

1 SENATE BILL 354

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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9  
10 AN ACT

11 CHANGING THE NAME OF PRECINCT BOARDS TO "ELECTION BOARD" IN THE  
12 ELECTION CODE AND OTHER SECTIONS OF LAW.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 1-1-8 NMSA 1978 (being Laws 1969,  
16 Chapter 240, Section 7, as amended by Laws 1993, Chapter 314,  
17 Section 2 and also by Laws 1993, Chapter 316, Section 2) is  
18 amended to read:

19 "1-1-8. ELECTION RETURNS.--As used in the Election Code,  
20 "election returns" means the certificate of the [~~precinct~~]  
21 election board showing the total number of votes cast for each  
22 candidate, or for or against each proposed constitutional  
23 amendment or other question, and may include statements of  
24 canvass, signature rosters, poll books, tally books, machine-  
25 printed returns and, in any canvass of returns for county

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1 candidates, the original certificates of registration in the  
2 possession of the county clerk, together with the copies of  
3 certificates of registration in the office of the county  
4 clerk."

5 SECTION 2. Section 1-1-11 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 10) is amended to read:

7 "1-1-11. PRECINCT.--As used in the Election Code,  
8 "precinct" means a designated division of a county for election  
9 purposes [~~which~~] that is entitled to a polling place and [~~a~~  
10 ~~precinct~~] an election board. For purposes of municipal or  
11 school district elections, a precinct may also be conterminous  
12 with the boundaries of the municipality or school district as  
13 the case may be."

14 SECTION 3. Section 1-1-13 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 12, as amended) is amended to read:

16 "1-1-13. [~~PRECINCT~~] ELECTION BOARD.--As used in the  
17 Election Code, "[~~precinct~~] election board" or "poll workers"  
18 means the appointed election officials serving a single  
19 precinct, a consolidated precinct, an absent voter precinct or  
20 an alternate voting location."

21 SECTION 4. 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 by

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1 administering the Election Code in its statewide application;

2 B. prepare instructions for the conduct of election  
3 and registration matters in accordance with the laws of the  
4 state;

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

9 D. report possible violations of the Election Code  
10 of which the secretary of state has knowledge to the district  
11 attorney or the attorney general for prosecution;

12 E. cause to be published in book form and  
13 distributed to the county clerk of each county for use by  
14 [~~precinct~~] election boards a sufficient number of copies of the  
15 Election Code as it is from time to time amended and  
16 supplemented;

17 F. be responsible for the education and training of  
18 county clerks regarding elections;

19 G. be responsible for the education and training of  
20 voting machine technicians; and

21 H. assist the county clerks in the education and  
22 training of registration officers."

23 SECTION 5. Section 1-2-4 NMSA 1978 (being Laws 1969,  
24 Chapter 240, Section 25, as amended) is amended to read:

25 "1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS TO

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1     [~~PRECINCT~~] ELECTION BOARDS--TRAINING MANUAL.--

2             A. The secretary of state shall provide:

3                     (1) instructions for the [~~precinct~~] election  
4 board, which shall include a brief nontechnical explanation of  
5 its duties as required by the Election Code; and

6                     (2) a single training manual containing  
7 standard guidelines for the operations and processes of  
8 statewide elections, including [~~pre-election day~~] pre-election-  
9 day activities, election-day activities and post-election-day  
10 activities. Separate manuals for voting systems may be  
11 provided for each county, or if the single training manual is  
12 in a looseleaf binder format, sections for the voting systems  
13 used in a given county may be inserted in the training manual  
14 for that county.

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

18             SECTION 6. Section 1-2-6 NMSA 1978 (being Laws 1969,  
19 Chapter 240, Section 28, as amended) is amended to read:

20             "1-2-6. [~~PRECINCT~~] ELECTION BOARD--APPOINTMENT--TERM.--

21                     A. The county clerk on or before fifty-five days  
22 next preceding the primary election shall appoint the  
23 [~~precinct~~] election board for each precinct.

24                     B. The members of the [~~precinct~~] election board  
25 shall be appointed for a term of two years.

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1 C. In the event of a vacancy in the office of  
2 [~~precinct~~] election board member by reason of death, removal  
3 from the county, disqualification, refusal to serve or excusal  
4 by the county clerk for sufficient cause, the county clerk  
5 shall appoint a qualified person to fill the vacancy for the  
6 unexpired term."

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

9 "1-2-7. [~~PRECINCT~~] ELECTION BOARD--QUALIFICATION OF  
10 MEMBERS--QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION  
11 OF MINORS.--

12 A. In order to qualify as a member of the  
13 [~~precinct~~] election board, a person shall:

- 14 (1) be a voter of the county in which the  
15 person is appointed to serve;
- 16 (2) be able to read and write;
- 17 (3) have the necessary capacity to carry out  
18 [~~a precinct~~] an election board member's functions with  
19 acceptable skill and dispatch; and
- 20 (4) execute the [~~precinct~~] election board  
21 member's oath of office.

22 B. Before serving as a presiding judge of [~~a~~  
23 ~~precinct~~] an election board, a person shall receive training in  
24 the duties of that position and be certified for the position  
25 by the county clerk.

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1 C. No person shall be qualified for appointment or  
2 service on [~~a precinct~~] an election board:

3 (1) who is a candidate to be voted for at the  
4 election;

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

7 (3) who is married to a parent, child, brother  
8 or sister of any candidate to be voted for at the election or  
9 who is the parent of the spouse of any candidate to be voted  
10 for at the election; or

11 (4) who is a sheriff, deputy sheriff, marshal,  
12 deputy marshal or state or municipal police officer.

13 D. A county clerk may appoint not more than two  
14 minors to serve on [~~a precinct~~] an election board under the  
15 direct supervision of the presiding judge. A minor appointed  
16 by the county clerk shall:

17 (1) meet the qualifications set forth in  
18 Subsection A of this section, except the minor need not be  
19 eligible to vote;

20 (2) be sixteen or seventeen years of age at  
21 the time of the election in which the minor is serving as a  
22 member of [~~a precinct~~] an election board;

23 (3) be a citizen at the time of the election  
24 for which the minor will be serving as a member of [~~a precinct~~]  
25 an election board;

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1 (4) have the approval of the minor's parent or  
2 legal guardian, unless the minor is emancipated;

3 (5) attend at least one school of instruction  
4 in accordance with the provisions of Section 1-2-17 NMSA 1978;  
5 and

6 (6) be appointed to [~~a precinct~~] an election  
7 board in the county in which the minor's parent or legal  
8 guardian resides, in accordance with the provisions of Section  
9 1-2-11 NMSA 1978.

10 E. A minor appointed to [~~a precinct~~] an election  
11 board shall not serve as the presiding judge or as an election  
12 judge."

13 SECTION 8. Section 1-2-8 NMSA 1978 (being Laws 1975,  
14 Chapter 255, Section 14, as amended) is amended to read:

15 "1-2-8. [~~PRECINCT~~] ELECTION BOARD--LISTS FROM MAJOR  
16 POLITICAL PARTIES.--The county [~~chairman~~] chair of each of the  
17 major political parties may file with the county clerk at least  
18 thirty days before the date of appointment the names of not  
19 more than four voters for each precinct to be considered for  
20 appointment as a member of the [~~precinct~~] election board. Such  
21 names shall be those of persons residing in the precinct to  
22 which they are to be appointed and who meet the qualifications  
23 required for [~~a precinct~~] an election board member. The county  
24 [~~chairman~~] chair may indicate [~~his~~] an order of preference for  
25 each of the persons recommended for each precinct."

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1           SECTION 9. Section 1-2-9 NMSA 1978 (being Laws 1975,  
2 Chapter 255, Section 15, as amended) is amended to read:

3           "1-2-9. [~~PRECINCT~~] ELECTION BOARD--STANDBY LIST.--

4           A. Not less than twenty-one days prior to the date  
5 for appointing members of [~~precinct~~] election boards, the  
6 county clerk shall publish a notice once in a newspaper of  
7 general circulation to the effect that [~~precinct~~] election  
8 boards are to be appointed for the specified number of  
9 precincts, stating the number of persons composing each board  
10 and that applications for the standby list will be accepted at  
11 the county clerk's office.

12           B. The county clerk shall then compile from the  
13 individual applicants a standby list of [~~precinct~~] election  
14 board members. The persons on the standby list shall have the  
15 same qualifications and comply with the same requirements as  
16 provided for [~~precinct~~] election board members."

17           SECTION 10. Section 1-2-10 NMSA 1978 (being Laws 1975,  
18 Chapter 255, Section 16, as amended) is amended to read:

19           "1-2-10. [~~PRECINCT~~] ELECTION BOARD--APPOINTMENT BY COUNTY  
20 CLERK.--The county clerk shall appoint the [~~precinct~~] election  
21 board for each precinct in the following order:

22           A. from the list submitted by the major party  
23 county chairs in the order stated thereon;

24           B. from the list of minors who qualify to be  
25 [~~precinct~~] election board members at the discretion of the

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1 county clerk;

2 C. from the standby list; and

3 D. from any other list of voters who have the same  
4 qualifications and comply with the same requirements as  
5 provided for [~~precinct~~] election board members."

