

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 340

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO ELECTIONS; CHANGING VOTER IDENTIFICATION
REQUIREMENTS FOR VOTING IN PERSON OR BY MAIL; PROVIDING FOR
ISSUANCE OF IDENTIFICATION CARDS WITHOUT CHARGE; PROVIDING FOR
REIMBURSEMENT OF THE COSTS OF ISSUING IDENTIFICATION CARDS;
CHANGING PROCEDURES FOR THE ISSUANCE OF TEMPORARY LICENSES;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 1-1-24 NMSA 1978 (being Laws 2005,
Chapter 270, Section 6, as amended) is amended to read:

"1-1-24. ~~[REQUIRED]~~ VOTER IDENTIFICATION.--

A. As used in the Election Code, when a person
offers to vote in person, "required voter identification" means
~~[any of the following forms of identification as chosen by the~~
~~voter:~~

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underscored material = new
[bracketed material] = delete

1 A. ~~a physical form of identification, which may~~
2 be]:

3 (1) a physical form of identification that is
4 issued by a government, including a federally recognized Indian
5 nation, tribe or pueblo, or by an educational institution and
6 that:

7 (a) contains the name of the voter,
8 which reasonably matches the name on the voter's certificate of
9 registration and is presumed to match unless a challenge is
10 successfully interposed;

11 (b) contains a photograph of the voter,
12 which resembles the person offering to vote and is presumed to
13 resemble the person unless a challenge is successfully
14 interposed; provided that, in the case of identification or a
15 letter of enrollment issued by a federally recognized Indian
16 nation, tribe or pueblo, a photograph of the voter is not
17 required;

18 (c) may or may not contain an address,
19 and if it does, the address is not required to match the
20 voter's certificate of registration; and

21 (d) may or may not contain an expiration
22 date, and if it does, the expiration date is not required to be
23 a date on or after the election in which the identification is
24 used; or

25 (2) a picture of the voter contained in the

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1 voter registration database available to the election clerk at
2 the time the voter offers to vote, along with a written or
3 verbal statement by the voter of the voter's name, registration
4 address and year of birth; provided that:

5 (a) the name reasonably matches the name
6 on the voter's certificate of registration and is presumed to
7 match unless a challenge is interposed; and

8 (b) the picture resembles the person
9 offering to vote and is presumed to resemble the person unless
10 a challenge is interposed.

11 B. As used in the Election Code, when a person
12 offers to vote by mail, "required voter identification" means a
13 form containing the following information filled out and signed
14 by the voter that contains the voter's name and registration
15 address, and:

16 (1) the driver's license number or the
17 identification card number on the most recent driver's license
18 or identification card issued to the voter by the motor vehicle
19 division of the taxation and revenue department, whether
20 expired or unexpired; provided that the address on file with
21 the motor vehicle division is not required to match the address
22 on the voter's certificate of registration; or

23 (2) the voter's month, day and year of birth
24 and full social security number; provided that:

25 (a) the voter's month, day and year of

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1 birth matches the date of birth listed on the voter's
2 certificate of registration; and

3 (b) the voter's full social security
4 number matches the social security number listed on the voter's
5 certificate of registration.

6 ~~[(1) an original or copy of a current and~~
7 ~~valid photo identification with or without an address, which~~
8 ~~address is not required to match the voter's certificate of~~
9 ~~registration; or~~

10 ~~(2) an original or copy of a utility bill,~~
11 ~~bank statement, government check, paycheck, student~~
12 ~~identification card or other government document, including~~
13 ~~identification issued by an Indian nation, tribe or pueblo,~~
14 ~~that shows the name and address of the person, the address of~~
15 ~~which is not required to match the voter's certificate of~~
16 ~~registration; or~~

17 ~~B. a verbal or written statement by the voter of~~
18 ~~the voter's name, registration address and year of birth;~~
19 ~~provided, however, that the statement of the voter's name need~~
20 ~~not contain the voter's middle initial or suffix.]"~~

21 SECTION 2. Section 1-4-11 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 67, as amended) is amended to read:

23 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
24 CERTIFICATES.--

25 A. Upon receipt of a complete certificate of

1 registration, if in proper form, the county clerk shall
2 determine if the qualified elector applying for registration is
3 already registered in the registration records of the county.
4 If the qualified elector is not already registered in the
5 county and if the certificate of registration is received
6 within the time allowed by law for filing certificates of
7 registration in the county clerk's office, the county clerk
8 shall sign or stamp, in the space provided therefor on each
9 copy of the certificate, the qualified elector's name and the
10 date the certificate was accepted for filing in the county
11 registration records. Voter information shall be handed or
12 mailed immediately to the qualified elector and to no other
13 person.

14 B. If the qualified elector is already registered
15 in the county as shown by the qualified elector's original
16 certificate of registration currently on file in the county
17 registration records, the county clerk shall not accept the new
18 certificate of registration unless it is filed pursuant to
19 Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. If the
20 applicant's certificate of registration is rejected for any
21 reason, the county clerk shall stamp or write the word
22 "rejected" on the new certificate of registration and hand or
23 mail it, if possible, to the applicant with an explanation of
24 why the new certificate of registration was rejected and what
25 remedial action, if any, the applicant must take to bring the

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1 registration up to date or into compliance with the Election
2 Code.

3 ~~[G. If the qualified elector does not register in
4 person, indicates that the qualified elector has not previously
5 voted in a general election in New Mexico and does not provide
6 the registration officer with the required identification, the
7 registration officer shall indicate this on the qualified
8 elector's certificate of registration and the county clerk
9 shall note this on the appropriate precinct signature roster.]"~~

10 SECTION 3. Section 1-4-12 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 68, as amended) is amended to read:

12 "1-4-12. DUTIES OF COUNTY CLERK--FILING OF
13 CERTIFICATES.--

14 A. Certificates of registration, if in proper form,
15 shall be processed and filed by the county clerk as follows:

16 (1) a voter [~~identification card~~] information
17 document shall be delivered or mailed to the voter; and

18 (2) the original certificate shall be filed
19 alphabetically by surname and inserted into the county register
20 pursuant to Section 1-5-5 NMSA 1978.

21 B. Except as provided in Section 1-4-8 NMSA 1978,
22 the county clerk shall, on Monday of each week, process all
23 certificates of registration that are in proper form and that
24 were received in [~~his~~] the county clerk's office up to 5:00
25 p.m. on the preceding Friday.

1 C. The contents of certificates of registration,
2 except for the voter's social security number and ~~[date]~~ month
3 and day of birth, are public records."

4 SECTION 4. Section 1-5-31 NMSA 1978 (being Laws 1989,
5 Chapter 298, Section 2, as amended) is amended to read:

6 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary
7 of state shall:

8 A. assist county clerks by devising uniform
9 procedures and forms that are compatible with the statewide
10 computerized voter registration system;

11 B. provide to each county clerk the computer
12 software necessary for the use and maintenance of the statewide
13 computerized voter registration system; ~~[and]~~

14 C. provide to each county clerk, through an
15 agreement with the motor vehicle division of the taxation and
16 revenue department, access to the necessary information in the
17 division's driver's license database for the purpose of
18 verifying voter registrations, processing absentee ballots and
19 qualifying provisional ballots; and

20 ~~[G.]~~ D. adopt such rules ~~[and regulations]~~ as are
21 necessary to establish and administer the statewide
22 computerized voter registration system, ~~[and to]~~ require
23 deadlines and time limits for the updating of voter files and
24 regulate the use of the driver's license database by the county
25 clerks."

