with the  
15 provisions of the federal Help America Vote Act of 2002.

16 B. The secretary of state shall maintain the  
17 official state voter file based on county registers and shall  
18 provide access to the file to the county clerks. The  
19 secretary of state shall prescribe any rules, forms and  
20 instructions necessary to implement procedures required by  
21 the Voter Records System Act and federal law. The secretary  
22 of state shall maintain a log, which shall be public,  
23 containing all transactions regarding requests for current  
24 registration lists of state voters. The log shall indicate  
25 the requesting party, the date of the request, the date of

1 fulfilling the request, charges made and any other  
2 information deemed advisable by the secretary of state.  
3 Requests for registration lists in printed or electronic form  
4 shall be fulfilled within a period of ten working days.

5 C. All registration records required by the  
6 Election Code shall be maintained for each of the precincts  
7 in addition to those records required by the Voter Records  
8 System Act and federal law."

9 Section 26. Section 1-5-6 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 108, as amended) is amended to read:

11 "1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER  
12 PREPARATION.--The county clerk shall provide for preparation  
13 of precinct voter lists and signature rosters generated from  
14 the official state voter file for any precincts. The  
15 precinct voter lists and signature rosters shall be used at  
16 any election for which registration of voters is required in  
17 lieu of bound original certificates of registration and poll  
18 books."

19 Section 27. Section 1-5-7 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 109, as amended) is amended to read:

21 "1-5-7. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--  
22 CONTENTS.--

23 A. The precinct voter lists and signature rosters  
24 for any precinct shall contain for each voter, as shown in  
25 the county register, the voter's:

- 1 (1) name;
- 2 (2) gender;
- 3 (3) place of residence;
- 4 (4) last four digits of the voter's social
- 5 security number;
- 6 (5) year of birth;
- 7 (6) party affiliation, if any; and
- 8 (7) precinct of residence.

9 B. In addition, the names on each precinct voter  
10 list and signature roster shall be numbered consecutively  
11 beginning with the number "1".

12 C. On each page of each precinct voter list and on  
13 each signature roster there shall be printed the page number  
14 and the date and name of the election for which they are to  
15 be used."

16 Section 28. Section 1-5-8 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 110, as amended) is amended to read:

18 "1-5-8. PRECINCT VOTER LISTS--SIGNATURE  
19 ROSTERS--NUMBER--DISTRIBUTION.--

20 A. One copy of the signature roster shall be  
21 prepared for each precinct. On the cover of the signature  
22 roster shall be printed the words, "Copy for the County  
23 Clerk". Upon its preparation and certification as to its  
24 accuracy and completeness, the county clerk shall deliver the  
25 copy of the signature roster to the precinct board.

1           B. The county clerk shall prepare three copies of  
2 the precinct voter list for each precinct. Of the three  
3 copies prepared, one copy shall not include voter social  
4 security numbers. The other two shall contain only the last  
5 four digits of the voter's social security number. The  
6 county clerk shall deliver two of the copies to each precinct  
7 board. One copy of the precinct voter list shall be retained  
8 by the county clerk for verification purposes on election day  
9 and one copy for the secretary of state shall be marked to  
10 verify those voters on the list who voted.

11           C. Two copies of the county voter list, arranged  
12 in alphabetical order, shall be prepared for election day for  
13 verification purposes only."

14           Section 29. Section 1-5-14 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 118, as amended) is amended to read:

16           "1-5-14. FILE MAINTENANCE LISTS.--

17           A. At least once a month, the county clerk shall  
18 have made from the state voter file a file maintenance list  
19 of additions, deletions and changes, if any, to the county  
20 register.

21           B. One copy of the list shall be stored by the  
22 county clerk for at least one year.

23           C. The county clerk shall also furnish copies of  
24 the list to the county chairman of each of the major  
25 political parties in the county. The copy of the chairman's

1 list shall indicate whether each item is an addition,  
2 deletion or change. The file maintenance list shall not  
3 include the voter's social security number, codes used to  
4 identify the agency where the voter registered, the voter's  
5 day and month of birth or the voter's telephone number, if  
6 prohibited by the voter."

7 Section 30. Section 1-5-17 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 122, as amended) is amended to read:

9 "1-5-17. VOTER REGISTRATION SYSTEM SOFTWARE--  
10 INSTRUCTIONS--STATUS--PROTECTION.--

11 A. Voter registration system software and  
12 instructions for its use in controlling the processing of  
13 information derived from the voter file shall be verified  
14 functionally, identified and approved by the secretary of  
15 state.

16 B. Verified, identified and approved voter  
17 registration system software and instructions shall be  
18 safeguarded at all times against loss or damage. The  
19 designated data processor shall be in charge of these  
20 safeguards subject to approval by the secretary of state."

21 Section 31. Section 1-5-18 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 124, as amended) is amended to read:

23 "1-5-18. LIST AND ROSTER PREPARATION--COMPATIBLE  
24 DUPLICATE MEANS.--

25 A. The secretary of state shall provide to the

1 county clerk means for the preparation of voter lists and  
2 signature rosters.

3 B. At least one compatible duplicate means shall  
4 be provided for on a standby basis, and it shall be capable  
5 of performing the preparation of voter lists and signature  
6 rosters with minimum delay in case the original means is  
7 unable to perform.

8 C. The secretary of state shall procure and  
9 preserve sufficient duplicate voter registration system  
10 software and operating instructions so that in case of  
11 disaster the duplicate master record and the duplicate voter  
12 registration system software and operating instructions will  
13 be all that will be required for another compatible facility  
14 to prepare registered voter lists and signature rosters with  
15 minimum delay."

16 Section 32. Section 1-5-21 NMSA 1978 (being Laws 1975,  
17 Chapter 255, Section 75, as amended) is amended to read:

18 "1-5-21. DATA PROCESSOR--CUSTODY AND PROTECTION OF  
19 VOTER FILE--DELIVERY OF VOTER FILE AND PROGRAM RECORDS.--

20 A. The designated data processor shall provide the  
21 secretary of state, county clerk or county with data  
22 processing services in the implementation and maintenance of  
23 the Voter Records System Act and in carrying out such other  
24 services as are reasonably related to providing data  
25 processing of the voter records system.

1           B. The designated data processor shall preserve  
2 and safeguard voter files and voter registration system  
3 software from loss, damage, unauthorized alteration,  
4 unauthorized access and unauthorized reproduction and shall  
5 ensure their continued use and accessibility while they are  
6 in the data processor's custody.

7           C. No copies of the voter file or information or  
8 listings derived therefrom shall be furnished by the data  
9 processor to any person other than the secretary of state,  
10 the county clerk or their designated agents."

11           Section 33. Section 1-5-22 NMSA 1978 (being Laws 1975,  
12 Chapter 255, Section 76) is amended to read:

13           "1-5-22. UNLAWFUL DISPOSITION OF VOTER FILE--PENALTY.--

14           A. Unlawful disposition of voter file consists of  
15 the willful selling, loaning, providing access to or  
16 otherwise surrendering of the voter file, duplicates of the  
17 file or a part of the file by a data processor; a data  
18 processor's agent or employee; a state or county officer; or  
19 a state or county officer's deputy, assistant, employee or  
20 agent to anyone not authorized by the Voter Records System  
21 Act to have possession of the file.

22           B. For purposes of this section, a file  
23 maintenance list shall be considered a voter file or a part  
24 of a voter file.

25           C. Any data processor, officer, deputy, assistant,

1 agent or employee who commits unlawful disposition of a voter  
2 file is guilty of a fourth degree felony."