6 SECTION 11. Section 1-2-11 NMSA 1978 (being Laws 1977,  
7 Chapter 222, Section 5, as amended) is amended to read:

8 "1-2-11. [~~PRECINCT~~] ELECTION BOARD--ASSIGNMENT.--Wherever  
9 possible, the county clerk shall assign persons appointed as  
10 [~~precinct~~] election board members to serve in precincts wherein  
11 they reside or in precincts located in the representative  
12 district wherein they reside. In the event of a shortage or  
13 absence of [~~precinct~~] election board members in certain  
14 precincts, the county clerk may, in the best interest of the  
15 election process, assign appointed [~~precinct~~] election board  
16 members to serve on any [~~precinct~~] election board in the  
17 county, provided that such appointed board members shall not  
18 change the proportionate representation of each party on the  
19 board."

20 SECTION 12. Section 1-2-12 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 32, as amended) is amended to read:

22 "1-2-12. [~~PRECINCT~~] ELECTION BOARD--NUMBER FOR EACH  
23 PRECINCT.--

24 A. For primary, general and special federal  
25 elections, the [~~precinct~~] election board shall consist of:

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- 1 (1) a presiding judge;
- 2 (2) two election judges; and
- 3 (3) one election clerk.

4 B. The county clerk, in appointing [~~precinct~~]  
5 election boards for primary, general and special federal  
6 elections:

7 (1) shall appoint presiding judges and  
8 election judges so that at least one election judge shall not  
9 be of the same political party, if any, as the presiding judge;  
10 and

11 (2) may appoint teams of presiding judges and  
12 election judges for absent voter precincts and alternate voting  
13 locations, provided that each team meets the requirements  
14 pursuant to Paragraph (1) of this subsection.

15 C. For all other elections, the [~~precinct~~] election  
16 board shall consist of:

- 17 (1) a presiding judge;
- 18 (2) one election judge; and
- 19 (3) one election clerk.

20 D. If the county clerk determines that additional  
21 election clerks are needed, the clerk may appoint such  
22 additional election clerks as the clerk deems necessary."

23 **SECTION 13.** Section 1-2-14 NMSA 1978 (being Laws 1969,  
24 Chapter 240, Section 34, as amended) is amended to read:

25 "1-2-14. [~~PRECINCT~~] ELECTION BOARDS--NOTICE OF

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1 APPOINTMENT.--

2 A. Immediately after the appointment of the  
3 [~~precinct~~] election boards, the county clerk shall:

4 (1) make and certify a list of the names of  
5 the appointees for each polling location, by precinct where  
6 applicable, post the list in a conspicuous and accessible place  
7 in the county clerk's office and keep it posted for five days  
8 and send a copy of the list upon request to the county chair of  
9 each political party participating in the election and to the  
10 secretary of state; and

11 (2) notify each person appointed, request the  
12 person's acceptance and keep a record of all notifications and  
13 acceptances.

14 B. If any person appointed to [~~a precinct~~] an  
15 election board fails to accept the appointment within two weeks  
16 after the notice was sent or communicated, the county clerk  
17 shall appoint another qualified person for the [~~precinct~~]  
18 election board."

19 SECTION 14. Section 1-2-15 NMSA 1978 (being Laws 1991,  
20 Chapter 105, Section 6) is amended to read:

21 "1-2-15. [~~PRECINCT~~] ELECTION BOARD--VACANCY ON ELECTION  
22 DAY.--

23 A. If for any cause a member of the [~~precinct~~]  
24 election board is not present on election day at the precinct  
25 for which [~~he or she~~] the member was appointed, the remaining

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1 board members shall notify the county clerk, who shall fill the  
2 vacancy.

3 B. If the board members are unable to contact the  
4 county clerk in a timely manner, the vacant position shall be  
5 filled as follows:

6 (1) if there is a vacancy in the position of  
7 presiding judge, the remaining board members shall elect one of  
8 the election judges to fill the vacancy;

9 (2) if there is a vacancy in the position of  
10 election judge, the presiding judge shall appoint an election  
11 clerk of a different political party than that of the remaining  
12 election judge; however, if there is no election clerk of a  
13 different political party, the presiding judge shall appoint a  
14 voter of the precinct who is of a different political party  
15 than that of the remaining election judge; and

16 (3) if the vacancy is in the position of  
17 election clerk, the presiding judge shall appoint any voter of  
18 the precinct to fill the vacancy, provided the voter is of a  
19 different political party than the remaining election clerk on  
20 a five-member board or of a different political party than that  
21 of the presiding judge on a four-member board.

22 C. No vacancy on election day shall prevent the  
23 remaining board members from proceeding to open the polls and  
24 conducting the election in their assigned precinct."

25 SECTION 15. Section 1-2-16 NMSA 1978 (being Laws 1969,  
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1 Chapter 240, Section 36, as amended) is amended to read:

2 "1-2-16. [~~PRECINCT~~] ELECTION BOARD--COMPENSATION.--

3 A. Members of [~~a precinct~~] an election board shall  
4 be compensated for their services at the rate of not less than  
5 the federal minimum hourly wage rate nor more than two hundred  
6 dollars (\$200) for an election day.

7 B. Members of [~~a precinct~~] an election board  
8 assigned to alternate voting locations or absent voter  
9 precincts may be compensated at an hourly rate set by the  
10 county clerk.

11 C. Compensation shall be paid within thirty days  
12 following the date of election.

13 D. For purposes of determining eligibility for  
14 membership in the public employees retirement association and  
15 pursuant to the provisions of Subsection B of Section 10-11-3  
16 NMSA 1978, [~~precinct~~] election board members are designated as  
17 seasonal employees."

18 SECTION 16. Section 1-2-17 NMSA 1978 (being Laws 1969,  
19 Chapter 240, Section 37, as amended) is amended to read:

20 "1-2-17. [~~PRECINCT~~] ELECTION BOARD--SCHOOLS OF  
21 INSTRUCTION.--

22 A. The county clerk shall cause to be held a public  
23 school of instruction for all presiding judges, [~~precinct~~]  
24 election boards and others who will be officially concerned  
25 with the conduct of elections.

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1           B. The schools for instruction provided for in this  
2 section shall be as follows:

3                   (1) one school not less than seven days before  
4 the primary election;

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

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

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

13           D. The school of instruction shall be open to any  
14 interested person, and notice of the school shall be given to  
15 the public press at least four days before the school is to be  
16 held. Each member of the [~~precinct~~] election board shall be  
17 notified at least seven days prior to commencement of the  
18 school.

19           E. A person shall not serve as a judge or member of  
20 [~~a precinct~~] an election board in any election unless that  
21 person has attended at least one such school of instruction in  
22 the calendar year of the election at which the person is  
23 appointed to serve or has been certified by the county clerk  
24 with respect to the person's completion of the school of  
25 instruction. This subsection shall not apply to filling of

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1 vacancies on election day as provided in Subsection B of  
2 Section 1-2-15 NMSA 1978."

3 SECTION 17. Section 1-2-18 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 38) is amended to read:

5 "1-2-18. [~~PRECINCT~~] ELECTION BOARD MEMBERS--  
6 IDENTIFICATION BADGES.--At all times on election day while  
7 performing their duties, members of the [~~precinct~~] election  
8 board shall wear uniform identification badges. Such badges  
9 shall be furnished by the county clerk. The secretary of state  
10 shall prescribe the form and material of such identification  
11 badges, which shall include the identification of the board  
12 member's title and political party."

13 SECTION 18. Section 1-2-19 NMSA 1978 (being Laws 1977,  
14 Chapter 124, Section 2, as amended) is amended to read:

15 "1-2-19. ORAL ASSISTANCE FOR LANGUAGE-MINORITY VOTERS.--

16 A. In those polling places designated by the  
17 secretary of state as being subject to the provisions of the  
18 1975 amendments to the federal Voting Rights Act of 1965, oral  
19 assistance shall be made available to assist language-minority  
20 voters who cannot read [~~sufficiently~~] well enough to exercise  
21 the elective franchise. As used in the Election Code,  
22 "language minority voter" means a person who is an American  
23 Indian or of Spanish heritage, and "~~inability to~~ cannot read  
24 well enough to exercise the elective franchise" means inability  
25 to read the languages in which the ballot is printed or the

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1 inability to understand instructions for operating the voting  
2 machine.

3 B. In those precincts where oral assistance is  
4 required, the position of "election translator" is created.  
5 The election translator shall be an additional member of the  
6 regular [~~precinct~~] election board unless oral assistance to  
7 language minorities can otherwise be rendered by a member of  
8 the regular [~~precinct~~] election board. The election translator  
9 shall be appointed by the county clerk in the same manner as  
10 other [~~precinct~~] election board members are appointed, except  
11 that the county clerk in appointing American Indian election  
12 translators shall seek the advice of the pueblo or tribal  
13 officials residing in that county. The election translator  
14 shall take the oath required of [~~precinct~~] election board  
15 members and shall meet the same qualifications as other  
16 [~~precinct~~] election board members. In precincts where election  
17 translators are required, an election translator shall  
18 represent each political party as required by law for  
19 [~~precinct~~] election boards.

20 C. Each county clerk shall compile and maintain a  
21 list of standby election translators to serve in those  
22 precincts on election day when the appointed election  
23 translator is unavailable for such service.

24 D. Each county clerk shall provide to the secretary  
25 of state no later than thirty days before any election a list

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1 of appointed election translators and a list of appointed  
2 standby election translators, together with the precinct  
3 numbers to which each election translator has been appointed."

4 SECTION 19. Section 1-2-23 NMSA 1978 (being Laws 1969,  
5 Chapter 240, Section 42, as amended) is amended to read:

6 "1-2-23. CHALLENGERS--PERMITTED ACTIVITIES.--

7 A. A challenger, upon presentation of the written  
8 appointment to the [~~precinct~~] election board, shall be  
9 permitted to be present at any time from the time the  
10 [~~precinct~~] election board convenes at the polling place until  
11 the completion of the [~~precinct~~] election board's duties after  
12 the polls close.