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1 SECTION 5. Section 1-6-4 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 130, as amended) is amended to read:

3 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
4 ELECTOR--OVERSEAS VOTER.--

5 A. Application by a federal qualified elector or an
6 overseas voter for an absentee ballot shall be made on the
7 official postcard form prescribed or authorized by the federal
8 government to the county clerk of the county of the applicant's
9 residence. The form shall allow the applicant to receive an
10 absentee ballot for all elections within an election cycle.

11 B. Application by a voter for an absentee ballot
12 shall be made only on a form prescribed by the secretary of
13 state in accordance with federal law. The form shall identify
14 the applicant and contain information to establish the
15 applicant's qualification for issuance of an absentee ballot
16 under the Absent Voter Act; provided that on the application
17 form for a general election ballot there shall be no box, space
18 or place provided for designation of the voter's political
19 party affiliation.

20 C. Each application for an absentee ballot shall be
21 signed by the applicant and shall require the applicant's
22 ~~[printed name, registration address and year of birth to be~~
23 ~~supplied by the applicant, which shall constitute the required~~
24 ~~form of identification, except for new registrants who have~~
25 ~~registered by mail and at that time did not provide acceptable~~

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1 ~~identification. The secretary of state shall issue rules to~~
 2 ~~exempt voters from submitting identification only as required~~
 3 ~~by federal law and shall review and, if necessary, update these~~
 4 ~~rules no later than March 15 of even-numbered years] required~~
 5 voter identification as provided in Subsection B of Section
 6 1-1-24 NMSA 1978.

7 D. An application for an absentee ballot by a
 8 federal qualified elector or an overseas voter shall be
 9 accepted at any time preceding the general election.

10 E. A person who willfully and with knowledge and
 11 intent to deceive or mislead any voter, precinct board,
 12 canvassing board, county clerk or other election official and
 13 who falsifies any information on an absentee ballot request
 14 form or who affixes a signature or mark other than the person's
 15 own on an absentee ballot request form is guilty of a fourth
 16 degree felony."

17 SECTION 6. Section 1-6-5 NMSA 1978 (being Laws 1969,
 18 Chapter 240, Section 131, as amended) is amended to read:

19 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

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

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1 B. If the applicant does not have a valid
2 certificate of registration on file in the county and is not a
3 federal qualified elector or if the applicant states that the
4 applicant is a federal qualified elector but the application
5 indicates the applicant is not a federal qualified elector, an
6 absentee ballot shall not be issued and the county clerk shall
7 mark the application "rejected" and file the application in a
8 separate file from those accepted.

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

13 ~~[D. If the applicant has on file with the county a
14 valid certificate of registration that indicates that the
15 applicant is a voter who is a new registrant and who registered
16 by mail without submitting the required voter identification,
17 the county clerk shall notify the voter that the voter must
18 submit with the absentee ballot the required physical form of
19 identification. The county clerk shall note on the absentee
20 ballot register and signature roster that the applicant's
21 absentee ballot must be returned with the required
22 identification.]~~

23 E.] D. If the county clerk finds that the applicant
24 is a voter other than a federal qualified elector or overseas
25 voter, the county clerk shall mark the application "accepted"

1 and, beginning twenty-eight days before the election, deliver
2 an absentee ballot to the voter in the county clerk's office or
3 mail to the applicant an absentee ballot and the required
4 envelopes for use in returning the ballot.

5 E. If the county clerk finds that the applicant is
6 a federal qualified elector or overseas voter, the county clerk
7 shall mark the application "accepted" and beginning forty-five
8 days before the election, mail to the applicant an absentee
9 ballot and the required envelopes for use in returning the
10 ballot. Acceptance of an application of a federal qualified
11 elector constitutes registration for the election in which the
12 ballot is to be cast. Acceptance of an application from an
13 overseas voter who is not an absent uniformed services voter
14 constitutes a request for changing information on the
15 certificate of registration of any such voter. An absent voter
16 shall not be permitted to change party affiliation during those
17 periods when change of party affiliation is prohibited by the
18 Election Code.

19 F. Upon delivery of an absentee ballot to a voter
20 in the county clerk's office or mailing of an absentee ballot
21 to an applicant who is a voter, an appropriate designation
22 shall be made on the signature line of the signature roster
23 next to the name of the voter who has been provided [~~or mailed~~]
24 an absentee ballot.

25 [~~F.~~] G. Absentee ballots may be marked in person at

1 the county clerk's office during the regular hours and days of
2 business beginning on the twenty-eighth day preceding the
3 election and from 10:00 a.m. to 6:00 p.m. on the Saturday
4 immediately prior to the date of the election. The act of
5 marking the absentee ballot in the office of the county clerk
6 shall be a convenience to the voter in the delivery of the
7 absentee ballot and does not make the office of the county
8 clerk a polling place subject to the requirements of a polling
9 place in the Election Code. If the county clerk establishes an
10 additional alternate voting location near the clerk's office,
11 absentee ballots may be marked in person at that location
12 during the regular hours and days of business beginning on the
13 twenty-eighth day preceding the election and during the hours
14 for voting at alternate voting locations commencing on the
15 third Saturday prior to the election through the Saturday
16 immediately prior to the election. The additional alternate
17 voting location shall be operated by the county clerk and the
18 county clerk's staff.

19 ~~[G.]~~ H. When marking an absentee ballot in person
20 at the county clerk's office, the voter shall provide the
21 required voter identification set forth in Subsection A of
22 Section 1-1-24 NMSA 1978 to the county clerk or the clerk's
23 authorized representative. If the voter does not provide the
24 required voter identification, the voter shall be allowed to
25 vote on a provisional ballot. If the voter provides the

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1 required voter identification, the voter, after subscribing an
2 application for an absentee ballot, shall be allowed to vote by
3 inserting the ballot into an optical scan tabulator certified
4 for in-person absentee voting at the county clerk's office.
5 The county clerk or the clerk's authorized representative shall
6 make an appropriate designation indicating that the voter has
7 voted absentee. In marking the absentee ballot, the voter may
8 be assisted pursuant to the provisions of Section 1-12-15 NMSA
9 1978.

10 ~~[H.]~~ I. Absentee ballots shall be sent to
11 applicants not later than on the Friday immediately prior to
12 the date of the election.

13 ~~[I.]~~ J. An absentee ballot shall not be delivered
14 or mailed by the county clerk to any person other than the
15 applicant for such ballot.

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

21 ~~[K. The secretary of state shall establish~~
22 ~~procedures for the submittal, when required by federal law, of~~
23 ~~required voter identification with mailed-in absentee ballots.]~~

24 L. It is unlawful to electioneer in the county
25 clerk's office or in any alternate voting location."

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

3 "1-6-6. ABSENTEE BALLOT REGISTER.--

4 A. For each election, the county clerk shall keep
5 an "absentee ballot register", in which the county clerk shall
6 enter:

7 (1) the name and address of each absentee
8 ballot applicant;

9 (2) the date and time of receipt of the
10 application;

11 (3) whether the application was accepted or
12 rejected;

13 (4) the date of issue of an absentee ballot in
14 the county clerk's office or at an alternate location or the
15 mailing of an absentee ballot to the applicant;

16 (5) the applicant's precinct;

17 (6) whether the applicant is a voter, a
18 federal qualified elector or an overseas voter; and

19 ~~[(7) whether the voter is required to submit~~
20 ~~identification pursuant to Section 1-6-5 NMSA 1978; and~~

21 ~~(8)]~~ (7) the date and time the completed
22 absentee ballot was received from the applicant by the county
23 clerk or the absent voter voted early in person in the county
24 clerk's office or at an alternate location.