3 Section 34. Section 1-5-23 NMSA 1978 (being Laws 1975,  
4 Chapter 255, Section 77) is amended to read:

5 "1-5-23. UNLAWFUL DESTRUCTION OR ALTERATION OF DATA  
6 RECORDING MEDIA, VOTER FILES, FILE MAINTENANCE LISTS, VOTER  
7 REGISTRATION SYSTEM SOFTWARE AND INSTRUCTIONS OR VOTER  
8 LISTS--PENALTY.--

9 A. Unlawful destruction or alteration of data  
10 recording media, voter files, file maintenance lists, voter  
11 registration system software and instructions or voter lists  
12 consists of the unauthorized destruction of, the unauthorized  
13 alteration of, the erasure of information from or the  
14 rendering unusable for their lawfully intended purpose of  
15 such media, files, software, instructions and lists or parts  
16 thereof by any person.

17 B. Any person who commits unlawful destruction or  
18 alteration of data recording media, voter files, file  
19 maintenance lists, voter registration system software and  
20 instructions or voter lists is guilty of a fourth degree  
21 felony."

22 Section 35. Section 1-5-24 NMSA 1978 (being Laws 1975,  
23 Chapter 255, Section 78, as amended) is amended to read:

24 "1-5-24. REQUESTS FOR VOTER DATA, MAILING LABELS OR  
25 SPECIAL VOTER LISTS.--

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

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

14           C. Each requester of voter data, mailing labels or  
15 special voter lists shall sign an affidavit that the voter  
16 data, mailing labels and special voter lists shall be used  
17 for governmental or election and election campaign purposes  
18 only and shall not be made available or used for unlawful  
19 purposes.

20           D. The secretary of state shall prescribe the form  
21 of the affidavit."

22           Section 36. Section 1-5-25 NMSA 1978 (being Laws 1975,  
23 Chapter 255, Section 79, as amended) is amended to read:

24           "1-5-25. UNLAWFUL USE OF VOTER DATA, MAILING LABELS OR  
25 SPECIAL VOTER LISTS--PENALTIES.--

1           A. Unlawful use of voter data, mailing labels or  
2 special voter lists consists of the knowing and willful use  
3 of such information for purposes prohibited by the Voter  
4 Records System Act.

5           B. Any person, organization or corporation or  
6 agent, officer, representative or employee thereof who  
7 commits unlawful use of voter data, mailing labels or special  
8 voter lists is guilty of a fourth degree felony and upon  
9 conviction shall be fined one hundred dollars (\$100) for each  
10 and every line of voter information that was unlawfully used.

11           C. Each and every unlawful use of voter data,  
12 mailing labels or special voter lists constitutes a separate  
13 offense."

14           Section 37. Section 1-5-26 NMSA 1978 (being Laws 1975,  
15 Chapter 255, Section 80) is amended to read:

16           "1-5-26. CONTRACTUAL AGREEMENT REQUIRED WITH DATA  
17 PROCESSOR.--The secretary of state shall enter into a written  
18 contractual agreement with the data processor notwithstanding  
19 the fact that the data processor may be a department of state  
20 government."

21           Section 38. Section 1-5-30 NMSA 1978 (being Laws 1989,  
22 Chapter 298, Section 1) is amended to read:

23           "1-5-30. SECRETARY OF STATE--ESTABLISHMENT OF STATEWIDE  
24 COMPUTERIZED VOTER REGISTRATION SYSTEM.--

25           A. The secretary of state shall develop,

1 implement, establish and supervise a statewide computerized  
2 voter registration system that complies with the federal Help  
3 America Vote Act of 2002 to facilitate voter registration and  
4 to provide a central database containing voter registration  
5 information for New Mexico.

6 B. The statewide computerized voter registration  
7 system shall:

8 (1) provide for the establishment and  
9 maintenance of a central database for all voter registration  
10 information;

11 (2) permit the offices of all county clerks  
12 to add, modify and delete county information from the system  
13 to provide for accurate and up-to-date records;

14 (3) permit the offices of the county clerks  
15 and the bureau of elections to have access to the central  
16 database for review and search capabilities;

17 (4) provide security and protection for all  
18 information in the central database and monitor the central  
19 database to ensure the prevention of unauthorized entry;

20 (5) provide procedures for entering data  
21 into the central database; and

22 (6) provide a centralized system for each  
23 county to enter the precinct to which a voter should be  
24 assigned for voting purposes."

25 Section 39. Section 1-5-31 NMSA 1978 (being Laws 1989,

1 Chapter 298, Section 2) is amended to read:

2 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The  
3 secretary of state shall:

4 A. assist county clerks by devising uniform  
5 procedures and forms that are compatible with the statewide  
6 computerized voter registration system;

7 B. provide to each county clerk the computer  
8 software necessary for the use and maintenance of the  
9 statewide computerized voter registration system; and

10 C. adopt such rules and regulations as are  
11 necessary to establish and administer the statewide  
12 computerized voter registration system and to require  
13 deadlines and time limits for the updating of voter files."

14 Section 40. A new section of Chapter 1, Article 6 NMSA  
15 1978 is enacted to read:

16 "EARLY VOTING--USE OF ABSENTEE VOTING PROCEDURES--  
17 ALTERNATE VOTING LOCATIONS.--

18 A. Commencing on the third Saturday prior to an  
19 election, an early voter may vote in person on a voting  
20 system at an alternate voting location established by the  
21 county clerk. In class A counties with more than two hundred  
22 thousand registered voters, the county clerk shall establish  
23 not less than twelve alternate voting locations as a  
24 convenience to the voters. For class A counties with two  
25 hundred thousand registered voters or fewer, the county clerk

1 shall establish not less than four alternate voting  
2 locations. In non-class A counties with more than ten  
3 thousand registered voters, the county clerk shall establish  
4 at least one alternate voting location. In non-class A  
5 counties with ten thousand registered voters or fewer, early  
6 voting shall be conducted in the office of the county clerk  
7 or at such alternative locations as may be designated by the  
8 county clerk. Early voting may be done at an alternate  
9 location from 12:00 p.m. to 8:00 p.m., Tuesday through  
10 Friday, and 10:00 a.m. to 6:00 p.m. Saturday through the  
11 Saturday immediately prior to the election.

12 B. When voting early, the voter shall provide the  
13 required voter identification to the county clerk or the  
14 clerk's authorized representative. If the voter does not  
15 provide the required voter identification, the voter shall be  
16 allowed to vote on a provisional ballot. If the voter  
17 provides the required identification, the voter shall be  
18 allowed to vote after subscribing an application to vote in  
19 accordance with secretary of state rules. The county clerk  
20 or the clerk's authorized representative shall make an  
21 appropriate designation on the signature roster next to the  
22 voter's name indicating that the voter has voted early."

23 Section 41. A new section of Chapter 1, Article 6 NMSA  
24 1978 is enacted to read:

25 "THIRD PARTY AGENTS COLLECTING ABSENTEE BALLOT

1 APPLICATIONS.--

2 A. A person or organization that is not part of a  
3 government agency and that collects absentee ballot  
4 applications shall submit the applications to the appropriate  
5 office for filing within forty-eight hours of their  
6 completion or the next business day if the appropriate office  
7 is closed for that forty-eight-hour period.

8 B. The secretary of state shall establish  
9 procedures to ensure that absentee ballot applications  
10 collected in accordance with Subsection A of this section can  
11 be traced to the person and organization collecting the  
12 applications.

13 C. A person who intentionally alters or fails to  
14 submit a completed absentee ballot application is guilty of a  
15 fourth degree felony."