13 B. A challenger, for the purpose of interposing  
14 challenges, may:

15 (1) view the signature roster or precinct  
16 voter list for the purpose of determining whether the  
17 challenger desires to interpose a challenge when a signature  
18 roster or precinct voter list is used;

19 (2) view the application to vote form before  
20 the voter receives a ballot for the purpose of determining  
21 whether the challenger desires to interpose a challenge when an  
22 application to vote form is used;

23 (3) view the signature roster or checklist of  
24 voters to determine whether entries are being made in  
25 accordance with the Election Code;

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1 (4) view each voting machine before the polls  
2 are opened to ensure that the public counter is at zero, that  
3 the results tape contains no votes and that there are no voted  
4 ballots in the voting machine bins; and

5 (5) make in any polling place and preserve for  
6 future reference written memoranda of any action or omission on  
7 the part of any member of the [~~precinct~~] election board."

8 SECTION 20. Section 1-2-25 NMSA 1978 (being Laws 1969,  
9 Chapter 240, Section 44, as amended) is amended to read:

10 "1-2-25. CHALLENGERS, WATCHERS, COUNTY CANVASS  
11 OBSERVERS--PERMITTED AND PROHIBITED ACTIVITIES.--

12 A. Challengers, watchers and county canvass  
13 observers shall:

14 (1) not be permitted to perform any duty of [~~a~~  
15 ~~precinct~~] an election board member;

16 (2) not handle the ballots, signature rosters,  
17 checklist of voters or voting machines or take any part in the  
18 counting or tallying of the ballots or the county canvass;

19 (3) not be allowed to view a voter's full date  
20 of birth or any portion of the voter's social security number;

21 (4) not interfere with the orderly conduct of  
22 the election, the counting or tallying of the ballots or the  
23 county canvass;

24 (5) be allowed in the room in which the voting  
25 is being conducted at a polling location, provided that at any

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1 given time each political party, candidate or election-related  
2 organization may have no more than one person present; and

3 (6) be allowed in the room in which the absent  
4 voter [~~precinct~~] election board conducts its business or, in  
5 the case of county canvass observers, in which the county  
6 canvass is conducted, provided that each political party,  
7 candidate or election-related organization shall have no more  
8 than:

9 (a) two persons present at any given  
10 time in counties with more than ten thousand registered voters;

11 (b) four persons present at any given  
12 time in counties with more than fifty thousand registered  
13 voters; or

14 (c) fifteen persons present at any given  
15 time in counties with more than two hundred fifty thousand  
16 registered voters.

17 B. Subject to permission granted by the county  
18 clerk, additional challengers may be present in the room in  
19 which the absent voter [~~precinct~~] election board conducts its  
20 business, provided that the number of additional challengers  
21 allowed pursuant to this subsection is identical for each  
22 political party participating in the election."

23 SECTION 21. Section 1-2-26 NMSA 1978 (being Laws 1969,  
24 Chapter 40, Section 45, as amended) is amended to read:

25 "1-2-26. CHALLENGERS--PENALTY.--The act of denying a

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1 challenger, who has presented a written appointment to the  
2 [~~precinct~~] election board and who is not interfering with the  
3 orderly conduct of the election, the right to be present at the  
4 polling place, or denying a challenger the right to challenge  
5 voters and view the signature rosters or checklist of voters or  
6 denying a challenger the right to witness the [~~precinct~~]  
7 election board in the conduct of its duties is a petty  
8 misdemeanor."

9 SECTION 22. Section 1-2-29 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 48, as amended) is amended to read:

11 "1-2-29. WATCHERS AND ELECTION OBSERVERS--PERMISSIBLE  
12 ACTIVITIES.--

13 A. Upon presentation to [~~a precinct~~] an election  
14 board of a written appointment, a watcher or election observer  
15 may:

16 (1) be present at any time from the time the  
17 [~~precinct~~] election board convenes at the polling place until  
18 the completion of the [~~precinct~~] election board's duties after  
19 the polls close;

20 (2) be permitted to observe that the election  
21 is being conducted in accordance with the Election Code;

22 (3) view the precinct voter list to ascertain  
23 whether a voter has voted, subject to the same prohibitions and  
24 restrictions as are placed upon challengers by the Election  
25 Code;

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1 (4) view any voting machine being used in the  
2 precinct in the same manner that challengers may examine the  
3 voting machines; and

4 (5) make in any polling place and preserve for  
5 future reference written memoranda of any action or omission on  
6 the part of any member of the [~~precinct~~] election board charged  
7 with the performance of a duty by the Election Code.

8 B. A watcher appointed on behalf of candidates may  
9 be present only in polling locations within the county of  
10 appointment at which ballots are cast for at least one of the  
11 candidates making the appointment."

12 SECTION 23. Section 1-2-30 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 49, as amended) is amended to read:

14 "1-2-30. WATCHERS AND ELECTION OBSERVERS--PENALTY.--The  
15 act of denying a watcher or an election observer, who has  
16 presented a written appointment to the [~~precinct~~] election  
17 board and who is not interfering with the orderly conduct of  
18 the election, the right to be present at the polling place or  
19 denying a watcher or election observer the right to witness the  
20 [~~precinct~~] election board in the conduct of its duties is a  
21 petty misdemeanor."

22 SECTION 24. Section 1-3-19 NMSA 1978 (being Laws 2013,  
23 Chapter 189, Section 1) is amended to read:

24 "1-3-19. ELECTION-DAY POLLING PLACES--ADEQUATE  
25 RESOURCES.--

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1           A. Each election-day polling place in a primary or  
2 general election that does not contain mail ballot election  
3 precincts or precincts consolidated pursuant to Section 1-3-4  
4 NMSA 1978 shall comply with the requirements for polling places  
5 and precincts as provided in Subsections B and C of this  
6 section, unless the county clerk receives a written waiver from  
7 the secretary of state specifying the location and specific  
8 provision being waived.

9           B. Each polling place shall:

10                   (1) have at least one voting system available  
11 to assist disabled voters to cast and record their votes; and

12                   (2) be in a location that is accessible and  
13 compliant with the requirements of the federal Americans with  
14 Disabilities Act of 1990.

15           C. Each precinct polling place located within a  
16 single polling place shall have:

17                   (1) a separate [~~precinct~~] election board and  
18 signature roster for the precinct;

19                   (2) at least one optical scan tabulator for  
20 the precinct; and

21                   (3) sufficient spaces for at least five voters  
22 to simultaneously and privately mark their ballots, with at  
23 least one of those spaces wheelchair-accessible, for the  
24 precinct."

25           SECTION 25. Section 1-4-8 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 66, as amended) is amended to read:

2 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
3 REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS  
4 AND OVERSEAS VOTERS--LATE REGISTRATION.--

5 A. For qualified electors other than federal  
6 qualified electors or overseas voters, the following provisions  
7 shall apply:

8 (1) the county clerk shall receive  
9 certificates of registration at all times during normal working  
10 hours, except that the clerk shall close registration at  
11 5:00 p.m. on the twenty-eighth day immediately preceding any  
12 election at which the registration books are to be furnished to  
13 the [~~precinct~~] election board;

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

16 (3) for purposes of a municipal or school  
17 election, the registration period for those precincts within  
18 the municipality or school district is closed at 5:00 p.m. on  
19 the twenty-eighth day immediately preceding the municipal or  
20 school election and is opened again on the Monday following the  
21 election;

22 (4) during the period when registration is  
23 closed, the county clerk shall receive certificates of  
24 registration and other documents pertaining thereto but shall  
25 not file [~~the~~] any certificate of registration in the

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1 registration book until the Monday following the election, at  
2 which time a voter information document shall be mailed to the  
3 registrant at the address shown on the certificate of  
4 registration;

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

10 (6) the county clerk shall accept for filing  
11 any certificate of registration that is subscribed and dated on  
12 or before the twenty-eighth day preceding the election and:

13 (a) received by the county clerk before  
14 5:00 p.m. on the Friday immediately following the close of  
15 registration;

16 (b) mailed and postmarked not less than  
17 twenty-eight days prior to any election referred to in this  
18 section; or

19 (c) accepted at a state agency  
20 designated pursuant to Section 1-4-5.2 NMSA 1978.

21 B. For federal qualified electors and overseas  
22 voters, the county clerk shall accept a certificate of  
23 registration by electronic transmission from a voter qualified  
24 to apply for and vote by absentee ballot in the county if the  
25 transmission is received before 5:00 p.m. on the Friday

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1 immediately preceding the election."

2 SECTION 26. Section 1-6-4 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 130, as amended) is amended to read:

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

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

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

21 C. Each application for an absentee ballot shall be  
22 signed by the applicant and shall require the applicant's  
23 printed name, registration address and year of birth to be  
24 supplied by the applicant, which shall constitute the required  
25 form of identification, except for new registrants who have

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1 registered by mail and at that time did not provide acceptable  
2 identification. The secretary of state shall issue rules to  
3 exempt voters from submitting identification only as required  
4 by federal law and shall review and, if necessary, update these  
5 rules no later than March 15 of even-numbered years.