25 B. Absentee ballots shall be sent to applicants

1 beginning twenty-eight days before the election. For each
2 application for an absentee ballot received twenty-three or
3 more days before the election, the county clerk shall send
4 either the ballot or a notice of rejection to the applicant as
5 soon as practicable, provided it is sent not later than
6 twenty-two days before the election. Within twenty-two days of
7 election day, the county clerk shall send either the ballot or
8 a notice of rejection to the applicant within twenty-four hours
9 after receipt of the voter's application for an absentee
10 ballot.

11 C. The absentee ballot register is a public record
12 open to public inspection in the county clerk's office during
13 regular office hours. The county clerk shall have an updated
14 absentee ballot register available for public inspection Monday
15 through Friday during regular office hours.

16 D. The county clerk shall deliver to the absent
17 voter precinct on election day a complete list of all absentee
18 ballot applicants and early voters with applicable information
19 shown in the absentee ballot register for each applicant and
20 early voter up to 6:00 p.m. on the Saturday preceding the
21 election. The county clerk shall deliver a signature roster
22 containing the same information as the lists to the absent
23 voter precinct board.

24 E. Upon request, the county clerk shall transmit to
25 the county chair of each of the major political parties in the

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1 county a complete copy of entries made in the absentee ballot
2 register. Such transmissions shall be made once each week
3 beginning four weeks immediately prior to the election. A
4 final copy shall be transmitted on the Saturday immediately
5 following the election.

6 F. If the county clerk has available the technology
7 to do so, at the request of a candidate or chair of a political
8 party of the county, the county clerk shall electronically
9 transmit to the candidate or chair via the internet the
10 information, when updated, on the absentee ballot register
11 indicating voters who have requested absentee ballots, returned
12 their absentee ballots or voted early in person."

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

15 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

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

18 (1) official inner envelopes for use in
19 sealing the completed absentee ballot;

20 (2) official mailing envelopes for use in
21 returning the official inner envelope to the county clerk;
22 provided the official mailing envelope for absentee ballots in
23 a general election shall contain no designation of party
24 affiliation;

25 (3) absentee ballot instructions, describing

1 proper methods for completion of the ballot and returning it;
2 and

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

5 B. Official transmittal envelopes and official
6 mailing envelopes for transmission of absentee ballot materials
7 to and from the county clerk and federal qualified electors
8 shall be printed in the form prescribed by the federal
9 Uniformed and Overseas Citizens Absentee Voting Act. Official
10 transmittal envelopes and official mailing envelopes for
11 transmission of absentee ballot materials to and from the
12 county clerk and voters shall be printed in black in
13 substantially similar form. All official inner envelopes shall
14 be printed in black.

15 C. The reverse of each official mailing envelope
16 shall contain a form to be executed by the voter completing the
17 absentee ballot. The form shall identify the voter and shall
18 contain ~~[the following statement: "I will not vote in this~~
19 ~~election other than by the enclosed ballot. I will not receive~~
20 ~~or offer any compensation or reward for giving or withholding~~
21 ~~any vote."].~~

22 ~~D. The official mailing envelope shall contain a]~~
23 sufficient space for the ~~[voter to record the voter's name,~~
24 ~~registration address and year of birth]~~ voter's required voter
25 identification as provided in Subsection B of Section 1-1-24

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1 NMSA 1978. The envelope shall have a security flap to cover
2 this information."

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

5 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
6 PRECINCT BOARDS.--

7 A. Before opening an official mailing envelope, the
8 presiding judge and the election judges shall determine that
9 the required information has been completed on the reverse side
10 of the official mailing envelope.

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

21 C. A lawfully appointed challenger may view the
22 official mailing envelope and may challenge the ballot of any
23 absent voter for the following reasons:

24 (1) the official mailing envelope has been
25 opened by someone other than the voter prior to being received

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1 by the absent voter precinct board;

2 (2) the official mailing envelope does not
3 contain a signature; [~~or~~]

4 (3) the person offering to vote is not a voter
5 as provided in the Election Code; or

6 (4) the person offering to vote did not
7 provide the required voter identification.

8 D. If a challenge is upheld by unanimous vote of
9 the presiding judge and the election judges, the official
10 mailing envelope shall not be opened but shall be placed in an
11 envelope provided for challenged ballots. If the reason for
12 the challenge is satisfied by the voter before the conclusion
13 of the county canvass, the official mailing envelope shall be
14 opened and the vote counted. The same procedure shall be
15 followed in canvassing and determining the validity of
16 challenged absentee ballots as with other challenged ballots.

17 E. If the official mailing envelope has been
18 properly [~~subscribed~~] signed and the voter has not been
19 challenged:

20 (1) the judges or election clerks shall enter
21 the absent voter's name and residence address as shown on the
22 official mailing envelope in the signature rosters and shall
23 mark the notation "AB" opposite the voter's name in the
24 "Notations" column of the signature rosters or register; and

25 (2) only between 8:00 a.m. and 10:00 p.m. on

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

9 F. It is unlawful for a person to disclose the
10 results of a count and tally or the registration on a voting
11 machine of absentee ballots prior to the closing of the polls.

12 G. Absentee ballots shall be counted and tallied,
13 where possible, on an electronic voting machine as provided in
14 the Election Code.

15 H. Absent voter precinct polls shall close in
16 accordance with Section 1-6-23 NMSA 1978, and the results of
17 the election shall be certified as prescribed by the secretary
18 of state.

19 I. If an absentee ballot does not contain the
20 required voter identification [~~required pursuant to Subsection~~
21 ~~D of Section 1-6-5 NMSA 1978~~], it shall be considered to be,
22 and be handled as, a provisional paper ballot in accordance
23 with the Election Code."

24 SECTION 10. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
25 Chapter 353, Section 1, as amended) is amended to read:

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

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

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

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

22 ~~D.]~~ C. The voter shall mark the alternative ballot,
23 place it in an ~~[identification]~~ envelope similar to that used
24 for absentee ballots, ~~[fill out]~~ provide the required voter
25 identification and sign the envelope ~~[and return]~~. The ballot

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

7 ~~[E-]~~ D. Alternative ballots shall be processed and
8 counted in the same manner as absentee ballots.

9 ~~[F-]~~ E. The secretary of state shall prescribe the
10 form of alternative ~~[ballots]~~ ballot envelopes and shall
11 distribute an appropriate number of alternative ~~[ballots]~~
12 ballot envelopes to each county clerk."

13 **SECTION 11.** Section 1-12-7.1 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 112, as amended) is amended to read:

15 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
16 VOTERS--USE DURING ELECTION.--

17 A. Each precinct board using voter lists shall post
18 securely at or near the entrance of the polling place one copy
19 of an alphabetical list of voters for use of the voters prior
20 to voting. The posted copy shall not contain a listing of
21 voter addresses, years, months or days of birth ~~[unique~~
22 ~~identifiers]~~ or social security numbers.

23 B. The presiding judge of the precinct board shall
24 assign one judge or election clerk of the board to be in charge
25 of one copy of the checklist of voters, which shall be used to

1 confirm the registration and voting of each person offering to
2 vote.

3 C. The presiding judge of the precinct board shall
4 assign one judge or election clerk to be in charge of the
5 signature roster.