16 Section 42. Section 1-6-4 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 130, as amended by Laws 2003, Chapter  
18 356, Section 18 and by Laws 2003, Chapter 357, Section 1) is  
19 amended to read:

20 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED  
21 ELECTOR--OVERSEAS VOTER.--

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

1 residence. The form shall allow the applicant to receive an  
2 absentee ballot for all elections within an election cycle.

3 B. Application by a voter for an absentee ballot  
4 shall be made only on a form prescribed by the secretary of  
5 state in accordance with federal law. The form shall  
6 identify the applicant and contain information to establish  
7 his qualification for issuance of an absentee ballot under  
8 the Absent Voter Act; provided that on the application form  
9 for a general election ballot there shall be no box, space or  
10 place provided for designation of the voter's political party  
11 affiliation.

12 C. Each application for an absentee ballot shall  
13 be subscribed by the applicant and shall require the  
14 applicant's printed name, year of birth and unique identifier  
15 to be supplied by the applicant, which shall constitute the  
16 required form of identification, except for new registrants  
17 that have registered by mail and at that time did not provide  
18 acceptable identification.

19 D. An application for an absentee ballot by a  
20 federal qualified elector or an overseas voter shall be  
21 accepted at any time preceding the general election."

22 Section 43. Section 1-6-5 NMSA 1978 (being Laws 1969,  
23 Chapter 240, Section 131, as amended by Laws 2003, Chapter  
24 355, Section 4 and by Laws 2003, Chapter 356, Section 19 and  
25 also by Laws 2003, Chapter 357, Section 2) is amended to

1 read:

2 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

3 A. The county clerk shall mark each completed  
4 absentee ballot application with the date and time of receipt  
5 in the clerk's office and enter the required information in  
6 the absentee ballot register. The county clerk shall then  
7 determine if the applicant is a voter, an absent uniformed  
8 services voter or an overseas voter.

9 B. If the applicant does not have a valid  
10 certificate of registration on file in the county and is not  
11 a federal qualified elector or if the applicant states that  
12 the applicant is a federal qualified elector but the  
13 application indicates the applicant is not a federal  
14 qualified elector, an absentee ballot shall not be issued and  
15 the county clerk shall mark the application "rejected" and  
16 file the application in a separate file from those accepted.

17 C. The county clerk shall notify in writing each  
18 applicant of the fact of acceptance or rejection of the  
19 application and, if rejected, shall explain why the  
20 application was rejected.

21 D. If the applicant has on file with the county a  
22 valid certificate of registration that indicates that the  
23 applicant is a voter who is a new registrant and who  
24 registered by mail without submitting the required voter  
25 identification, the county clerk shall notify the voter that

1 the voter must submit with the absentee ballot the required  
2 physical form of identification. The county clerk shall note  
3 on the absentee ballot register and signature roster that the  
4 applicant's absentee ballot must be returned with the  
5 required identification.

6 E. If the county clerk finds that the applicant is  
7 a voter other than a federal qualified elector or overseas  
8 voter, the county clerk shall mark the application "accepted"  
9 and, beginning twenty-eight days before the election, deliver  
10 an absentee ballot to the voter in the county clerk's office  
11 or mail to the applicant an absentee ballot and the required  
12 envelopes for use in returning the ballot. If the county  
13 clerk finds that the applicant is a federal qualified elector  
14 or overseas voter, the county clerk shall mark the  
15 application "accepted" and beginning forty-five days before  
16 the election, mail to the applicant an absentee ballot and  
17 the required envelopes for use in returning the ballot.

18 Acceptance of an application of a federal qualified elector  
19 constitutes registration for the election in which the ballot  
20 is to be cast. Acceptance of an application from an overseas  
21 voter who is not an absent uniformed services voter  
22 constitutes a request for changing information on the  
23 certificate of registration of any such voter. An absent  
24 voter shall not be permitted to change party affiliation  
25 during those periods when change of party affiliation is

1 prohibited by the Election Code. Upon delivery of an  
2 absentee ballot to a voter in the county clerk's office or  
3 mailing of an absentee ballot to an applicant who is a voter,  
4 an appropriate designation shall be made on the signature  
5 line of the signature roster next to the name of the voter  
6 who has been provided or mailed an absentee ballot.

7 F. If an application for an absentee ballot is  
8 delivered in person to the county clerk and is accepted, the  
9 county clerk shall provide the voter an absentee ballot and  
10 it shall be marked by the applicant in a voting booth of a  
11 type prescribed by the secretary of state, sealed in the  
12 proper envelopes and otherwise properly executed and returned  
13 to the county clerk or his authorized representative before  
14 the voter leaves the office of the county clerk. The act of  
15 marking the absentee ballot in the office of the county clerk  
16 shall be a convenience to the voter in the delivery of the  
17 absentee ballot and does not make the office of the county  
18 clerk a polling place subject to the requirements of a  
19 polling place in the Election Code other than is provided in  
20 this subsection. It is unlawful to solicit votes, display or  
21 otherwise make accessible any posters, signs or other forms  
22 of campaign literature whatsoever in the clerk's office or  
23 alternate voting location. Absentee ballots may be marked in  
24 person at the county clerk's office during the regular hours  
25 and days of business beginning on the twenty-eighth day

1 preceding the election and from 10:00 a.m. to 6:00 p.m. on  
2 the Saturday immediately prior to the date of the election.  
3 In marking the absentee ballot, the voter, pursuant to the  
4 provisions of Section 1-12-15 NMSA 1978, may be assisted by  
5 one person of the voter's choice.

6 G. Absentee ballots shall be airmailed or, if so  
7 requested, electronically transmitted to applicants  
8 temporarily domiciled inside or outside the continental  
9 limits of the United States not later than on the Friday  
10 immediately prior to the date of the election.

11 H. An absentee ballot shall not be delivered or  
12 mailed by the county clerk to any person other than the  
13 applicant for such ballot.

14 I. The secretary of state and each county clerk  
15 shall make reasonable efforts to publicize and inform voters  
16 of the times and locations for absentee voting; provided,  
17 however, that notice is provided at least ten days before  
18 early voting begins.

19 J. The secretary of state shall establish  
20 procedures for the submittal, when required by federal law,  
21 of required voter identification with mailed-in absentee  
22 ballots."

23 Section 44. Section 1-6-5.4 NMSA 1978 (being Laws 1999,  
24 Chapter 267, Section 3) is amended to read:

25 "1-6-5.4. SECURITY--COUNTING AND CANVASSING.--

1           A. The secretary of state shall adopt rules for  
2 protecting the integrity, security and secrecy of the  
3 absentee ballots; procedures for voting by absentee ballot;  
4 separation of absentee ballots voted on electronic voting  
5 machines twenty days before the election from those received  
6 through the mail; disposition of absentee ballots rejected by  
7 a voting machine; and handling of, registering, counting and  
8 canvassing of absentee ballots.

9           B. As used in Chapter 1, Article 6 NMSA 1978,  
10 "registering of absentee ballots" means inserting the paper  
11 absentee ballot into an electronic voting system for  
12 recording and retention."