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

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

16 SECTION 27. Section 1-6-6 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 132, as amended) is amended to read:

18 "1-6-6. ABSENTEE BALLOT REGISTER.--

19 A. For each election, the county clerk shall keep  
20 an "absentee ballot register", in which the county clerk shall  
21 enter:

22 (1) the name and address of each absentee  
23 ballot applicant;

24 (2) the date and time of receipt of the  
25 application;

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1 (3) whether the application was accepted or  
2 rejected;

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

6 (5) the applicant's precinct;

7 (6) whether the applicant is a voter, a  
8 federal qualified elector or an overseas voter;

9 (7) whether the voter is required to submit  
10 identification pursuant to Section 1-6-5 NMSA 1978; and

11 (8) the date and time the completed absentee  
12 ballot was received from the applicant by the county clerk or  
13 the absent voter voted early in person in the county clerk's  
14 office or at an alternate location.

15 B. Absentee ballots shall be sent to applicants  
16 beginning twenty-eight days before the election. For each  
17 application for an absentee ballot received twenty-three or  
18 more days before the election, the county clerk shall send  
19 either the ballot or a notice of rejection to the applicant as  
20 soon as practicable, provided it is sent not later than  
21 twenty-two days before the election. Within twenty-two days of  
22 election day, the county clerk shall send either the ballot or  
23 a notice of rejection to the applicant within twenty-four hours  
24 after receipt of the voter's application for an absentee  
25 ballot.

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1           C. The absentee ballot register is a public record  
2 open to public inspection in the county clerk's office during  
3 regular office hours. The county clerk shall have an updated  
4 absentee ballot register available for public inspection Monday  
5 through Friday during regular office hours.

6           D. The county clerk shall deliver to the absent  
7 voter precinct on election day a complete list of all absentee  
8 ballot applicants and early voters with applicable information  
9 shown in the absentee ballot register for each applicant and  
10 early voter up to 6:00 p.m. on the Saturday preceding the  
11 election. The county clerk shall deliver a signature roster  
12 containing the same information as the lists to the absent  
13 voter [~~precinct~~] election board.

14           E. Upon request, the county clerk shall transmit to  
15 the county chair of each of the major political parties in the  
16 county a complete copy of entries made in the absentee ballot  
17 register. Such transmissions shall be made once each week  
18 beginning four weeks immediately prior to the election. A  
19 final copy shall be transmitted on the Saturday immediately  
20 following the election.

21           F. If the county clerk has available the technology  
22 to do so, at the request of a candidate or chair of a political  
23 party of the county, the county clerk shall electronically  
24 transmit to the candidate or chair via the internet the  
25 information, when updated, on the absentee ballot register

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1 indicating voters who have requested absentee ballots, returned  
2 their absentee ballots or voted early in person."

3 SECTION 28. Section 1-6-10 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 136, as amended) is amended to read:

5 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

6 A. The county clerk shall mark on each completed  
7 official mailing envelope the date and time of receipt in the  
8 clerk's office, record this information in the absentee ballot  
9 register and safely keep the official mailing envelope unopened  
10 in a locked and number-sealed ballot box until it is delivered  
11 to the absent voter [~~precinct~~] election board or until it is  
12 canceled and destroyed in accordance with law.

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

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1           C. No later than 5:00 p.m. on the Monday  
2 immediately preceding the date of election, the county clerk  
3 shall record the numbers of unused ballots and shall publicly  
4 destroy in the county clerk's office all such unused ballots or  
5 prepare the unused ballots for delivery to precinct boards.  
6 The county clerk shall execute a certificate of destruction,  
7 which shall include the numbers on the ballots destroyed. A  
8 copy of the certificate of destruction shall be sent to the  
9 secretary of state."

10           SECTION 29. Section 1-6-11 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 137, as amended) is amended to read:

12           "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER  
13 [~~PRECINCTS~~] ELECTION BOARD.--

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

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

4 B. On election day, the county clerk shall deliver  
5 all absentee ballots not yet delivered to the absent voter  
6 [~~precinct~~] election board but received prior to 7:00 p.m. on  
7 election day to the special deputy county [~~clerk~~] clerk for  
8 delivery to the absent voter [~~precinct boards~~] election board.  
9 The special deputy county clerk shall issue a receipt for all  
10 ballots delivered for the county clerk and shall observe the  
11 listing of the names on the official mailing envelope in the  
12 signature rosters. The special deputy county clerk shall then  
13 obtain a receipt executed by the presiding judge and each  
14 election judge and shall return the receipt to the county clerk  
15 for filing. The receipts shall specify the number of envelopes  
16 received by the special deputy county clerk from the county  
17 clerk for each absent voter precinct and the number of  
18 envelopes received by the absent voter [~~precinct~~] election  
19 board from the special 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~~] election board  
22 begins early processing of absentee ballots, the county clerk  
23 shall deliver the electronic voting machines used for absentee  
24 voting by mail to the absent voter [~~precinct~~] election board.  
25 The machines shall not be used to vote on or count additional

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

4 (1) obtain a receipt executed by the presiding  
5 judge and each election judge specifying the serial number and  
6 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 for  
10 filing."

11 SECTION 30. Section 1-6-14 NMSA 1978 (being Laws 1971,  
12 Chapter 317, Section 11, as amended) is amended to read:

13 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
14 [~~PRECINCT BOARDS~~] ELECTION BOARD.--

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

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

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

4 C. A lawfully appointed challenger may view the  
5 official mailing envelope and may challenge the ballot of any  
6 absent voter for the following reasons:

7 (1) the official mailing envelope has been  
8 opened by someone other than the voter prior to being received  
9 by the absent voter [~~precinct~~] election board;

10 (2) the official mailing envelope does not  
11 contain a signature; or

12 (3) the person offering to vote is not a voter  
13 as provided in the Election Code.

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

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

25 (1) the judges or election clerks shall enter

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

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

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

17 G. Absentee ballots shall be counted and tallied,  
18 where possible, on an electronic voting machine as provided in  
19 the Election Code.

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

24 I. If an absentee ballot does not contain the  
25 identification required pursuant to Subsection D of Section

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1 1-6-5 NMSA 1978, it shall be handled as a provisional paper  
2 ballot in accordance with the Election Code."

3 SECTION 31. Section 1-6-16 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 141, as amended) is amended to read:

5 "1-6-16. CASTING BALLOT IN PERSON PROHIBITED.--

6 A. No person who has been issued an absentee ballot  
7 shall vote in person other than on a replacement absentee  
8 ballot.

9 B. At any time prior to 5:00 p.m. on the Monday  
10 immediately preceding the date of the election, a person whose  
11 absentee ballot application has been accepted and who was  
12 mailed an absentee ballot but who has not received the absentee  
13 ballot may execute, in the office of the county clerk or at an  
14 alternate voting location in the county where the voter is  
15 registered to vote, during operational hours, a sworn affidavit  
16 stating that the person did not receive or vote the absentee  
17 ballot. Upon receipt of the sworn affidavit, the county clerk  
18 shall issue the voter a replacement absentee ballot.

19 C. Replacement absentee ballots shall be delivered  
20 to the absent voter [~~precinct~~] election board for tabulation  
21 and shall not be placed in a voting system for tabulation of  
22 votes cast at the office of the county clerk or at an alternate  
23 voting location.

24 D. The secretary of state shall prescribe the form  
25 of the affidavit and the manner in which the county clerk shall

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1 void the first ballot mailed to the applicant."

2 SECTION 32. Section 1-8-36.1 NMSA 1978 (being Laws 1981,  
3 Chapter 156, Section 1, as amended) is amended to read:

4 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

5 A. Write-in candidates are permitted in the primary  
6 election only for the offices of United States representative,  
7 members of the legislature, district judges, district  
8 attorneys, public regulation commission, public education  
9 commission, magistrates and any office voted upon by all voters  
10 of the state.

11 B. A person may be a write-in candidate only for  
12 nomination by the major political party with which the person  
13 is affiliated as shown by the certificate of registration, and  
14 such person shall have the qualifications to be a candidate in  
15 the primary election for the political party for which the  
16 person is a write-in candidate.

17 C. A person desiring to be a write-in candidate for  
18 one of the offices listed in Subsection A of this section in  
19 the primary election shall file with the proper filing officer  
20 a declaration of intent to be a write-in candidate. Such  
21 declaration of intent shall be filed between 9:00 a.m. and 5:00  
22 p.m. on the third Tuesday in March.

23 D. A write-in vote shall be counted and canvassed  
24 only if:

25 (1) the name written in is the name of a

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1 declared write-in candidate and shows two initials and last  
2 name; first name, middle initial or name and last name; first  
3 and last name; or the full name as it appears on the  
4 declaration of intent to be a write-in candidate and  
5 misspellings of the above combinations that can be reasonably  
6 determined by a majority of the members of the [~~precinct~~  
7 election board to identify a declared write-in candidate; and

8 (2) the name is written on the proper line  
9 provided on the ballot for write-in votes for the office for  
10 which the candidate has filed a declaration of intent and the  
11 voter has followed the directions for casting a vote for the  
12 write-in candidate.

13 E. At the time of filing the declaration of intent  
14 to be a write-in candidate, the write-in candidate shall be  
15 considered a candidate for all purposes and provisions relating  
16 to candidates in the Election Code, including the obligations  
17 to report pursuant to the Campaign Reporting Act, except that  
18 the write-in candidate's name shall not be printed on the  
19 ballot.

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

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1           G. A write-in vote shall be cast by writing in the  
2 name and following the directions for casting a vote for the  
3 write-in candidate. As used in this section, "write-in" does  
4 not include the imprinting of any name by rubber stamp or  
5 similar device or the use of pre-printed stickers or labels."