6 D. The judge or election clerk assigned to the
7 checklist of voters used for confirmation of registration and
8 voting shall determine that each person offering to vote is
9 registered and, in the case of a primary election, that the
10 voter is registered in a party designated on the primary
11 election ballot. If the person's registration is confirmed by
12 the presence of the person's name on the checklist of voters
13 and the voter provides the required voter identification, the
14 judge or election clerk shall announce to the judges or
15 election clerks the list number and the name of the voter as
16 shown on the checklist of voters. If the voter does not
17 provide the required voter identification, the voter shall be
18 allowed to vote on a provisional paper ballot and shall provide
19 the required voter identification to the county clerk's office
20 before 5:00 p.m. on the second day following the election, or
21 to the precinct board before the polls close, or the voter's
22 provisional ballot shall not be qualified. If the required
23 voter identification is provided, the voter's provisional paper
24 ballot shall be qualified and the voter shall not vote on any
25 other type of ballot.

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1 E. The judge or election clerk shall locate [~~that~~
2 ~~list number and~~] the name on the signature roster and shall
3 require the voter to sign the voter's usual signature or, if
4 unable to write, to make the voter's mark opposite the voter's
5 printed name. If the voter makes the voter's mark, it shall be
6 witnessed by one of the judges or election clerks of the
7 precinct board. [~~If the signature roster indicates that the~~
8 ~~voter is required to present a physical form of identification~~
9 ~~before voting, the judge or election clerk shall ask the voter~~
10 ~~for the required physical form of identification. If the voter~~
11 ~~does not provide the required identification, the voter shall~~
12 ~~be allowed to vote on a provisional paper ballot; provided,~~
13 ~~however, that if the voter brings the required physical form of~~
14 ~~identification to the polling place after casting a provisional~~
15 ~~paper ballot, that ballot shall be qualified and the voter~~
16 ~~shall not vote on any other type of ballot.]~~

17 F. The judge or election clerk shall follow the
18 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA
19 1978 if a person whose name does not appear on the signature
20 roster requests to vote or a person is required to vote on a
21 provisional paper ballot.

22 G. A voter shall not be permitted to vote until the
23 voter has properly signed the voter's usual signature or made
24 the voter's mark in the signature roster."

25 **SECTION 12.** Section 1-12-8 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 247, as amended) is amended to read:

2 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

3 A. A person shall be permitted to vote on a
4 provisional paper ballot even though the person's original
5 certificate of registration cannot be found in the county
6 register or even if the person's name does not appear on the
7 signature roster; provided that:

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

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

12 (3) the person executes a statement swearing
13 or affirming to the best of the person's knowledge that the
14 person is a qualified elector, is currently registered and
15 eligible to vote in that county and has not cast a ballot or
16 voted in that election.

17 ~~[B. A voter shall vote on a provisional paper~~
18 ~~ballot if the voter:~~

19 ~~(1) has not previously voted in a general~~
20 ~~election in New Mexico or has been purged from the voter list;~~

21 ~~(2) registered to vote by mail;~~

22 ~~(3) did not submit the physical form of the~~
23 ~~required voter identification with the certificate of~~
24 ~~registration form; and~~

25 ~~(4) does not present to the election judge a~~

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1 ~~physical form of the required voter identification.~~

2 ~~G.]~~ B. A voter shall vote on a provisional paper
3 ballot [~~in accordance with the provisions of Section 1-12-7.1~~
4 ~~NMSA 1978~~] if the voter does not provide the required voter
5 identification to the election judge.

6 ~~D.]~~ C. A judge or election clerk shall have the
7 voter sign the signature roster and issue the voter a
8 provisional paper ballot, an outer envelope and an official
9 inner envelope. The voter shall vote on the provisional paper
10 ballot in secrecy and, when done, place the ballot in the
11 official inner envelope and place the official inner envelope
12 in the outer envelope and return it to the judge or election
13 clerk. The judge or election clerk shall ensure that the
14 required information is completed on the outer envelope, have
15 the voter sign it in the appropriate place and place it in an
16 envelope designated for provisional paper ballots.

17 ~~E.]~~ D. Knowingly executing a false statement
18 constitutes perjury as provided in the Criminal Code, and
19 voting on the basis of such falsely executed statement
20 constitutes fraudulent voting."

21 **SECTION 13.** Section 1-12-10.1 NMSA 1978 (being Laws 2003,
22 Chapter 356, Section 2, as amended) is amended to read:

23 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING
24 INFORMATION.--

25 A. The secretary of state shall [~~issue rules~~

underscored material = new
[bracketed material] = delete

1 ~~describing the voter information]~~ provide voter information,
2 including voter identification requirements for voters as well
3 as provisional paper ballot rights for persons offering to
4 vote, which the county clerks shall display, in accordance with
5 the federal Help America Vote Act of 2002, in each polling
6 place [~~on election day and~~] in each county clerk's office and
7 [~~alternate~~] at any location where [~~absentee or early~~] voting is
8 taking place.

9 B. The county clerk shall ensure that in each
10 polling place [~~shall post~~] there are posted the phone numbers
11 of the county clerk and the secretary of state and a map of the
12 precincts represented in that polling place and an alphabetical
13 list of the voters in each precinct represented in that polling
14 place.

15 C. The secretary of state and the county clerk of
16 each county that maintains a web site shall provide notice of
17 the voter identification requirements on each entity's
18 respective web site in each language in which voter
19 registration materials are available. The secretary of state
20 shall prescribe the wording of the notice to be included on the
21 web sites.

22 D. The secretary of state shall conduct a statewide
23 effort to educate voters regarding voter identification
24 requirements.

25 E. The county clerk of each county shall post in a

1 prominent location at the clerk's office a physical copy of the
2 notice prescribed by Subsection C of this section in each
3 language in which voter registration materials are available."

4 SECTION 14. Section 1-12-13 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 266, as amended) is amended to read:

6 "1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER
7 IN MARKING BALLOT.--

8 A. When a voter who is eligible for assistance
9 pursuant to Section 1-12-12 NMSA 1978 requires assistance in
10 marking a ballot or using the voting system, the voter shall
11 announce this fact before receiving the ballot or using the
12 voting system.

13 B. The voter's request for assistance shall be
14 noted by the voter's name in the signature roster and initialed
15 by the presiding judge.

16 C. After noting the request for assistance in the
17 signature roster, the voter shall be permitted assistance in
18 filling out forms necessary to vote, in marking the ballot or
19 in using the voting system as provided in Section 1-12-15 NMSA
20 1978.

21 D. Any person who swears falsely in order to secure
22 assistance is guilty of perjury."

23 SECTION 15. Section 1-12-20 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 273, as amended) is amended to read:

25 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A

1 challenge may be interposed by a member of the precinct board
2 or by a party challenger for the following reasons:

3 A. the person offering to vote is not registered to
4 vote;

5 B. the person offering to vote is listed among
6 those persons to whom an absentee ballot was mailed;

7 C. the person offering to vote has already cast a
8 ballot in that election;

9 D. the person offering to vote is improperly
10 registered because the person is not a qualified elector; [~~or~~]

11 E. the person offering to vote did not provide the
12 required voter identification; or

13 [~~E.~~] F. in the case of a primary election, the
14 person [~~desiring~~] offering to vote is not affiliated with a
15 political party represented on the ballot."

16 SECTION 16. Section 1-12-25.2 NMSA 1978 (being Laws 2003,
17 Chapter 356, Section 3, as amended) is amended to read:

18 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
19 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

20 A. If a voter is required to vote on a provisional
21 paper ballot, the presiding judge or election judge shall give
22 the voter written instructions on how the voter may determine
23 whether the vote was counted and, if the vote was not counted,
24 the reason it was not counted.