13           Section 45. Section 1-6-5.6 NMSA 1978 (being Laws 2003,  
14 Chapter 357, Section 6) is amended to read:

15           "1-6-5.6. EARLY VOTING--ALTERNATE VOTING PLACES--  
16 PROCEDURES.--The secretary of state shall adopt rules to:

17           A. ensure that voters have adequate access to  
18 alternate locations for early voting in each county, taking  
19 into consideration population density and travel time to the  
20 place of voting;

21           B. ensure that early voters are not allowed to  
22 vote in person on election day;

23           C. ensure that adequate interpreters are available  
24 at alternative early voting locations in those precincts  
25 having a majority of qualified electors who are part of a

1 recognized language minority; and

2 D. allow for mobile alternate voting places in  
3 rural areas of the state."

4 Section 46. Section 1-6-8 NMSA 1978 (being Laws 1969,  
5 Chapter 240, Section 134, as amended) is amended to read:

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

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

9 (1) official inner envelopes for use in  
10 sealing the completed absentee ballot;

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

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

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

21 B. Official transmittal envelopes and official  
22 mailing envelopes for transmission of absentee ballot  
23 materials to and from the county clerk and federal qualified  
24 electors shall be printed in red in the form prescribed by  
25 the federal Uniformed and Overseas Citizens Absentee Voting

1 Act. Official transmittal envelopes and official mailing  
2 envelopes for transmission of absentee ballot materials to  
3 and from the county clerk and voters shall be printed in  
4 black in substantially similar form. All official inner  
5 envelopes shall be printed in black.

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

13 D. The official mailing envelope shall contain a  
14 space for the voter to record the voter's unique identifier,  
15 year of birth and name. The envelope shall have a security  
16 flap to cover this information."

17 Section 47. Section 1-6-9 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 135, as amended) is amended to read:

19 "1-6-9. MANNER OF VOTING.--

20 A. A person voting pursuant to the Absent Voter  
21 Act shall secretly mark the absentee ballot in the manner  
22 provided in the Election Code for marking emergency paper  
23 ballots, place it in the official inner envelope and securely  
24 seal the envelope. The voter shall then place the official  
25 inner envelope inside the official mailing envelope and

1 securely seal the envelope. The voter shall then complete  
2 the form on the reverse of the official mailing envelope,  
3 which shall include an affirmation by the voter under penalty  
4 of perjury that the facts stated in the form are true and the  
5 voter's name, year of birth and unique identifier.

6 B. Federal qualified electors and overseas voters  
7 shall either deliver or mail the official mailing envelope or  
8 electronically transmit the absentee ballot to the county  
9 clerk of their county of residence or deliver it to a person  
10 designated by federal authority to receive executed ballots  
11 for transmission to the county clerk of the county of  
12 residence or former residence as the case may be. Voters  
13 shall either deliver or mail the official mailing envelope to  
14 the county clerk of their county of residence."

15 Section 48. 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  
21 ballot register and safely keep the official mailing envelope  
22 unopened in a locked and number-sealed ballot box until it is  
23 delivered to the proper absent voter precinct board or until  
24 it is canceled and destroyed in accordance with law.

25 B. The county clerk shall accept completed

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

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

1 Section 49. Section 1-6-10.1 NMSA 1978 (being Laws  
2 2003, Chapter 357, Section 5) is amended to read:

3 "1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--  
4 A voter, caregiver to that voter or member of that voter's  
5 immediate family may deliver that voter's absentee ballot to  
6 the county clerk in person or by mail, provided that the  
7 voter has subscribed the outer envelope of the absentee  
8 ballot."

9 Section 50. Section 1-6-11 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 137, as amended) is amended to read:

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

13 A. Beginning on the Thursday immediately preceding  
14 election day, the county clerk may deliver to the special  
15 deputy county clerk for delivery to the absent voter precinct  
16 board the absentee ballots received prior to the delivery  
17 day. The special deputy county clerk shall issue a receipt  
18 for all ballots delivered for the county clerk and shall  
19 observe the listing of the names on the official mailing  
20 envelopes in the signature rosters. The special deputy  
21 county clerk shall then obtain a receipt executed by the  
22 presiding judge and each election judge and shall return the  
23 receipt to the county clerk for filing. The receipts shall  
24 specify the number of envelopes received by the special  
25 deputy county clerk from the county clerk for the absent

1 voter precinct and the number of envelopes received by the  
2 absent voter precinct board from the special deputy county  
3 clerk.

4 B. On election day, the county clerk shall deliver  
5 all absentee ballots not yet delivered to the absent voter  
6 precinct board but received prior to 7:00 p.m. on election  
7 day to the special deputy county clerks for delivery to the  
8 absent voter precinct boards. The special deputy county  
9 clerk shall issue a receipt for all ballots delivered for the  
10 county clerk and shall observe the listing of the names on  
11 the official mailing envelope in the signature rosters. The  
12 special deputy county clerk shall then obtain a receipt  
13 executed by the presiding judge and each election judge and  
14 shall return the receipt to the county clerk for filing. The  
15 receipts shall specify the number of envelopes received by  
16 the special deputy county clerk from the county clerk for  
17 each absent voter precinct and the number of envelopes  
18 received by the absent voter precinct board from the special  
19 deputy county clerk.

20 C. At 7:00 a.m. on the Thursday prior to election  
21 day or on the day the absent voter precinct board begins  
22 early processing of absentee ballots, the county clerk shall  
23 deliver the electronic voting machines used for absentee  
24 voting by mail to the absent voter precinct board. The  
25 machines shall not be used to vote on or count additional

1 ballots for that election. A special deputy county clerk  
2 shall issue a receipt for each voting machine. Upon delivery  
3 of a voting machine, the special deputy shall:

4 (1) obtain a receipt executed by the  
5 presiding judge and each election judge specifying the serial  
6 number and the seal number of the machine;

7 (2) verify the public counter number on the  
8 machine; and

9 (3) return the receipt to the county clerk  
10 for filing."

11 Section 51. Section 1-6-14 NMSA 1978 (being Laws 1971,  
12 Chapter 317, Section 11, as amended by Laws 2003, Chapter  
13 354, Section 1 and by Laws 2003, Chapter 356, Section 22) is  
14 amended to read:

15 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
16 PRECINCT BOARDS.--

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

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

1 column of the signature rosters. The presiding judge shall  
2 place the official mailing envelope unopened in an envelope  
3 provided for rejected ballots, seal the envelope and write  
4 the voter's name on the front of the envelope and deposit it  
5 in the locked ballot box.

6 C. A lawfully appointed challenger may examine the  
7 official mailing envelope and may challenge the ballot of any  
8 absent voter for the following reasons:

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

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

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

24 D. If the official mailing envelope has been  
25 properly subscribed and the voter has not been challenged:

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

6                   (2) only between 8:00 a.m. and 5:00 p.m. on  
7 the five days preceding election day, including Saturday and  
8 Sunday, and beginning at 7:00 a.m. on election day, under the  
9 personal supervision of the presiding election judge, shall  
10 the election judges open the official mailing envelope and  
11 the official inner envelope and insert the enclosed ballot  
12 into an electronic voting machine to be registered and  
13 retained until votes are counted and canvassed following the  
14 closing of the polls on election night.

15                  E. It is unlawful for a person to disclose the  
16 results of a count and tally or the registration on a voting  
17 machine of absentee ballots prior to the closing of the  
18 polls.

19                  F. Absentee ballots shall be counted and tallied  
20 on an electronic voting machine as provided in the Election  
21 Code.

22                  G. Absent voter precinct polls shall close at the  
23 time prescribed by the Election Code for other polling  
24 places, and the results of the election shall be certified as  
25 prescribed by the secretary of state.

1 H. If an absentee ballot does not contain the  
2 identification required pursuant to Subsection D of Section  
3 1-6-5 NMSA 1978, it shall be handled as a provisional paper  
4 ballot in accordance with the Election Code."