6           **SECTION 33.** Section 1-11-2 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 212, as amended) is amended to read:

8           "1-11-2. CONTENTS OF PROCLAMATION.--The proclamation  
9 shall:

- 10           A. give notice of the election;
- 11           B. set forth the purpose of the election;
- 12           C. list the offices to be filled;
- 13           D. list all properly certified candidates and their  
14 party affiliation for each of the offices to be filled;
- 15           E. list all properly certified candidates for  
16 judicial retention;
- 17           F. list all properly declared write-in candidates  
18 for each of the offices to be filled;
- 19           G. list the names of all [~~precinct~~] election board  
20 members, the polling location and the precinct, if applicable,  
21 to which they are appointed; and
- 22           H. give the address or location of each polling  
23 place and alternate voting location where the election is to be  
24 held."

25           **SECTION 34.** Section 1-11-16 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 228, as amended) is amended to read:

2 "1-11-16. SIGNATURE ROSTER CERTIFICATES--CHECKLIST OF  
3 REGISTERED VOTER'S CERTIFICATES--[PRECINCT] ELECTION BOARD  
4 MEMBER'S OATH.--The secretary of state shall prescribe the form  
5 of the signature roster certificates, checklist of registered  
6 voter's certificates and the [~~precinct~~] election board member's  
7 oath."

8 SECTION 35. Section 1-12-2 NMSA 1978 (being Laws 1969,  
9 Chapter 240, Section 238, as amended) is amended to read:

10 "1-12-2. CONDUCT OF ELECTION--[PRECINCT] ELECTION BOARD  
11 ATTENDANCE.--[~~Precinct~~] Election board members, [~~excepting~~]  
12 except those members scheduled to work only the second shift,  
13 shall present themselves at the polling place not later than  
14 6:00 a.m. on the date required by law for the election."

15 SECTION 36. Section 1-12-2.1 NMSA 1978 (being Laws 1999,  
16 Chapter 236, Section 1, as amended) is amended to read:

17 "1-12-2.1. [~~PRECINCT~~] ELECTION BOARD WORK SHIFT OPTION--

18 A. The county clerk may choose to schedule  
19 [~~precinct~~] election board members into two work shifts on  
20 election day and also may determine the length of each shift  
21 for each [~~precinct~~] election board member so long as the first  
22 shift begins at least one hour before the polls open.

23 B. If the county clerk chooses to schedule  
24 [~~precinct~~] election board members in shifts, the presiding  
25 judge on each [~~precinct~~] election board shall be scheduled to

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1 work both shifts that day.

2 C. The county clerk shall notify the secretary of  
3 state of all precincts that will be following a two-shift  
4 schedule when the county clerk submits the list of [~~precinct~~]  
5 election board appointments in accordance with Section 1-2-14  
6 NMSA 1978."

7 SECTION 37. Section 1-12-3 NMSA 1978 (being Laws 1977,  
8 Chapter 222, Section 36, as amended) is amended to read:

9 "1-12-3. CONDUCT OF ELECTION--~~[PRECINCT]~~ ELECTION BOARD  
10 DUTIES.--The secretary of state shall prescribe the duties of  
11 the [~~precinct~~] election board, including duties that, during  
12 the conduct of the election, the presiding judge may reassign  
13 between judges and election clerks. Copies of such duties  
14 shall be furnished to each county clerk, and the clerk shall  
15 distribute them to each precinct."

16 SECTION 38. Section 1-12-4 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 243, as amended) is amended to read:

18 "1-12-4. CONDUCT OF ELECTION--MAINTENANCE OF ORDER.--

19 A. The presiding judge and the election judges  
20 shall maintain order within the polling place.

21 B. Crowding or confusion shall not be permitted in  
22 the polling place.

23 C. Admittance of voters to the polling place shall  
24 be controlled and limited to prevent crowding or rushing the  
25 [~~precinct~~] election board in the performance of its duties.

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1           D. The presiding judge or any election judge may  
2 call upon any peace officer to assist in the maintenance of  
3 order in the polling place. When so requested, the peace  
4 officer shall render assistance.

5           E. The presiding judge or any election judge may  
6 designate any peace officer to assist in the conduct of the  
7 election by standing outside the polling place entrance and  
8 controlling the admission of voters to the polling place."

9           **SECTION 39.** Section 1-12-4.1 NMSA 1978 (being Laws 2005,  
10 Chapter 270, Section 59) is amended to read:

11           "1-12-4.1. CONDUCT OF ELECTIONS--SUSPENSION OF CERTAIN  
12 VOTER IDENTIFICATION REQUIREMENTS.--If on election day the  
13 amount of time voters must spend in line before being able to  
14 vote in the precinct exceeds forty-five minutes, the presiding  
15 judge of the precinct shall suspend all physical forms of voter  
16 identification requirements other than those mandated by  
17 federal law; provided, however, [~~that~~] at the request of two or  
18 more [~~precinct~~] election board members of different political  
19 parties, a voter shall still present the required physical form  
20 of identification, and in the case of a voter who does not  
21 provide the required name, birth year and unique identifier,  
22 the voter shall still be required to present the required  
23 physical form of identification."

24           **SECTION 40.** Section 1-12-5 NMSA 1978 (being Laws 1969,  
25 Chapter 240, Section 244, as amended) is amended to read:

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1 "1-12-5. CONDUCT OF ELECTION--STATE POLICE--OTHER PEACE  
2 OFFICERS.--

3 A. Any member of the New Mexico state police or  
4 other peace officer may enter a polling place upon request for  
5 the purpose of observing the conduct of the election.

6 B. No member of the New Mexico state police or  
7 other peace officer shall interfere in any way with a member of  
8 the [~~precinct~~] election board, a voter or the conduct of the  
9 election except to assist in maintaining order and orderly  
10 control of access when requested by the presiding judge or an  
11 election judge.

12 C. Any member of the New Mexico state police or  
13 other peace officer violating Subsection B of this section is  
14 guilty of a petty misdemeanor and in addition to any other  
15 penalty provided by law shall be subject to dismissal and is  
16 ineligible for reinstatement."

17 SECTION 41. Section 1-12-6 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 245) is amended to read:

19 "1-12-6. CONDUCT OF ELECTION--MEMORANDA OF ACTIONS OR  
20 OMISSIONS.--Any member of the [~~precinct~~] election board may in  
21 the polling place make written memoranda and preserve them for  
22 future reference. The memoranda may concern any action or  
23 omission on the part of any person charged with a duty under  
24 the Election Code."

25 SECTION 42. Section 1-12-7.1 NMSA 1978 (being Laws 1969,  
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1 Chapter 240, Section 112, as amended) is amended to read:

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

4 A. Each [~~precinct~~] election board using voter lists  
5 shall post securely at or near the entrance of the polling  
6 place one copy of an alphabetical list of voters for use of the  
7 voters prior to voting. The posted copy shall not contain a  
8 listing of voter addresses, years of birth, unique identifiers  
9 or social security numbers.

10 B. The presiding judge of the [~~precinct~~] election  
11 board shall assign one judge or election clerk of the board to  
12 be in charge of one copy of the checklist of voters, which  
13 shall be used to confirm the registration and voting of each  
14 person offering to vote.

15 C. The presiding judge of the [~~precinct~~] election  
16 board shall assign one judge or election clerk to be in charge  
17 of the signature roster.

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

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1 judge or election clerk shall announce to the judges or  
2 election clerks the list number and the name of the voter as  
3 shown on the checklist of voters. If the voter does not  
4 provide the required voter identification, the voter shall be  
5 allowed to vote on a provisional paper ballot and shall provide  
6 the required voter identification to the county clerk's office  
7 before 5:00 p.m. on the second day following the election, or  
8 to the [~~precinct~~] election board before the polls close, or the  
9 voter's provisional ballot shall not be qualified. If the  
10 required voter identification is provided, the voter's  
11 provisional paper ballot shall be qualified and the voter shall  
12 not vote on any other type of ballot.

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

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1 physical form of identification to the polling place after  
2 casting a provisional paper ballot, that ballot shall be  
3 qualified and the voter shall not vote on any other type of  
4 ballot.

5 F. The judge or election clerk shall follow the  
6 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA  
7 1978 if a person whose name does not appear on the signature  
8 roster requests to vote or a person is required to vote on a  
9 provisional paper ballot.

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

13 SECTION 43. Section 1-12-7.4 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 110, as amended) is amended to read:

15 "1-12-7.4. SIGNATURE ROSTER--CHECKLIST OF VOTERS--VOTER  
16 LIST--NUMBER--DISTRIBUTION.--

17 A. The county clerk shall prepare and certify the  
18 accuracy of one signature roster and one checklist of voters  
19 for each precinct. The county clerk shall deliver such roster  
20 and checklist to each [~~precinct~~] election board. The voter  
21 shall sign the signature roster before receiving a ballot. The  
22 [~~precinct~~] election board member shall mark the checklist of  
23 voters to verify the voters on the list who have voted.

24 B. The county clerk shall prepare an alphabetical  
25 listing of voters in each precinct, which will be delivered to

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1 each [~~precinct~~] election board and posted inside the polling  
2 place for public use.

3 C. After the polls have closed, the presiding judge  
4 shall deliver the signed signature roster to the county clerk  
5 and mail the checklist of voters to the secretary of state."

6 SECTION 44. Section 1-12-8.2 NMSA 1978 (being Laws 2005,  
7 Chapter 270, Section 60, as amended) is amended to read:

8 "1-12-8.2. CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF  
9 ABSENTEE BALLOT BY VOTER--PROCEDURES.--

10 A. A voter who requested and received an absentee  
11 ballot shall be allowed to deliver the official mailing  
12 envelope containing the voter's absentee ballot on election day  
13 to any polling location in the county in which the voter is  
14 registered if the voter presents the official mailing envelope  
15 to the presiding judge before the polls close on election day.