25 B. The county clerk shall report all provisional

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1 ballots and their status to the secretary of state. The
2 secretary of state shall provide a free access system, such as
3 a toll-free telephone number or internet web site, that a voter
4 who casts a provisional paper ballot may access to ascertain
5 whether the voter's ballot was counted and, if the vote was not
6 counted, the reason it was not counted and how to appeal the
7 decision pursuant to rules issued by the secretary of state.
8 Access to information about an individual voter's provisional
9 paper ballot is restricted to the voter who cast the ballot.

10 C. Beginning with the closing of the polls on
11 election day through the tenth day following the election, the
12 county clerk shall notify by mail each person whose provisional
13 paper ballot was not counted of the reason the ballot was not
14 counted. The voter shall have until the Friday prior to the
15 meeting of the state canvassing board to appeal to the county
16 clerk a decision to reject the voter's ballot.

17 D. A provisional paper ballot that was rejected for
18 failure of the voter to provide the required voter
19 identification shall be qualified if the voter provides the
20 required voter identification as provided in Subsection A or B
21 of Section 1-1-24 NMSA 1978 at the time of the hearing. Any
22 voter whose provisional paper ballot is not counted may appeal
23 to the district court and shall receive free process in any
24 such proceeding."

25 SECTION 17. Section 1-12-25.3 NMSA 1978 (being Laws 2003,

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1 Chapter 356, Section 6, as amended) is amended to read:

2 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
3 INFORMATION.--

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

6 (1) the name and signature of the voter;

7 (2) the voter's registered address [~~both~~
8 ~~present and former if applicable~~];

9 (3) the voter's date of birth;

10 (4) the voter's social security number;

11 [~~(4)~~] (5) the reason for using the provisional
12 paper ballot;

13 [~~(5)~~] (6) the [~~precinct and the~~] polling place
14 at which the voter has voted; and

15 [~~(6)~~] (7) sufficient space to list the
16 disposition of the ballot after review by the county clerk.

17 B. [A] In the case of a provisional paper ballot
18 issued for failure of the voter to provide the required voter
19 identification, the provisional paper ballot shall be
20 qualified as long as the voter provides a signature and the
21 required voter identification as provided in Subsection B of
22 Section 1-1-24 NMSA 1978.

23 C. In the case of a provisional paper ballot cast
24 for any other reason, the provisional paper ballot shall not
25 be rejected for lack of the information required by this

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1 section and shall be qualified as long as the voter provides
2 a [~~valid~~] signature and sufficient information for the clerk
3 to determine the voter is a qualified elector."

4 SECTION 18. Section 1-12-25.4 NMSA 1978 (being Laws
5 2003, Chapter 356, Section 7, as amended) is amended to read:

6 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

11 B. A provisional paper ballot shall not be
12 counted if the [~~registered~~] voter did not sign either the
13 signature roster or the ballot's envelope.

14 C. If there is no record of the [~~voter~~] person
15 who voted ever having been registered in the county, the
16 [~~voter~~] person shall be offered the opportunity to register
17 and the provisional paper ballot shall not be counted.

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

23 E. If the county clerk determines that the
24 cancellation was not in error, the [~~voter~~] person who voted
25 shall be offered the opportunity to register at the [~~voter's~~]

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1 person's correct address, and the provisional paper ballot
2 shall not be counted.

3 F. If the voter is [~~a~~] registered [~~voter~~] to vote
4 in the county, but has voted on a provisional paper ballot at
5 a polling place other than the voter's designated polling
6 place, the county canvassing board shall ensure that only
7 those votes for the positions or measures for which the voter
8 was eligible to vote are counted.

9 G. If the person is registered to vote in the
10 county, but has voted on a provisional paper ballot for
11 failure to provide the required voter identification, the
12 provisional paper ballot shall be counted if the voter
13 provides the information required pursuant to Subsection B of
14 Section 1-1-24 NMSA 1978 on the provisional ballot outer
15 envelope.

16 H. If the person is registered to vote in the
17 county, but has voted on a provisional paper ballot for
18 failure to provide the required voter identification, the
19 provisional paper ballot shall be counted if the voter
20 executes an affidavit under penalty of perjury that states
21 that the voter does not have the required voter
22 identification as a result of a natural disaster that was
23 declared by the president of the United States or the
24 governor and the disaster occurred not earlier than
25 forty-five days before the date the ballot was cast and

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1 caused the destruction of or inability of the voter to access
2 the voter's required identification.

3 ~~[G.]~~ I. If the county clerk finds that the voter
4 who voted on a provisional paper ballot at the polls has also
5 voted an absentee ballot in that election, the provisional
6 paper ballot shall not be counted.

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

14 ~~[I.]~~ K. The secretary of state shall issue rules
15 to ensure securing the secrecy of the provisional paper
16 ballots, especially during canvassing, reviewing or
17 recounting, and protecting against fraud in the voting
18 process."

19 **SECTION 19.** Section 1-19A-10 NMSA 1978 (being Laws
20 2003, Chapter 14, Section 10, as amended) is amended to read:

21 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

22 A. There is created in the state treasury the
23 "public election fund" solely for the purposes of:

24 (1) financing the election campaigns of
25 certified candidates for covered offices;

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1 (2) paying administrative and enforcement
2 costs of the Voter Action Act; [~~and~~]

3 (3) carrying out all other specified
4 provisions of the Voter Action Act; and

5 (4) reimbursing the motor vehicle division
6 of the taxation and revenue department for the cost of
7 issuing identification cards to voters without charge
8 pursuant to the provisions of Section 66-5-408 NMSA 1978.

9 B. The state treasurer shall invest the funds as
10 other state funds are invested, and all income derived from
11 the fund shall be credited directly to the fund. Remaining
12 balances at the end of a fiscal year shall remain in the
13 public election fund and not revert to the general fund.

14 C. Money received from the following sources
15 shall be deposited directly into the fund:

16 (1) qualifying contributions that have been
17 submitted to the secretary;

18 (2) any recurring balance of unspent fund
19 money distributed to a certified candidate who does not
20 remain a candidate through the primary or general election
21 period for which the money was distributed;

22 (3) money that remains unspent or
23 unencumbered by a certified candidate following the date of
24 the primary election;

25 (4) money that remains unspent or

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1 unencumbered by a certified candidate following the date of
2 the general election;

3 (5) unspent seed money that cannot be used
4 for any other purpose;

5 (6) money distributed to the fund from funds
6 received pursuant to the Uniform Unclaimed Property Act
7 (1995); and

8 (7) money appropriated by the legislature.

9 D. A subaccount shall be established in the fund,
10 and money in the subaccount shall only be used to pay the
11 costs of carrying out the provisions of the Voter Action Act
12 related to public regulation commission elections.

13 E. Two hundred thousand dollars (\$200,000) per
14 year shall be collected and deposited in the subaccount for
15 public regulation commission elections as follows:

16 (1) one hundred thousand dollars (\$100,000)
17 from inspection and supervision fees collected pursuant to
18 Section 62-8-8 NMSA 1978; and

19 (2) one hundred thousand dollars (\$100,000)
20 from utility and carrier inspection fees collected pursuant
21 to Section 63-7-20 NMSA 1978."

22 **SECTION 20.** Section 3-8-2 NMSA 1978 (being Laws 1985,
23 Chapter 208, Section 10, as amended) is amended to read:

24 "3-8-2. DEFINITIONS.--

25 A. The definitions in Section 3-1-2 NMSA 1978

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1 shall apply to the Municipal Election Code in addition to
2 those definitions set forth in the Municipal Election Code.

3 B. The definition of "required voter
4 identification" in the Election Code shall apply to the
5 Municipal Election Code in addition to those definitions set
6 forth in the Municipal Election Code.