5 Section 52. Section 1-6-20 NMSA 1978 (being Laws 1969,  
6 Chapter 54, Section 3, as amended) is amended to read:

7 "1-6-20. CREATION OF ABSENT VOTER PRECINCT.--

8 A. The board of county commissioners shall adopt a  
9 resolution creating, for absent voting purposes only, an  
10 absent voter precinct for each county.

11 B. Absent voter precincts shall be identified by  
12 the name of the county."

13 Section 53. Section 1-6-22 NMSA 1978 (being Laws 1969,  
14 Chapter 54, Section 4, as amended) is amended to read:

15 "1-6-22. DESIGNATION OF ABSENT VOTER PRECINCT POLLING  
16 PLACE.--The board of county commissioners of each county  
17 shall designate a polling place in each absent voter precinct  
18 at the time the precinct is created."

19 Section 54. Section 1-6-23 NMSA 1978 (being Laws 1975,  
20 Chapter 255, Section 95, as amended) is amended to read:

21 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON  
22 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or  
23 statutorily appointed supervisor of the election shall  
24 determine the hours during which the absent voter precinct  
25 polling place shall be open for delivery and registering of

1 absentee ballots on the five days preceding election day  
2 and the delivery, registering and counting of ballots on  
3 election day and subsequent days until all ballots are  
4 counted."

5 Section 55. Section 1-8-52 NMSA 1978 (being Laws 1977,  
6 Chapter 322, Section 8, as amended) is amended to read:

7 "1-8-52. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED  
8 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING  
9 PETITIONS--CIRCULATION--DATE OF FILING.--

10 A. Declarations of independent candidacy and  
11 nominating petitions shall be filed with the proper filing  
12 officer during the period commencing at 9:00 a.m. on the day  
13 following the primary election of each even-numbered year and  
14 ending at 5:00 p.m. on that same day and not later than  
15 5:00 p.m. on the fifty-sixth day preceding any United States  
16 representative special election.

17 B. Declarations of independent candidacy and  
18 nominating petitions for the office of president of the  
19 United States shall be filed with the proper filing officer  
20 during the period commencing at 9:00 a.m. on the day  
21 following the primary election and ending at 5:00 p.m. on the  
22 same day."

23 Section 56. A new section of Chapter 1, Article 9 NMSA  
24 1978 is enacted to read:

25 "VOTING SYSTEM--VOTER VERIFIABLE PAPER TRAIL.--

1           A. All voting systems used in elections covered by  
2 the Election Code shall have a voter verifiable and auditable  
3 paper trail; provided, however, that voting systems owned or  
4 used by a county on the effective date of this 2005 act that  
5 do not have a voter verifiable and auditable paper trail may  
6 be used until the first occurrence of the following:

7                   (1) sufficient federal, state or local funds  
8 are available to replace the voting system; or

9                   (2) December 31, 2006.

10           B. In any event, no voting system shall be used  
11 that has not been certified by the secretary of state.

12           C. As used in this section:

13                   (1) "voting system" includes a paper ballot  
14 system in which the voter physically marks the paper ballot  
15 to indicate the voter's choices; and

16                   (2) "voter verifiable and auditable paper  
17 trail" means a paper record of the voter's choices, viewable  
18 prior to casting the ballot, which may be the paper ballot  
19 itself; the paper trail shall be used by the state or its  
20 contractor to check either the veracity of a machine count or  
21 the count itself, or may be used in a recount proceeding, and  
22 in case of a discrepancy, the voter verifiable and auditable  
23 paper trail shall be considered the true and correct record  
24 of the voter's choices."

25           Section 57. A new section of Chapter 1, Article 9 NMSA

1 1978 is enacted to read:

2 "VOTING SYSTEMS--TESTING OF PREVIOUSLY CERTIFIED  
3 SYSTEMS.--The secretary of state may voluntarily test and  
4 certify voting systems without an application by the  
5 manufacturer if the system has been previously certified by  
6 other states or by the national association of state election  
7 directors. Tests and inspections conducted pursuant to this  
8 section shall follow the testing procedures in Section 1-9-14  
9 NMSA 1978 and shall be completed within six months of the  
10 date on which testing begins; provided, however, that if the  
11 manufacturer has not applied for certification of that voting  
12 system, the manufacturer shall not be required to pay for the  
13 costs of testing and certification."

14 Section 58. Section 1-9-4.2 NMSA 1978 (being Laws 2003,  
15 Chapter 356, Section 9) is amended to read:

16 "1-9-4.2. DEFINITION OF A VOTE.--

17 A. A vote on a touch-screen direct recording  
18 electronic voting system or electronic voting system consists  
19 of a voter's selection of a candidate or answer to a ballot  
20 question selected by the electro-optical ballot display of  
21 the device, followed by the voter activating the cast vote  
22 indicator.

23 B. A vote on a paper ballot card used on an  
24 electronic vote tabulating marksense voting system, optical  
25 scan vote tabulating system or high-speed central count

1 marksense vote tabulator consists of a voter's selection of a  
2 candidate or answer to a ballot question indicated in the  
3 voting response area of the paper ballot card marked in  
4 accordance with the instructions for that ballot type. If  
5 the paper ballot card is marked indistinctly or not marked  
6 according to the instructions for that ballot type, only a  
7 cross (X) or a check (✓) within the voting response area  
8 shall be counted. A vote on a paper ballot card shall also  
9 be counted if, on a ballot type requiring the completion of  
10 an arrow to indicate a voter's selection, the voter has  
11 marked an arrowhead on the tail portion of the arrow in the  
12 voting response area or has circled the name of the preferred  
13 candidate or both."

14 Section 59. A new section of Chapter 1, Article 12 NMSA  
15 1978 is enacted to read:

16 "CONDUCT OF ELECTIONS--SUSPENSION OF CERTAIN VOTER  
17 IDENTIFICATION REQUIREMENTS.--If on election day the amount  
18 of time voters must spend in line before being able to vote  
19 in the precinct exceeds forty-five minutes, the presiding  
20 judge of the precinct shall suspend all physical forms of  
21 voter identification requirements other than those mandated  
22 by federal law; provided, however, that at the request of two  
23 or more precinct board members of different political  
24 parties, a voter shall still present the required physical  
25 form of identification, and in the case of a voter who does

1 not provide the required name, birth year and unique  
2 identifier, the voter shall still be required to present the  
3 required physical form of identification."

4 Section 60. A new section of Chapter 1, Article 12 NMSA  
5 1978 is enacted to read:

6 "CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF ABSENTEE  
7 BALLOT BY VOTER--PROCEDURES.--

8 A. A voter who requested and received an absentee  
9 ballot shall be allowed to deliver the official mailing  
10 envelope containing the voter's absentee ballot on election  
11 day to the precinct in which the voter is registered if the  
12 voter presents the official mailing envelope to the election  
13 judge before the polls close on election day.

14 B. The election judge shall note on the signature  
15 roster that the voter delivered the absentee ballot in person  
16 on election day. The precinct board shall deliver the  
17 unopened official mailing envelopes to the absent voter  
18 precinct board before midnight on election day."

19 Section 61. A new section of Chapter 1, Article 12 NMSA  
20 1978 is enacted to read:

21 "QUALIFYING PROVISIONAL, ABSENTEE AND OTHER PAPER  
22 BALLOTS.--

23 A. The secretary of state shall issue rules to  
24 create a uniform process and set of criteria for deciding if  
25 provisional, absentee and other paper ballots shall be

1 counted.