16 B. The judge shall note that the voter delivered  
17 the absentee ballot in person on election day. The official  
18 mailing envelope shall not be opened but shall be placed in an  
19 envelope provided for delivery to the county clerk. The  
20 [~~precinct~~] election board shall deliver the unopened official  
21 mailing envelopes to the county clerk before midnight on  
22 election day.

23 C. If the unopened official mailing envelope is  
24 received by the county clerk from [~~a precinct~~] an election  
25 board before the absent voter [~~precinct~~] election board has

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1 adjourned, it shall be logged and transmitted to the absent  
2 voter [~~precinct~~] election board to be tallied immediately. If  
3 the unopened mailing envelope is received by the county clerk  
4 from [~~a precinct~~] an election board after the absent voter  
5 [~~precinct~~] election board has adjourned, it shall be logged and  
6 transmitted to the county canvassing board to be tallied and  
7 included in the canvass of that county for the appropriate  
8 precinct."

9 SECTION 45. Section 1-12-18 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 270, as amended) is amended to read:

11 "1-12-18. CONDUCT OF ELECTION--DISCLOSURE OF VOTE.--An  
12 election official, a member of the [~~precinct~~] election board, a  
13 watcher or a challenger shall not disclose the name of any  
14 candidate for whom any voter has voted."

15 SECTION 46. Section 1-12-19.1 NMSA 1978 (being Laws 1981,  
16 Chapter 156, Section 2, as amended by Laws 2014, Chapter 40,  
17 Section 9 and by Laws 2014, Chapter 81, Section 9) is amended  
18 to read:

19 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--  
20 WRITE-IN CANDIDATES.--

21 A. A person desiring to be a write-in candidate in  
22 a general election shall file with the proper filing officer  
23 between 9:00 a.m. and 5:00 p.m. on the twenty-third day after  
24 the primary election a declaration of intent to be a write-in  
25 candidate. A person desiring to be a write-in candidate in a

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1 special election for United States representative or a  
2 statewide special election shall file with the proper filing  
3 officer between 9:00 a.m. and 5:00 p.m. on the sixty-third day  
4 immediately preceding the election a declaration of intent to  
5 be a write-in candidate.

6 B. The form of the declaration of intent shall be  
7 prescribed by the secretary of state and shall contain a sworn  
8 statement by the candidate that the candidate is qualified to  
9 be a candidate for and to hold the office for which the  
10 candidate is filing.

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

18 D. The secretary of state shall, not more than ten  
19 days after the filing date, certify the names of the declared  
20 write-in candidates to the county clerks of every county  
21 affected by such candidacy.

22 E. No person shall be a write-in candidate in the  
23 general election who was a candidate in the primary election  
24 immediately prior to the general election. A write-in  
25 candidate for governor or lieutenant governor in the general

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1 election shall have a companion write-in candidate, and they  
2 shall be candidates to be elected jointly by the casting by a  
3 voter of a single vote applicable to both offices.

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

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

14 (2) the name is written in the proper office  
15 on the proper line provided on the ballot for write-in votes  
16 for the office for which the candidate has filed a declaration  
17 of intent and the voter has followed the directions for casting  
18 a vote for the write-in candidate.

19 G. No unopposed write-in candidate shall have an  
20 election certified unless the candidate receives at least the  
21 number of write-in votes equal to two percent of the total vote  
22 in the state, district or county in which the candidate seeks  
23 election that were cast for governor in the last preceding  
24 general election in which a governor was elected.

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

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

4 SECTION 47. Section 1-12-20 NMSA 1978 (being Laws 1969,  
5 Chapter 240, Section 273, as amended) is amended to read:

6 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A  
7 challenge may be interposed by a member of the [~~precinct~~  
8 election board or by a party challenger for the following  
9 reasons:

10 A. the person offering to vote is not registered to  
11 vote;

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

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

16 D. the person offering to vote is improperly  
17 registered because the person is not a qualified elector; or

18 E. in the case of a primary election, the person  
19 desiring to vote is not affiliated with a political party  
20 represented on the ballot."

21 SECTION 48. Section 1-12-23 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 277, as amended) is amended to read:

23 "1-12-23. CONDUCT OF ELECTION--VOTING MACHINES--  
24 INSTRUCTIONS.--Before each voter receives a ballot, a member of  
25 the [~~precinct~~ election board shall, so far as possible,

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1 instruct the voter on the voting process and call the voter's  
2 attention to the posted sample ballot. If any voter asks for  
3 further information before completing the voting process, the  
4 judges or election clerks shall provide appropriate information  
5 and assist the voter with the voting process."

6 SECTION 49. Section 1-12-25.1 NMSA 1978 (being Laws 1991,  
7 Chapter 105, Section 30, as amended) is amended to read:

8 "1-12-25.1. PROCEDURES FOR VOTING ON ELECTRONIC VOTE  
9 TABULATOR SYSTEMS.--A voter using an electronic vote tabulator  
10 system to vote shall:

11 A. receive a ballot issued by the [~~precinct~~]  
12 election board;

13 B. take the ballot to a voting booth and, with the  
14 writing utensil provided, mark it in accordance with the  
15 instructions for that ballot type; and

16 C. feed the ballot into the electronic vote  
17 tabulator to record the vote."

18 SECTION 50. Section 1-12-26 NMSA 1978 (being Laws 1969,  
19 Chapter 240, Section 281, as amended) is amended to read:

20 "1-12-26. CONDUCT OF ELECTION--CLOSING POLLS.--When the  
21 polls are closed, the [~~precinct~~] election board shall proclaim  
22 that fact aloud at the place of election. After the  
23 proclamation no voter shall cast a vote. However, if at the  
24 hour of closing there are other voters in the polling place, or  
25 in line at the door, who are qualified to vote and have not

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1     been able to do so since appearing, the polls shall be kept  
2     open a sufficient time to enable them to vote. In the  
3     instructions to the [~~precinct~~] election board, the secretary of  
4     state shall specify procedures whereby the [~~precinct~~] election  
5     board shall determine the identity of the last person in line  
6     at the time the polls closed."

7           **SECTION 51.** Section 1-12-28 NMSA 1978 (being Laws 1969,  
8     Chapter 240, Section 283, as amended) is amended to read:

9           "1-12-28. CONDUCT OF ELECTION--ELECTION CERTIFICATE.--  
10     Immediately upon the closing of the polls, the [~~precinct~~]  
11     election board shall complete and sign a certificate [~~which~~]  
12     that shall state: "We certify the \_\_\_\_\_ election  
13     complete with the voting of voting machine number \_\_\_\_\_ by  
14     voter number \_\_\_\_\_ on the signature roster."."

15           **SECTION 52.** Section 1-12-29 NMSA 1978 (being Laws 1969,  
16     Chapter 240, Section 287, as amended) is amended to read:

17           "1-12-29. CONDUCT OF ELECTION--COUNTING AND TALLYING--WHO  
18     MAY BE PRESENT.--Only the members of the [~~precinct~~] election  
19     board, candidates or their representatives, representatives of  
20     the news media and lawfully appointed challengers and watchers  
21     may be present while the votes are being counted and tallied.  
22     Only members of the [~~precinct~~] election board shall handle  
23     ballots, signature rosters or tally sheets or take part in the  
24     counting and tallying."

25           **SECTION 53.** Section 1-12-30.1 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 113, as amended) is amended to read:

2 "1-12-30.1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION  
3 AFTER THE POLLS CLOSE.--

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

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

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

20 SECTION 54. Section 1-12-32 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 292, as amended) is amended to read:

22 "1-12-32. CONDUCT OF ELECTION--RETURN OF BALLOT BOXES AND  
23 ELECTION MATERIALS.--

24 A. Unless the ballot box, election returns and  
25 materials are delivered to the county clerk within twenty-four

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1 hours after the polls are closed, the vote in the precinct  
2 shall not be canvassed or made a part of the final election  
3 results except upon order of the district court after finding  
4 that the delay in the delivery of materials was due to forces  
5 beyond the control of the [~~precinct~~] election board.

6 B. In precincts not more than thirty-five miles  
7 distant from the county clerk's office, the delivery of the  
8 ballot box and election returns and materials shall be made by  
9 the presiding judge in person.

10 C. In precincts more than thirty-five miles distant  
11 from the county clerk's office, the delivery of the ballot box,  
12 election returns and materials may be made by special messenger  
13 selected by the presiding judge and the election judges."

14 SECTION 55. Section 1-12-37 NMSA 1978 (being Laws 1973,  
15 Chapter 358, Section 2, as amended) is amended to read:

16 "1-12-37. CONDUCT OF ELECTION--VOTING MACHINES--  
17 VERIFICATION OF RETURNS.--Two election officials of different  
18 parties shall verify that the counter settings registered on  
19 the machine-printed returns are legible. The machine-printed  
20 returns shall show the number of votes cast for each candidate  
21 and the number of votes cast for and against any constitutional  
22 amendment or other question submitted, and the return shall be  
23 signed by each member of the [~~precinct~~] election board and two  
24 watchers of opposing interest, if there be such."