7 [~~B.~~] C. As used in the Municipal Election Code:

8 (1) "absentee voter list" means the list
9 prepared by the municipal and county clerks of those persons
10 who have been issued an absentee ballot;

11 (2) "ballot" means a system for arranging
12 and designating for the voter the names of candidates and
13 questions to be voted on and for the marking, casting or
14 otherwise recording of such votes. "Ballot" includes paper
15 ballots, absentee ballots, ballot sheets and paper ballots
16 used in lieu of voting machines;

17 (3) "ballot sheet" means the material placed
18 on the front of the voting machine containing the names of
19 the candidates, the offices the candidates are seeking and a
20 statement of the proposed questions to be voted upon;

21 (4) "consolidated precinct" means the
22 combination of two or more precincts pursuant to the
23 Municipal Election Code;

24 (5) "county clerk" means the clerk of the
25 county or the county clerk's designee within which the

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1 municipality is located;

2 (6) "election returns" means all
3 certificates of the precinct board, including the certificate
4 showing the total number of votes cast for each candidate, if
5 any, and for or against each question, if any, and shall
6 include statements of canvass, signature rosters, registered
7 voter lists, machine-printed returns, paper ballots used in
8 lieu of voting machines, absentee ballots, absentee ballot
9 registers and absentee voter lists or absent voter machine-
10 printed returns;

11 (7) "municipal clerk" means the municipal
12 clerk or any deputy or assistant municipal clerk;

13 (8) "municipal clerk's office" means the
14 office of the municipal clerk or any other room used in the
15 process of absentee voting, counting and tallying of absentee
16 ballots or canvassing the election results within the
17 confines of the building where the municipal clerk's office
18 is located;

19 (9) "paper ballot" means a ballot manually
20 marked by the voter and counted by hand without the
21 assistance of a machine or optical-scan vote tabulating
22 device;

23 (10) "precinct" means a portion of a county
24 situated entirely in or partly in a municipality that has
25 been designated by the county as a precinct for election

1 purposes and that is entitled to a polling place and a
2 precinct board. If a precinct includes territory both inside
3 and outside the boundaries of a municipality, "precinct", for
4 municipal elections, shall mean only that portion of the
5 precinct lying within the boundaries of the municipality;

6 (11) "precinct board" means the appointed
7 election officials serving a single or consolidated precinct;

8 (12) "qualified elector" means any person
9 whose affidavit of voter registration has been filed by the
10 county clerk, who is registered to vote in a general election
11 precinct established by the board of county commissioners
12 that is wholly or partly within the municipal boundaries and
13 who is a resident of the municipality. Persons who would
14 otherwise be qualified electors if land on which they reside
15 is annexed to a municipality shall be deemed to be qualified
16 electors:

17 (a) upon the effective date of the
18 municipal ordinance effectuating the terms of the annexation
19 as certified by the board of arbitration pursuant to Section
20 3-7-10 NMSA 1978;

21 (b) upon thirty days after the filing
22 of an order of annexation by the municipal boundary
23 commission pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978,
24 if no appeal is filed or, if an appeal is filed, upon the
25 filing of a nonappealable court order effectuating the

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1 annexation; or

2 (c) upon thirty days after the filing
3 of an ordinance pursuant to Section 3-7-17 NMSA 1978, if no
4 appeal is filed or, if an appeal is filed, upon the filing of
5 a nonappealable court order effectuating the annexation;

6 (13) "recheck" pertains to voting machines
7 and means a verification procedure where the counter
8 compartment of the voting machine is opened and the results
9 of the balloting as shown on the counters of the machine are
10 compared with the results shown on the official returns;

11 (14) "recount" pertains to ballots and
12 absentee ballots and means a retabulation and retallying of
13 individual ballots;

14 (15) "voter" means a qualified elector of
15 the municipality; and

16 (16) "voting machine" means any electronic
17 recording and tabulating voting system as tested and approved
18 by the secretary of state."

19 SECTION 21. Section 3-8-41 NMSA 1978 (being Laws 1985,
20 Chapter 208, Section 49, as amended) is amended to read:

21 "3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
22 SIGNATURE--ENTRIES BY PRECINCT BOARD.--

23 A. When a person goes to the polls to vote, the
24 person shall announce the person's name and address in an
25 audible tone of voice and ~~locate the person's name and~~

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1 ~~number in the registered voter list posted for such purpose]~~
 2 provide the required voter identification. An election clerk
 3 shall locate the person's name and number in the signature
 4 roster. The person shall then sign the person's name in the
 5 signature roster or, if the person is unable to write, the
 6 election clerk shall sign the person's name in the signature
 7 roster, which shall be initialed by an election judge in the
 8 signature roster. Thereupon, a challenge may be interposed
 9 as provided in the Municipal Election Code.

10 B. If no challenge is interposed, an election
 11 clerk shall issue a voting machine permit to the person, upon
 12 which shall be written the person's voter registration list
 13 number. The person shall present the voting machine permit
 14 to the precinct board member monitoring the machine or
 15 issuing ballots, and the person shall be allowed to vote.
 16 The precinct board member shall enter the public counter
 17 number onto the voting machine permit as shown on the voting
 18 machine after the person has voted. All voting machine
 19 permits shall be retained in consecutive order and made part
 20 of the election returns."

21 SECTION 22. Section 3-8-43 NMSA 1978 (being Laws 1985,
 22 Chapter 208, Section 51, as amended) is amended to read:

23 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED
 24 CHALLENGES--ENTRIES--DISPOSITION.--

25 A. A challenge may be interposed by a member of

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1 the precinct board or by a challenger for the following
2 reasons, which shall be stated in an audible tone by the
3 person making the challenge:

4 (1) the person offering to vote is not
5 registered;

6 (2) the person offering to vote is listed
7 among those persons in the precinct to whom an absentee
8 ballot was issued;

9 (3) the person offering to vote is not a
10 qualified elector;

11 (4) the person offering to vote is not
12 listed on the signature roster or voter registration list;

13 (5) the person offering to vote did not
14 provide the required voter identification;

15 [~~5~~] (6) in the case of an absentee ballot,
16 the official mailing envelope containing an absentee ballot
17 has been opened prior to delivery of absentee ballots to the
18 absent voter precinct board; or

19 [~~6~~] (7) the person offering to vote is a
20 qualified elector of the municipality but does not reside in
21 the district where the person is offering to vote.

22 B. When a person has offered to vote and a
23 challenge is interposed and the person's name appears in the
24 signature roster or the person's name has been entered in the
25 signature roster pursuant to Subsection C of Section 3-8-40

1 NMSA 1978, the election clerk shall write the word
2 "challenged" above the person's signature in the signature
3 roster and:

4 (1) if the challenge is unanimously affirmed
5 by the election judges:

6 (a) the election clerk shall write the
7 word "affirmed" above the person's signature next to the
8 challenge notation in the signature roster;

9 (b) the person shall nevertheless be
10 furnished a paper ballot, whether or not voting machines are
11 being used at the polling place, and the election clerk shall
12 write the number of the ballot so furnished next to the
13 person's signature in the signature roster;

14 (c) the person shall be allowed to
15 mark and prepare the ballot. The person shall return the
16 paper ballot to an election judge who shall announce the
17 person's name in an audible tone and in the person's presence
18 place the challenged ballot in an envelope marked "rejected",
19 which shall be sealed and the person's name shall be written
20 on the envelope; [~~and~~]

21 (d) if the ballot was rejected for any
22 reason other than failure to provide the required voter
23 identification, the envelope containing the rejected ballot
24 shall then be deposited in the ballot box and shall not be
25 counted; [~~or~~] and

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1 (e) if the ballot was rejected for
2 failure to provide the required voter identification, the
3 envelope containing the rejected ballot shall then be
4 deposited in the ballot box and shall be counted if the voter
5 provides the required voter identification pursuant to
6 Subsection B of Section 1-1-24 NMSA 1978, and the information
7 is verified in accordance with rules issued by the secretary
8 of state; or

9 (2) if the challenge is not unanimously
10 affirmed by the election judges:

11 (a) the election clerks shall write
12 the words "not affirmed" above the person's signature next to
13 the challenge notation in the signature roster; and

14 (b) the person shall be allowed to
15 vote in the manner allowed by law as if the challenge had not
16 been interposed.