2 B. When qualifying provisional, absentee and other  
3 paper ballots, middle initials, suffixes and addresses shall  
4 not be dispositive as to whether that person's ballot is  
5 qualified and counted in the vote totals, provided that the  
6 county clerk can otherwise verify the person is a voter based  
7 on the information provided on the outer envelope of the  
8 paper ballot or affidavit."

9 Section 62. A new section of Chapter 1, Article 12 NMSA  
10 1978 is enacted to read:

11 "CONDUCT OF ELECTION--USE OF VOTER'S COPY OF CERTIFICATE  
12 OF REGISTRATION--PROCEDURES.--If a voter whose name is not in  
13 the signature roster presents the voter's duplicate of the  
14 voter's certificate of registration, the voter shall be  
15 allowed to vote on a provisional ballot in the proper  
16 precinct in accordance with the provisions of Section 1-5-10  
17 NMSA 1978. The election judge shall inform the voter that  
18 the voter will be notified by the county clerk to provide a  
19 copy of the certificate of registration to the county clerk  
20 if the original certificate is not located. A note shall be  
21 entered on the signature roster indicating that the voter's  
22 certificate of registration should be checked by the county  
23 clerk."

24 Section 63. Section 1-5-10 NMSA 1978 (being Laws 1969,  
25 Chapter 240, Section 112, as amended) is recompiled as

1 Section 1-12-7.1 NMSA 1978 and is amended to read:

2 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING  
3 ELECTION.--

4 A. Each precinct board using voter lists shall  
5 post securely at or near the entrance of the polling place  
6 one copy of the precinct voter list for use of the voters  
7 prior to voting. The posted copy shall not contain a listing  
8 of voter social security numbers.

9 B. The presiding judge of the precinct board shall  
10 assign one judge of the board to be in charge of one copy of  
11 the precinct voter list, which shall be used to confirm the  
12 registration and voting of each person offering to vote.

13 C. The presiding judge of the precinct board shall  
14 assign one election clerk to be in charge of the signature  
15 roster.

16 D. The judge assigned to the precinct voter list  
17 used for confirmation of registration and voting shall  
18 determine that each person offering to vote is registered  
19 and, in the case of a primary election, that the voter is  
20 registered in a party designated on the primary election  
21 ballot. If the person's registration is confirmed by the  
22 presence of the person's name on the precinct voter list and  
23 the voter provides the required voter identification, the  
24 judge shall announce to the election clerks the list number  
25 and the name of the voter as shown on the precinct voter

1 list. If the voter does not provide the required voter  
2 identification, the voter shall be allowed to vote on a  
3 provisional ballot and shall provide the required voter  
4 identification to the county clerk's office before the county  
5 canvass begins, or to the precinct board before the polls  
6 close, or the voter's provisional ballot shall not be  
7 qualified. If the required voter identification is provided,  
8 the voter's provisional ballot shall be qualified and the  
9 voter shall not vote on any other type of ballot.

10 E. The election clerk shall locate that list  
11 number and name on the signature roster and shall require the  
12 voter to sign the voter's usual signature or, if unable to  
13 write, to make the voter's mark opposite the voter's printed  
14 name. If the voter makes the voter's mark, it shall be  
15 witnessed by one of the judges of the precinct board. If the  
16 signature roster indicates that the voter is required to  
17 present a physical form of identification before voting, the  
18 election judge shall ask the voter for the required physical  
19 form of identification. If the voter does not provide the  
20 required identification, the voter shall be allowed to vote  
21 on a provisional paper ballot; provided, however, that if the  
22 voter brings the required physical form of identification to  
23 the polling place after casting a provisional ballot, that  
24 ballot shall be qualified and the voter shall not vote on any  
25 other type of ballot.

1 F. The election judge shall follow the procedures  
2 provided for in Sections 1-12-7.2 and 1-12-8 NMSA 1978 if a  
3 person whose name does not appear on the signature roster  
4 requests to vote or a person is required to vote on a  
5 provisional paper ballot.

6 G. A voter shall not be permitted to vote until  
7 the voter has properly signed the voter's usual signature or  
8 made the voter's mark in the signature roster.

9 H. After the poll is closed, the election clerk in  
10 charge of a signature roster shall draw a single horizontal  
11 line in ink through each signature space in the signature  
12 roster where no signature or mark appears."

13 Section 64. Section 1-12-8 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 247, as amended) is amended to read:

15 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

16 A. A person shall be permitted to vote on a  
17 provisional paper ballot even though the person's original  
18 certificate of registration cannot be found in the county  
19 register or even if the person's name does not appear on the  
20 signature roster, provided:

21 (1) the person's residence is within the  
22 boundaries of the county in which the person offers to vote;

23 (2) the person's name is not on the list of  
24 persons submitting absentee ballots; and

25 (3) the person executes a statement swearing

1 or affirming to the best of the person's knowledge that the  
2 person is a qualified elector, is currently registered and  
3 eligible to vote in that county and has not cast a ballot or  
4 voted in that election.

5 B. A voter shall vote on a provisional paper  
6 ballot if the voter:

7 (1) has not previously voted in a general  
8 election in New Mexico or has been purged from the voter  
9 list;

10 (2) registered to vote by mail;

11 (3) did not submit the physical form of the  
12 required voter identification with the certificate of  
13 registration form; and

14 (4) does not present to the election judge a  
15 physical form of the required voter identification.

16 C. A voter shall vote on a provisional ballot in  
17 accordance with the provisions of Section 1-12-7.1 NMSA 1978  
18 if the voter does not provide the required voter  
19 identification to the election judge.

20 D. An election judge shall have the voter sign the  
21 signature roster and issue the voter a provisional paper  
22 ballot, an outer envelope and an official inner envelope.  
23 The voter shall vote on the provisional paper ballot in  
24 secrecy and when done, place the ballot in the official inner  
25 envelope and place the official inner envelope in the outer

1 envelope and return it to the precinct officer. The election  
2 judge shall ensure that the required information is completed  
3 on the outer envelope, have the voter sign it in the  
4 appropriate place and place it in an envelope designated for  
5 provisional paper ballots.

6 E. Knowingly executing a false statement  
7 constitutes perjury as provided in the Criminal Code of this  
8 state, and voting on the basis of such falsely executed  
9 statement constitutes fraudulent voting."

10 Section 65. Section 1-12-10 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 249, as amended) is amended to read:

12 "1-12-10. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,  
13 SIGNATURE.--

14 A. When a voter presents himself at the polls to  
15 vote, he shall announce his name and address in an audible  
16 tone of voice. When an election judge finds the voter's name  
17 in the signature roster, he shall in like manner repeat the  
18 name of the voter. The election judge shall then ask the  
19 voter to provide the required voter identification. The  
20 voter shall then sign his name or make his mark on the  
21 signature line in the copy of the signature roster to be  
22 returned to the county clerk. Upon the voter's name or mark  
23 being written in the signature roster, a challenge may be  
24 interposed as provided in the Election Code.

25 B. If a voter fails to provide the required voter

1 identification, the voter shall be allowed to vote on a  
2 provisional ballot."

3 Section 66. Section 1-12-10.1 NMSA 1978 (being Laws  
4 2003, Chapter 356, Section 2) is amended to read:

5 "1-12-10.1. CONDUCT OF ELECTIONS--VOTER INFORMATION.--

6 A. The secretary of state shall issue rules  
7 describing the voter information the county clerks shall  
8 display, in accordance with the federal Help America Vote Act  
9 of 2002, in each polling place on election day and in each  
10 county clerk's office and alternate location where absentee  
11 or early voting is taking place.