25 SECTION 56. Section 1-12-38 NMSA 1978 (being Laws 1973,

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1 Chapter 358, Section 3) is amended to read:

2 "1-12-38. VOTING MACHINES--PRINTOMATIC VOTING MACHINE--  
3 ADMITTANCE OF WATCHERS AND CANDIDATES--PROCLAMATION OF  
4 RESULTS.--During the reading of the results of the votes cast,  
5 any candidate or watcher who desires to be present shall be  
6 admitted to the polling place. The proclamation of the result  
7 of the votes cast shall be distinctly announced by the  
8 presiding judge, who shall read the name of each candidate and  
9 the vote registered on the printed returns. The presiding  
10 judge shall also read the vote cast for and against each  
11 constitutional amendment or other question submitted. During  
12 the proclamation, ample opportunity shall be given to any  
13 person lawfully present to compare the result so proclaimed  
14 with the printed returns, and any necessary corrections shall  
15 then and there be made by the [~~precinct~~] election board."

16 SECTION 57. Section 1-12-39 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 299) is amended to read:

18 "1-12-39. CONDUCT OF ELECTION--VOTING MACHINE--COMPLETION  
19 OF LOCKING PROCEDURES.--Before adjourning, the [~~precinct~~]  
20 election board shall complete the locking procedures on the  
21 voting machine."

22 SECTION 58. Section 1-12-43 NMSA 1978 (being Laws 1977,  
23 Chapter 222, Section 46, as amended) is amended to read:

24 "1-12-43. EMERGENCY SITUATIONS.--

25 A. If any electronic vote tabulator becomes

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1 disabled while being used to the extent that any voter is  
2 unable to cast a vote for all the candidates or questions of  
3 the voter's choice and have such vote recorded by the  
4 electronic vote tabulator, it shall be repaired, if possible,  
5 or another electronic vote tabulator shall be promptly  
6 substituted.

7 B. If a disabled electronic vote tabulator cannot  
8 be repaired in a reasonable length of time and if there are no  
9 other electronic vote tabulators available for substitution,  
10 the presiding judge shall order marked ballots to be collected  
11 and securely preserved until they may be tabulated pursuant to  
12 rules promulgated by the secretary of state.

13 C. A voter shall not be denied the opportunity to  
14 mark a ballot for later tabulation due to the lack of a  
15 functioning electronic vote tabulator.

16 D. The county clerk shall provide additional  
17 ballots if needed and when requested by the [~~precinct~~] election  
18 board."

19 SECTION 59. Section 1-12-51 NMSA 1978 (being Laws 1977,  
20 Chapter 222, Section 54, as amended) is amended to read:

21 "1-12-51. PAPER BALLOTS--UNAUTHORIZED RECEIPT OR DELIVERY  
22 OF PAPER BALLOT.--Except for absentee ballots and unless  
23 otherwise provided by law, a voter shall not receive a paper  
24 ballot from any person other than from a member of the  
25 [~~precinct~~] election board or at an alternate voting location.

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1 No person other than a member of the [~~precinct~~] election board  
2 or officer authorized by law shall deliver a paper ballot to  
3 any voter."

4 SECTION 60. Section 1-12-65 NMSA 1978 (being Laws 1977,  
5 Chapter 222, Section 68, as amended) is amended to read:

6 "1-12-65. EMERGENCY SITUATIONS--PAPER BALLOTS--COUNTING  
7 AND TALLYING PROCEDURES.--

8 A. The presiding judge and the election judges,  
9 assisted by the election clerks, shall count and tally the  
10 paper ballots that were not tabulated by the electronic vote  
11 tabulator and certify the results of the election on the form  
12 on the tally sheet setting opposite the name of each candidate  
13 in figures the total number of votes cast for the candidate,  
14 and they shall set forth in the spaces provided therefor the  
15 total number of votes cast for and against each constitutional  
16 amendment and other questions. Paper ballots not marked as  
17 required by the Election Code shall not be counted. The  
18 [~~precinct~~] election board shall sign the tally sheet  
19 certificate.

20 B. The counting and tallying of paper ballots in  
21 emergency situations shall be in accordance with procedures  
22 prescribed by the secretary of state."

23 SECTION 61. Section 1-12-67 NMSA 1978 (being Laws 1977,  
24 Chapter 222, Section 70, as amended) is amended to read:

25 "1-12-67. PAPER BALLOTS TO BE PLACED IN BALLOT BOX.--

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1 After the paper ballots are tallied, the [~~precinct~~] election  
2 board shall place the bundles of counted paper ballots in the  
3 ballot box and the ballot box shall be closed and locked."

4 SECTION 62. Section 1-12-68 NMSA 1978 (being Laws 1977,  
5 Chapter 222, Section 71, as amended) is amended to read:

6 "1-12-68. PAPER BALLOTS--COUNTY CANVASS--WHEN RECOUNT IS  
7 REQUIRED.--

8 A. If it appears that defective returns cannot be  
9 corrected without a recount of the paper ballots, the county  
10 canvassing board shall immediately notify the district court in  
11 writing.

12 B. The district court shall fix a time and place,  
13 which shall be not more than one week after receipt of notice  
14 from the county canvassing board, for a recount of the paper  
15 ballots from the precinct.

16 C. The county clerk shall immediately notify the  
17 county chairs of the political parties that participated in the  
18 election of the time and place of the recount.

19 D. At the time and place set by the district court,  
20 the ballot box shall be opened in the presence of the district  
21 judge or some person designated by the district judge to act  
22 for the district court, the [~~precinct~~] election board, the  
23 county canvassing board and other persons desiring to be  
24 present.

25 E. The [~~precinct~~] election board shall then recount

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1 the paper ballots and make a new tally sheet certificate in  
2 duplicate to conform to the facts.

3 F. After the recount is completed, the [~~precinct~~]  
4 election board shall replace in the ballot box the paper  
5 ballots and other items taken therefrom and shall lock and  
6 return the ballot box and one key to the county clerk. The  
7 other key shall be returned to the district court or its  
8 representative.

9 G. After being properly corrected, the signature  
10 roster and tally sheets shall be disposed of as in the first  
11 instance: one each to the county clerk and one each to the  
12 secretary of state."

13 SECTION 63. Section 1-13-2 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 304, as amended) is amended to read:

15 "1-13-2. POST-ELECTION DUTIES--MISSING RETURNS.--

16 A. If at the time the county canvassing board meets  
17 it appears that [~~a precinct~~] an election board has not  
18 delivered the election returns to the county clerk, the county  
19 canvassing board shall immediately issue a summons to bring  
20 before it the delinquent [~~precinct~~] election board together  
21 with the missing election returns. The summons shall be served  
22 by the sheriff, without cost to the county, and the members of  
23 the [~~precinct~~] election board shall not be paid for their  
24 service on election day.

25 B. If within ten days after the date of the

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1 election the secretary of state has not received the election  
2 returns of any precinct, the secretary of state may send a  
3 special messenger to the county and precinct to secure and  
4 convey the missing returns to the secretary of state."

5 SECTION 64. Section 1-13-5 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 307, as amended) is amended to read:

7 "1-13-5. POST-ELECTION DUTIES--COUNTY CANVASS--DEFECTIVE  
8 RETURNS--CORRECTION.--

9 A. The county canvassing board shall immediately  
10 issue a summons directed to the [~~precinct~~] election board,  
11 commanding [~~them~~] the board to forthwith appear and make the  
12 necessary corrections or supply omissions if:

13 (1) it appears on the face of the election  
14 returns that any certificate has not been properly executed;

15 (2) it appears that there is a discrepancy  
16 within the election returns;

17 (3) it appears that there is a discrepancy  
18 between the number of votes set forth in the certificate for  
19 any candidate and the number of electors voting as shown by the  
20 election returns; or

21 (4) it appears that there is any omission,  
22 informality, ambiguity, error or uncertainty on the face of the  
23 returns.

24 B. The summons shall be served by the sheriff as in  
25 the manner of civil cases, and for each service the sheriff

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1 shall be allowed the same mileage as is paid in civil cases.  
2 The mileage shall be paid by each member of the [~~precinct~~  
3 election board served.

4 C. After issuing the necessary summonses, the  
5 county canvassing board shall proceed with the canvass of all  
6 correct election returns."

7 SECTION 65. Section 1-13-6 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 308) is amended to read:

9 "1-13-6. POST-ELECTION DUTIES--COUNTY CANVASS--DEFECTIVE  
10 RETURNS--NOTIFICATION OF SECRETARY OF STATE.--If the county  
11 canvassing board discovers any defective returns and issues a  
12 summons for the [~~precinct~~] election board, it shall immediately  
13 notify the secretary of state both orally and in writing that  
14 the returns from the specified precinct are defective. The  
15 secretary of state shall immediately transmit to the county  
16 canvassing board the defective returns from the precinct  
17 specified, after first making a photocopy of each of the covers  
18 and pages of the returns. The photocopy shall be kept on file  
19 for inspection as are the original returns."

20 SECTION 66. Section 1-13-8 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 310, as amended) is amended to read:

22 "1-13-8. POST-ELECTION DUTIES--COUNTY CANVASS--SEARCH FOR  
23 MISSING RETURNS.--If it is necessary to open a ballot box on  
24 election night to ascertain if missing election returns are  
25 enclosed in the ballot box, the ballot box shall be opened by

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1 the county clerk and the district judge, or someone designated  
2 by the district judge. In the presence of the district judge  
3 or the designated representative of the district judge, the  
4 county clerk may remove the missing returns necessary to  
5 canvass the election. When such omission or negligence of the  
6 [~~precinct~~] election board causes an additional expense to be  
7 incurred, no compensation shall be paid to the [~~precinct~~]  
8 election board for its services on election day."