17 C. A required challenge shall be interposed by
18 the precinct board when a person attempts to offer to vote
19 and demands to vote and the person's name does not appear on
20 the signature roster and cannot be entered pursuant to
21 Subsection B of Section 3-8-40 NMSA 1978. A required
22 challenge shall be interposed by the precinct board as
23 follows:

24 (1) the election judge shall cause the
25 election clerks to enter the person's name and address under

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1 the heading "name and address" in the signature roster in the
2 first blank space immediately below the last name and address
3 that appears in the signature roster;

4 (2) the election clerk shall immediately
5 write the words "required challenge" above the space provided
6 for the person's signature in the signature roster;

7 (3) the person shall sign the person's name
8 in the signature roster;

9 (4) the person shall nevertheless be
10 furnished a paper ballot, whether or not voting machines are
11 being used at the polling place, and the election clerk shall
12 write the number of the ballot so furnished next to the
13 person's signature in the signature roster; and

14 (5) the person shall be allowed to mark and
15 prepare the ballot. The person shall return the paper ballot
16 to an election judge who shall announce the person's name in
17 an audible tone and in the person's presence place the
18 required challenge ballot in an envelope marked "rejected--
19 required challenge" that shall be sealed. The person's name
20 shall be written on the envelope and the envelope containing
21 the rejected ballot shall then be deposited in the ballot box
22 and shall not be counted."

23 **SECTION 23.** Section 3-9-6 NMSA 1978 (being Laws 1973,
24 Chapter 375, Section 7, as amended) is amended to read:

25 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE

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1 BALLOT ENVELOPES.--

2 A. The form of the absentee ballot shall be, as
3 nearly as practicable, in the same form as prescribed by the
4 municipal clerk for other ballots. However, to reduce weight
5 and bulk for transport of absentee ballots, the size and
6 weight of the paper for envelopes, ballots and instructions
7 shall be reduced as much as is practicable. The ballots
8 shall provide for sequential numbering.

9 B. Absentee ballots and envelopes shall be
10 delivered by the printer to the municipal clerk not later
11 than thirty-five days prior to the date of the election to be
12 held.

13 C. The municipal clerk shall prescribe the form
14 of:

15 (1) official inner envelopes for use in
16 sealing the completed absentee ballot;

17 (2) official mailing envelopes for use in
18 returning the official inner envelope to the municipal clerk;

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

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

24 D. Official transmittal envelopes and official
25 mailing envelopes for transmission of absentee ballot

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

10 E. The reverse of each official mailing envelope
 11 shall contain ~~[a form to be signed by the person completing~~
 12 ~~the absentee ballot. The form shall identify the person and~~
 13 ~~shall contain the following statement: "I will not vote in~~
 14 ~~this election other than by the enclosed ballot. I will not~~
 15 ~~receive or offer any compensation or reward for giving or~~
 16 ~~withholding any vote."]~~ sufficient space for the voter's
 17 required voter identification. The envelope shall have a
 18 security flap to cover this information."

19 SECTION 24. Section 3-9-11 NMSA 1978 (being Laws 1985,
 20 Chapter 208, Section 99, as amended) is amended to read:

21 "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
 22 PRECINCT BOARDS.--

23 A. Before opening any official mailing envelope,
 24 an election judge shall determine that the required voter
 25 identification is included and the signature has been

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1 executed on the reverse side of the official mailing
2 envelope.

3 B. If the required voter identification or
4 signature is missing, an election judge shall write
5 "rejected" on the front of the official mailing envelope.
6 The election clerks shall write the notation "rejected --
7 missing signature" in the "notations" column on the absentee
8 voter list. An election judge shall place the official
9 mailing envelope unopened in an envelope provided for
10 rejected ballots, seal the envelope, write the voter's name
11 on the front of the envelope and deposit it in the locked
12 ballot box.

13 C. Declared challengers certified by the
14 municipal clerk may examine the official mailing envelope and
15 may challenge the ballot of any absent voter for the
16 following reasons:

17 (1) the required voter identification or
18 signature is missing;

19 [~~(1)~~] (2) the official mailing envelope has
20 been opened by someone other than the voter prior to being
21 received by the absent voter precinct board; or

22 [~~(2)~~] (3) the person offering to vote is not
23 an overseas voter, federal qualified elector or voter as
24 provided in the Municipal Election Code.

25 D. Upon the rejection or challenge of an absentee

1 ballot, an election judge shall generally follow the same
2 procedure as when ballots are challenged when a person offers
3 to vote in person. If a challenged ballot is not to be
4 counted, it shall not be opened and shall be placed in an
5 envelope provided for challenged ballots. If the ballot was
6 rejected or challenged for failure to provide the required
7 voter identification, the envelope shall not be counted or
8 opened unless the voter provides the required voter
9 identification to the absent voter precinct board before the
10 polls close or to the municipal clerk's office before 5:00
11 p.m. on the second day following the election.

12 ~~[D.]~~ E. If the official mailing envelopes contain
13 the required voter identification and have properly executed
14 signatures and the voters have not been challenged:

15 (1) an election judge shall open the
16 official mailing envelopes and deposit the ballots in their
17 still sealed official inner envelopes in the locked ballot
18 box; and

19 (2) the election clerks shall mark the
20 notation "AB" opposite the voter's name in the "notations"
21 column of the absentee voter list.

22 ~~[E.]~~ F. Prior to the closing of the polls, an
23 election judge may remove the absentee ballots from the
24 official inner envelopes and either count and tally the
25 results of absentee balloting by hand or register the results

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1 of each absentee ballot on a voting machine the same as if
2 the absent voter had been present and voted in person. It
3 shall be unlawful for any person to disclose the results of
4 such count and tally or such registration on a voting machine
5 of absentee ballots prior to the closing of the polls.

6 ~~[F-]~~ G. The municipal clerk shall, prior to the
7 opening of the polls on election day, notify the absent voter
8 precinct board in writing whether absentee ballots are to be
9 counted and tallied or registered on a voting machine. The
10 procedures shall be such as to ensure the secrecy of the
11 ballot.

12 ~~[G-]~~ H. Absent voter precinct polls shall be
13 closed at 7:00 p.m. on the day of the election by the absent
14 voter precinct board."

15 **SECTION 25.** Section 3-9-13.1 NMSA 1978 (being Laws
16 2003, Chapter 244, Section 19, as amended) is amended to
17 read:

18 "3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
19 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
20 COUNTING.--

21 A. A voter who has submitted an application for
22 an absentee ballot that was accepted by the municipal clerk
23 but who has not received the absentee ballot by mail as of
24 the date of the election may go to the assigned polling place
25 and, after executing an affidavit of nonreceipt of absentee

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1 ballot, shall be issued a ballot in lieu of an absentee
2 ballot by the presiding judge, and shall be allowed to mark
3 the ballot.