12 B. Each polling place shall post the phone numbers  
13 of the county clerk and the secretary of state and a map of  
14 the precincts represented in that polling place and an  
15 alphabetical list of the voters in each precinct represented  
16 in that polling place."

17 Section 67. Section 1-12-12 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 265, as amended) is amended to read:

19 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR  
20 ASSISTANCE.--A voter may request assistance in voting only if  
21 the voter:

- 22 A. is blind;
- 23 B. is physically disabled;
- 24 C. is unable to read or write;
- 25 D. is a member of a language minority who has an

1 inability to read well enough to exercise the elective  
2 franchise; or

3 E. requires assistance in operating the voting  
4 system."

5 Section 68. Section 1-12-15 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 267, as amended) is amended to read:

7 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST  
8 VOTER.--

9 A. In any primary, general or statewide special  
10 election, if a voter who has requested assistance in marking  
11 the ballot is blind, has a physical disability, has an  
12 inability to read or write or is a member of a language  
13 minority who has requested assistance pursuant to Subsection  
14 D of Section 1-12-12 NMSA 1978, the voter may be accompanied  
15 into the voting machine only by a person of the voter's own  
16 choice other than the voter's employer or an agent of that  
17 employer, an officer or agent of the voter's union or a  
18 candidate whose name appears on the ballot in this election.

19 B. The name of the person providing assistance to  
20 a voter pursuant to this section shall be recorded on the  
21 signature roster."

22 Section 69. Section 1-12-19.1 NMSA 1978 (being Laws  
23 1981, Chapter 156, Section 2, as amended) is amended to read:

24 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--  
25 WRITE-IN CANDIDATES.--

1           A. A person desiring to be a write-in candidate in  
2 a special election for United States representative or a  
3 statewide special election shall file with the proper filing  
4 officer a declaration of intent to be a write-in candidate.  
5 The declaration of intent shall be filed between 9:00 a.m.  
6 and 5:00 p.m. on the sixty-third day immediately preceding  
7 the election. A person desiring to be a write-in candidate  
8 in a general election shall file the declaration of intent  
9 between 9:00 a.m. and 5:00 p.m. on the day after the primary  
10 election.

11           B. The form of the declaration of intent shall be  
12 prescribed by the secretary of state and shall contain a  
13 sworn statement by the candidate that the candidate is  
14 qualified to be a candidate for and to hold the office for  
15 which the candidate is filing.

16           C. At the time of filing the declaration of intent  
17 to be a write-in candidate, the write-in candidate shall be  
18 considered a candidate for all purposes and provisions  
19 relating to candidates in the Election Code, including the  
20 obligation to report under the Campaign Reporting Act, except  
21 that the candidate shall not be entitled to have the  
22 candidate's name printed on the ballot.

23           D. The secretary of state shall, not less than ten  
24 days before the general election, certify the names of the  
25 declared write-in candidates to the county clerks of every

1 county affected by such candidacy.

2 E. No person shall be a write-in candidate in the  
3 general election who was a candidate in the primary election  
4 immediately prior to the general election.

5 F. A vote for a write-in candidate shall be  
6 counted and canvassed only if:

7 (1) the name written in is the name of a  
8 declared write-in candidate and shows two initials and last  
9 name; first name, middle initial or name and last name; first  
10 and last name; or the full name as it appears on the  
11 declaration of intent to be a write-in candidate and  
12 misspellings of the above combinations that can be reasonably  
13 determined by a majority of the members of the precinct board  
14 to identify a declared write-in candidate; and

15 (2) the name is written in the proper office  
16 or entered upon the keyboard on the voting machine or on the  
17 proper line provided on a marksense ballot, absentee ballot  
18 or emergency paper ballot for write-in votes for the office  
19 for which the candidate has filed a declaration of intent.

20 G. No unopposed write-in candidate shall have an  
21 election certified unless the candidate receives at least the  
22 number of write-in votes as the candidate would need  
23 signatures on a nominating petition pursuant to the  
24 requirements in Section 1-8-33 NMSA 1978.

25 H. A write-in vote shall be cast by writing in the

1 name. As used in this section, "write-in" does not include  
2 the imprinting of any name by rubber stamp or similar device  
3 or the use of preprinted stickers or labels."

4 Section 70. Section 1-12-25.2 NMSA 1978 (being Laws  
5 2003, Chapter 356, Section 3) is amended to read:

6 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--  
7 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

8 A. If a voter is required to vote on a provisional  
9 paper ballot, the election judge shall give the voter written  
10 instructions on how the voter may determine whether the vote  
11 was counted and, if the vote was not counted, the reason it  
12 was not counted.

13 B. The county clerk shall establish a free access  
14 system, such as a toll-free telephone number or internet web  
15 site, that a voter who casts a provisional paper ballot may  
16 access to ascertain whether the voter's ballot was counted  
17 and, if the vote was not counted, the reason it was not  
18 counted. Access to information about an individual voter's  
19 provisional ballot is restricted to the voter who cast the  
20 ballot.

21 C. Beginning with the closing of the polls on  
22 election day through the tenth day following the election,  
23 the county clerk shall notify by certified mail each person  
24 whose provisional ballot was not counted of the reason the  
25 ballot was not counted. The voter shall have until the

1 Friday prior to the meeting of the state canvassing board to  
2 appeal to the county clerk a decision to reject the voter's  
3 ballot. The secretary of state shall establish procedures  
4 for handling appeals to the county clerk."

5 Section 71. Section 1-12-25.3 NMSA 1978 (being Laws  
6 2003, Chapter 356, Section 6) is amended to read:

7 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED  
8 INFORMATION.--

9 A. At a minimum, the following information shall  
10 be printed on the outer envelope for a provisional paper  
11 ballot:

- 12 (1) the name and signature of the voter;
- 13 (2) the voter's registered address, both  
14 present and former if applicable;
- 15 (3) the voter's date of birth;
- 16 (4) the reason for using the ballot;
- 17 (5) the precinct and the polling place at  
18 which the voter has voted;
- 19 (6) the voter's social security number; and
- 20 (7) sufficient space to list the disposition  
21 of the ballot after review by the county clerk.

22 B. A provisional paper ballot shall not be  
23 rejected for lack of the information required by this section  
24 and shall be qualified as long as the voter provides a valid  
25 signature and sufficient information for the clerk to

1 determine the voter is a qualified elector."

2 Section 72. Section 1-12-25.4 NMSA 1978 (being Laws  
3 2003, Chapter 356, Section 7) is amended to read:

4 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

5 A. Upon closing of the polls, provisional paper  
6 ballots shall be delivered to the county clerk, who shall  
7 determine if the ballots will be counted prior to  
8 certification of the election.

9 B. A provisional paper ballot shall not be counted  
10 if the registered voter did not sign either the signature  
11 roster or the ballot's envelope.

12 C. If there is no record of the voter ever having  
13 been registered in the county, the voter shall be offered the  
14 opportunity to register and the provisional paper ballot  
15 shall not be counted.

16 D. If the voter was registered in the county, the  
17 registration was later canceled and the county clerk  
18 determines that the cancellation was in error, the voter's  
19 registration shall be immediately restored and the  
20 provisional paper ballot counted.

21 E. If the county clerk determines that the  
22 cancellation was not in error, the voter shall be offered the  
23 opportunity to register at the voter's correct address, and  
24 the provisional paper ballot shall not be counted.

25 F. If the voter is a registered voter in the

1 county, but has voted on a provisional paper ballot at a  
2 polling place other than the voter's designated polling  
3 place, the county canvassing board shall ensure that only  
4 those votes for the positions or measures for which the voter  
5 was eligible to vote are counted.