4 B. The voter shall place the completed ballot
5 issued in lieu of an absentee ballot in an official inner
6 envelope, substantially in the form prescribed pursuant to
7 Section 3-9-6 NMSA 1978, which shall be sealed by the voter.
8 The official inner envelope shall then be placed by the
9 voter, in the presence of the presiding judge, in an official
10 outer envelope substantially as prescribed for a transmittal
11 envelope or mailing envelope pursuant to Section 3-9-6 NMSA
12 1978. The presiding judge shall fill in the information on
13 the back of the envelope that identifies the voter by name
14 and signature roster number and contains the printed
15 affidavit that the voter made application for an absentee
16 ballot, which the voter believes to have been accepted by the
17 municipal clerk, that the voter swears an absentee ballot had
18 not been received as of the date of the election and that the
19 voter was issued a ballot in lieu of an absentee ballot, that
20 the voter provided the required voter identification and that
21 the ballot was marked by the voter and submitted to the
22 presiding judge.

23 C. The presiding judge shall place all ballots
24 issued in lieu of absentee ballots in a special envelope
25 provided for that purpose by the municipal clerk, seal the

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1 envelope and return it to the municipal clerk along with the
2 machine tally sheets after the closing of the polls. The
3 sealed envelope shall not be placed in the locked ballot box.

4 D. The municipal clerk shall, upon receipt of the
5 envelope containing ballots in lieu of absentee ballots, and
6 no later than forty-eight hours after the close of the polls
7 for the election, remove the transmittal envelopes and
8 without removing or opening the inner envelopes, determine:

9 (1) if the voter did in fact make
10 application for an absentee ballot that was accepted by the
11 municipal clerk;

12 (2) if an absentee ballot was mailed by the
13 municipal clerk to the voter; and

14 (3) whether an absentee ballot was received
15 by the municipal clerk from the voter by 7:00 p.m. on
16 election day.

17 E. If the municipal clerk determines that the
18 ballot in lieu of absentee ballot is valid, that an absentee
19 ballot was mailed to the voter and that no absentee ballot
20 was received from the voter by the municipal clerk, the
21 municipal clerk shall remove the inner envelope without
22 opening it, retain the transmittal envelope with the other
23 election returns and place the inner envelope, unopened, in a
24 secure and locked container to be transmitted to the
25 canvassing board to be tallied and included in the canvass of

1 the election returns for the municipality.

2 F. If the municipal clerk determines that the
3 ballot in lieu of absentee ballot is not valid because the
4 application for absentee ballot was rejected and no ballot
5 was mailed to the voter, or that a ballot was received from
6 the voter by the municipal clerk not later than 7:00 p.m. on
7 election day, the municipal clerk shall write "rejected --
8 invalid ballot" on the front of the transmittal envelope and
9 the transmittal envelope shall not be sent to the canvassing
10 board for counting and tallying. The municipal clerk shall
11 retain the unopened transmittal envelope in a safe and secure
12 manner and shall notify the district attorney in writing of
13 the alleged violation of the Municipal Election Code. A copy
14 of the notification to the district attorney shall be sent by
15 first class mail to the voter and to the secretary of state.

16 G. The municipal clerk shall furnish and shall
17 prescribe the form of the necessary envelopes to be used in
18 accordance with the purposes of this section, and shall take
19 steps to preserve the secrecy of any ballots cast pursuant to
20 this section."

21 SECTION 26. [NEW MATERIAL] IDENTIFICATION CARDS--
22 REIMBURSEMENT COSTS--INFORMATION SHARING.--

23 A. The motor vehicle division of the taxation and
24 revenue department shall provide the secretary of state with
25 a record of all identification cards issued to voters

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1 pursuant to the provisions of Section 66-5-408 NMSA 1978.

2 B. The secretary of state shall reimburse the
3 motor vehicle division of the taxation and revenue department
4 with money from the public election fund for the costs of
5 issuing identification cards to voters without charge
6 pursuant to the provisions of Section 66-5-408 NMSA 1978.

7 SECTION 27. Section 66-5-408 NMSA 1978 (being Laws
8 1978, Chapter 35, Section 335, as amended) is amended to
9 read:

10 "66-5-408. FEES--EXCEPTIONS---

11 A. Upon application for an identification card
12 with a four-year term, there shall be paid to the department
13 a fee of five dollars (\$5.00). Upon application for an
14 identification card with an eight-year term, there shall be
15 paid to the department a fee of ten dollars (\$10.00). A fee
16 shall not be charged to an applicant for an identification
17 card if the applicant:

18 (1) is at least seventy-five years of age;

19 or

20 (2) states that the applicant is obtaining
21 the identification card for the purpose of voting and does
22 not possess any other form of identification required by the
23 Election Code for the applicant to vote in person and the
24 applicant is:

25 (a) currently registered to vote in

1 the state; or

2 (b) a qualified elector and submits a
 3 certificate of registration form to the department for
 4 processing by the requisite county clerk.

5 B. The department with the approval of the
 6 governor may increase the amount of the identification card
 7 fee by an amount not to exceed three dollars (\$3.00) for the
 8 purpose of implementing an enhanced licensing system;
 9 provided that for an identification card issued for an eight-
 10 year period, the amount of the fee shall be twice the amount
 11 charged for other identification cards. The additional
 12 amounts collected pursuant to this subsection are
 13 appropriated to the department to defray the expense of the
 14 new system of licensing and for use as set forth in the
 15 provisions of Subsection F of Section 66-6-13 NMSA 1978.
 16 Unexpended and unencumbered balances from fees collected
 17 pursuant to the provisions of this subsection at the end of
 18 any fiscal year shall not revert to the general fund but
 19 shall be expended by the department in fiscal year 2010 and
 20 subsequent fiscal years."

21 **SECTION 28.** Section 66-8-111.1 NMSA 1978 (being Laws
 22 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter
 23 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is
 24 amended to read:

25 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR

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1 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND OF RIGHT TO A
2 HEARING.--

3 A. On behalf of the department, a law enforcement
4 officer requesting a chemical test or directing the
5 administration of a chemical test pursuant to Section
6 66-8-107 NMSA 1978 shall serve immediate written notice of
7 revocation and of right to a hearing on a person who:

8 (1) refuses to permit chemical testing; or
9 [~~on a person who~~]

10 (2) submits to a chemical test the results
11 of which indicate an alcohol concentration in the person's
12 blood or breath of:

13 (a) eight one hundredths or more if
14 the person is twenty-one years of age or older;

15 (b) four one hundredths or more if the
16 person is driving a commercial motor vehicle; or

17 (c) two one hundredths or more if the
18 person is less than twenty-one years of age. [~~Upon serving~~]

19 B. The written notice of revocation [~~the law~~
20 ~~enforcement officer shall take the license or permit of the~~
21 ~~driver, if any, and issue] and of a right to a hearing served
22 on the driver shall be a temporary license valid for twenty
23 days or, if the driver requests a hearing pursuant to Section
24 66-8-112 NMSA 1978, valid until the date the department
25 issues the order following that hearing; provided that a~~

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1 written notice of revocation and right to a hearing shall not
2 be a temporary license [~~shall not be issued to~~] for a driver
3 without [~~a valid license or permit~~] any otherwise valid
4 driving privileges in this state.

5 C. The law enforcement officer shall send [~~the~~
6 ~~person's driver's license~~] to the department [~~along with~~] the
7 signed statement required pursuant to Section 66-8-111 NMSA
8 1978."

9 SECTION 29. REPEAL.--Section 1-12-4.1 NMSA 1978 (being
10 Laws 2005, Chapter 270, Section 59) is repealed.

11 SECTION 30. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 15, 2015.