6 G. If the county clerk finds that the voter who  
7 voted on a provisional paper ballot at the polls has also  
8 voted an absentee ballot in that election, the provisional  
9 paper ballot shall not be counted.

10 H. The county canvassing board shall prepare a  
11 tally displaying the number of provisional paper ballots  
12 received, the number found valid and counted, the number  
13 rejected and not counted and the reason for not counting the  
14 ballots as part of the canvassing process and forward it to  
15 the secretary of state immediately upon certification of the  
16 election.

17 I. The secretary of state shall issue rules to  
18 ensure securing the secrecy of the provisional paper ballots,  
19 especially during canvassing, reviewing or recounting, and  
20 protecting against fraud in the voting process."

21 Section 73. Section 1-5-11 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 113, as amended) is recompiled as  
23 Section 1-12-30.1 NMSA 1978 and is amended to read:

24 "1-12-30.1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION  
25 AFTER THE POLLS CLOSE.--

1           A. After the polls are closed, the signature  
2 roster shall be properly certified by the precinct board and  
3 returned to the county clerk with the election returns  
4 destined for the county clerk. The precinct voter list  
5 marked for the secretary of state shall be returned to the  
6 secretary of state with the election returns destined for the  
7 secretary of state.

8           B. The signed and certified signature rosters used  
9 in any election shall be considered a part of the election  
10 returns and treated accordingly. They shall be preserved and  
11 finally disposed of in the same manner as provided in the  
12 Election Code and 42 U.S.C. 1974.

13           C. Whoever willfully destroys, defaces, alters  
14 without authorization or improperly disposes of signature  
15 rosters used in an election is guilty of a fourth degree  
16 felony."

17           Section 74. Section 1-12-53 NMSA 1978 (being Laws 1977,  
18 Chapter 222, Section 56, as amended) is amended to read:

19           "1-12-53. EMERGENCY SITUATIONS--VOTERS--EMERGENCY PAPER  
20 BALLOT--GENERAL ELECTION--MARKING.--The voter in preparing an  
21 emergency paper ballot in a general election shall mark the  
22 ballot in accordance with the instructions for that ballot  
23 type."

24           Section 75. A new section of Chapter 1, Article 14 NMSA  
25 1978 is enacted to read:

1 "POST-ELECTION DUTIES--RANDOM VOTING SYSTEM CHECK--  
2 RECOUNT.--

3 A. The secretary of state shall direct the county  
4 clerks to compare the total votes tallied in the general  
5 election for the office of president or governor from two  
6 percent of the voting systems in the state with total votes  
7 tallied by hand from the voter verifiable and auditable paper  
8 trail from those voting systems. The check of the voting  
9 systems shall occur within five days of the completion of the  
10 county canvass. Canvass observers shall be allowed to  
11 observe the audit under the same conditions and restrictions  
12 as for observing the county canvass. In the event that one  
13 of the randomly selected voting machines is used for absentee  
14 voting, then the prescribed certification procedure shall be  
15 used to verify the accuracy of that machine's vote total.

16 B. For voting machines not used for absentee  
17 voting, if the vote totals for the voting system and the  
18 voter verifiable and auditable paper trail differ by more  
19 than one and one-half percent, the secretary of state shall  
20 have a recount conducted for the office in the precincts of  
21 the legislative district in which the discrepancy occurred.  
22 For voting machines used for absentee voting, if the results  
23 of the re-certification process produce an error rate that  
24 exceeds one and one-half percent or the error threshold  
25 approved for that machine, whichever is more restrictive, the

1 ballots counted on that machine shall be recounted."

2 Section 76. A new section of Chapter 1, Article 14 NMSA  
3 1978 is enacted to read:

4 "CONTESTS, RECOUNTS AND RECHECKS--PROVISIONAL, ABSENTEE  
5 AND OTHER PAPER BALLOTS.--The secretary of state shall issue  
6 rules governing and allowing procedures for reviewing the  
7 qualification of provisional ballot envelopes, absentee and  
8 other paper ballots in the case of a contest, recount or  
9 recheck of election results. All rejected provisional paper  
10 ballot envelopes shall be included in any contest, recount or  
11 recheck of election results, and a review of the  
12 qualification of provisional ballot envelopes shall occur in  
13 a recount."

14 Section 77. Section 1-14-15 NMSA 1978 (being Laws 1978,  
15 Chapter 48, Section 1, as amended) is amended to read:

16 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

17 A. An applicant for a recount shall deposit with  
18 the proper canvassing board or, in the case of an office for  
19 which the state canvassing board issues a certificate of  
20 nomination or election, with the secretary of state fifty  
21 dollars (\$50.00) in cash, or a sufficient surety bond in an  
22 amount equal to fifty dollars (\$50.00), for each precinct for  
23 which a recount is demanded. An applicant for a recheck  
24 shall deposit with the proper canvassing board or, in the  
25 case of an office for which the state canvassing board issues

1 a certificate of nomination or election, with the secretary  
2 of state ten dollars (\$10.00) in cash, or a sufficient surety  
3 bond in an amount equal to ten dollars (\$10.00), for each  
4 voting machine to be rechecked.

5 B. The deposit or surety bond shall be security  
6 for the payment of the costs and expenses of the recount or  
7 recheck in case the results of the recount or recheck are not  
8 sufficient to change the results of the election. The state  
9 canvassing board may condition the issuance of the summons on  
10 a receipt of a portion of or the full estimated costs of the  
11 recount or recheck to ensure sufficient security.

12 C. If it appears that error or fraud sufficient to  
13 change the winner of the election has been committed, the  
14 costs and expenses of the recount or recheck shall be paid by  
15 the state upon warrant issued by the secretary of finance and  
16 administration supported by a voucher of the secretary of  
17 state, or shall be paid by the county upon warrant of the  
18 county clerk from the general fund of the county, as the case  
19 may be.

20 D. If no error or fraud appears to be sufficient  
21 to change the winner, the costs and expenses for the recount  
22 or recheck shall be paid by the applicant. Costs shall  
23 consist of any docket fees, mileage of the sheriff in serving  
24 summons and fees and mileage of precinct board members, at  
25 the same rates allowed witnesses in civil actions. If error

1 or fraud has been committed by a precinct board, the board  
2 members shall not be entitled to such mileage or fees."

3 Section 78. TEMPORARY PROVISION--RECOMPILATION.--

4 Section 1-5-12 NMSA 1978 (being Laws 1969, Chapter 240,  
5 Section 114, as amended) is recompiled as Section 1-12-7.2  
6 NMSA 1978.

7 Section 79. REPEAL.--Sections 1-5-9, 1-5-13, 1-5-15,  
8 1-5-20, 1-5-27 through 1-5-29 and 1-6-21 NMSA 1978 (being  
9 Laws 1969, Chapter 240, Sections 111, 115 and 120, Laws 1977,  
10 Chapter 222, Section 11, Laws 1975, Chapter 255, Sections 81  
11 through 83 and Laws 1975, Chapter 255, Section 93, as  
12 amended) are repealed.

13 Section 80. REPEAL.--Laws 2003, Chapter 356, Section 18  
14 is repealed.

15 Section 81. EFFECTIVE DATE.--

16 A. The effective date of the provisions of  
17 Sections 1 through 74 and 76 through 80 of this act is July  
18 1, 2005.

19 B. The effective date of the provisions of Section  
20 75 of this act is January 1, 2007. \_\_\_\_\_

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