9 SECTION 67. Section 1-13-14 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 317) is amended to read:

11 "1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT BOX.--  
12 Once the ballot box has been locked by the [~~precinct~~] election  
13 board after its first count and tally, no person shall open the  
14 ballot box or remove its contents except as provided by the  
15 Election Code."

16 SECTION 68. Section 1-13-18 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 321) is amended to read:

18 "1-13-18. POST-ELECTION DUTIES--STATE CANVASS--  
19 CORRECTIONS.--The state canvassing board shall carefully  
20 examine all election returns and certificates issued by the  
21 county canvassing boards. If any discrepancy, omission or  
22 error appears on their face, the state canvassing board shall  
23 immediately forward such returns or certificate to the district  
24 court in which the precinct or county canvassing board is  
25 situated. The district judge upon receipt of such returns or

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1 certificate shall issue a summons to the responsible [~~precinct~~]  
2 election board or county canvassing board, directing [~~them~~] the  
3 board to appear forthwith before [~~him~~] the district judge to  
4 complete or correct such returns or certificate."

5 SECTION 69. Section 1-14-13 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 342) is amended to read:

7 "1-14-13. POST-ELECTION DUTIES--PROOF THAT NO CORRUPTION  
8 OCCURRED--REJECTION OF BALLOTS.--

9 A. In any election contest, a prima facie showing  
10 that the [~~precinct~~] election board of any precinct has failed  
11 to substantially comply with the provisions of the Election  
12 Code that protect the secrecy and sanctity of the ballot and  
13 prescribe duties of the [~~precinct~~] election board during the  
14 conduct of election shall cast upon the candidates of the  
15 political party having majority representation on the  
16 [~~precinct~~] election board the burden of proving that no fraud,  
17 intimidation, coercion or undue influence was exerted by such  
18 members of the [~~precinct~~] election board, and that the secrecy  
19 and purity of the ballot was safeguarded and no intentional  
20 evasion of the substantial requirements of the law was made.

21 B. Upon failure to make such a showing upon which  
22 the court shall so find, the votes of that entire precinct  
23 shall be rejected; provided that no such rejection shall be  
24 made [~~where~~] when it appears to the court that the members of  
25 the [~~precinct~~] election board ignored the requirements of the

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1 Election Code with the probable interest of procuring the  
2 rejection of the entire vote in the precinct."

3 SECTION 70. Section 1-14-14 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 343, as amended) is amended to read:

5 "1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

6 A. Whenever any candidate for any office for which  
7 the state canvassing board or county canvassing board issues a  
8 certificate of nomination or election believes that any error  
9 or fraud has been committed by any [~~precinct~~] election board in  
10 counting or tallying the ballots, in the verification of the  
11 votes cast on the voting machines or in the certifying of the  
12 results of any election whereby the results of the election in  
13 the precinct have not been correctly determined, declared or  
14 certified, the candidate, within six days after completion of  
15 the canvass by the proper canvassing board, may have a recount  
16 of the ballots, or a recheck of the votes shown on the voting  
17 machines, that were cast in the precinct.

18 B. In the case of any office for which the state  
19 canvassing board issues a certificate of nomination or  
20 election, application for recount or recheck shall be filed  
21 with the secretary of state.

22 C. In the case of any office for which the county  
23 canvassing board issues a certificate of nomination or  
24 election, application for recount or recheck shall be filed  
25 with the district judge for the county in which the applicant

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1 resides."

2 SECTION 71. Section 1-14-15 NMSA 1978 (being Laws 1978,  
3 Chapter 48, Section 1, as amended) is amended to read:

4 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

5 A. An applicant for a recount shall deposit with  
6 the proper canvassing board or, in the case of an office for  
7 which the state canvassing board issues a certificate of  
8 nomination or election, with the secretary of state sufficient  
9 cash, or a sufficient surety bond, to cover the cost of a  
10 recount for each precinct for which a recount is demanded. An  
11 applicant for a recheck shall deposit with the proper  
12 canvassing board or, in the case of an office for which the  
13 state canvassing board issues a certificate of nomination or  
14 election, with the secretary of state sufficient cash, or a  
15 sufficient surety bond, to cover the cost of the recheck for  
16 each voting machine to be rechecked. The state canvassing  
17 board shall determine the estimated actual cost of a recount  
18 per precinct and a recheck per voting machine no later than  
19 March 15 of even-numbered years. The secretary of state shall  
20 post the recount and recheck cost determinations on the  
21 secretary of state's web site when the state canvassing board  
22 issues its cost determinations.

23 B. The deposit or surety bond shall be security for  
24 the payment of the costs and expenses of the recount or recheck  
25 in case the results of the recount or recheck are not

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1 sufficient to change the results of the election.

2 C. If it appears that error or fraud sufficient to  
3 change the winner of the election has been committed, the costs  
4 and expenses of the recount or recheck shall be paid by the  
5 state upon warrant issued by the secretary of finance and  
6 administration supported by a voucher of the secretary of  
7 state, or shall be paid by the county upon warrant of the  
8 county clerk from the general fund of the county, as the case  
9 may be.

10 D. If no error or fraud appears to be sufficient to  
11 change the winner, the costs and expenses for the recount or  
12 recheck shall be paid by the applicant. Costs shall consist of  
13 any docket fees, mileage of the sheriff in serving summons and  
14 fees and mileage of [~~precinct~~] election board members, at the  
15 same rates allowed witnesses in civil actions. If error or  
16 fraud has been committed by [~~a precinct~~] an election board, the  
17 board members shall not be entitled to such mileage or fees."

18 SECTION 72. Section 1-14-16 NMSA 1978 (being Laws 2008,  
19 Chapter 41, Section 3) is amended to read:

20 "1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

21 A. Immediately after filing of the application for  
22 recount or recheck, or notice of an automatic recount, the  
23 appropriate canvassing board shall issue an order to the county  
24 clerk of each county where a precinct specified in the  
25 application or notice is located commanding the county clerk to

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1 convene the absent voter [~~precinct~~] election board at the  
2 county seat on a day specified in the order, which date shall  
3 not be more than ten days after the filing of the application  
4 for a recount or recheck or notice of an automatic recount.

5 B. Upon receipt of the order, the county clerk  
6 shall send notices by registered mail of the date fixed for the  
7 recount or recheck to the district judge for the county, the  
8 absent voter [~~precinct~~] election board members and the county  
9 chair of each of the political parties that participated in the  
10 election for the office in question.

11 C. The absent voter [~~precinct~~] election board,  
12 district judge and county clerk shall meet on the date fixed  
13 for the recount or recheck, and the ballot boxes and ballot  
14 containers or voting machines of the precincts involved in the  
15 recount or recheck shall be opened. The absent voter  
16 [~~precinct~~] election board shall recount and retally the  
17 ballots, or recheck the votes cast on the voting machines, as  
18 the case may be, for the office in question in the presence of  
19 the county clerk, district judge, or person designated to act  
20 for the district judge, and any other person who may desire to  
21 be present.

22 D. After completion of the recount or recheck, the  
23 absent voter [~~precinct~~] election board shall replace the  
24 ballots in the ballot boxes and ballot containers and lock  
25 them, or the voting machines shall be locked and resealed, and

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1 the [~~precinct~~] election board shall certify to the secretary of  
2 state the results of the recount or recheck. The district  
3 judge, or the person designated to act for the district judge,  
4 and the county clerk shall also certify that the recount or  
5 recheck was made in their presence."

6 SECTION 73. Section 1-14-18 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 347, as amended) is amended to read:

8 "1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING  
9 BOARDS.--

10 A. Immediately upon receipt of the certificate of  
11 recount or recheck from all the absent voter [~~precinct~~]  
12 election boards making a recount or recheck, the proper  
13 canvassing board shall meet and recanvass the returns for the  
14 office in question.

15 B. In making the recanvass, the proper canvassing  
16 board shall be bound by the certificates of recount or recheck  
17 from the absent voter [~~precinct~~] election boards instead of the  
18 original returns from the [~~precinct~~] election boards.

19 C. After the recanvass, if it appears that fraud or  
20 error has been committed sufficient to change the winner of the  
21 election, then the proper canvassing board shall revoke the  
22 certificate of nomination or election already issued to any  
23 person for that office and shall issue a certificate of  
24 nomination or election in favor of the person receiving a  
25 plurality of the votes cast at the election as shown by the

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1 recount or recheck, and such certificate shall supersede all  
2 others and entitle the holder to the same rights and privileges  
3 as if such certificate had been originally issued by the  
4 canvassing board."

5 SECTION 74. Section 1-14-21 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 350, as amended) is amended to read:

7 "1-14-21. RECOUNTS--RECHECKS--MANDAMUS.--If the state  
8 canvassing board, the county canvassing board, secretary of  
9 state, county clerk or any member of [~~a precinct~~] an election  
10 board fails or refuses to do or perform any of the acts  
11 required of them pertaining to recounts or rechecks, the  
12 applicant for recount or recheck may apply to any district  
13 court, the court of appeals or the supreme court of New Mexico  
14 for writ of mandamus to compel the performance of the required  
15 act, and [~~such~~] that court shall entertain such application."

16 SECTION 75. Section 1-20-9 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 433, as amended) is amended to read:

18 "1-20-9. FALSIFYING ELECTION DOCUMENTS.--Falsifying  
19 election documents consists of performing any of the following  
20 acts willfully and with knowledge and intent to deceive or  
21 mislead any voter, [~~precinct~~] election board, canvassing board  
22 or other election official:

23 A. printing, causing to be printed, distributing or  
24 displaying false or misleading instructions pertaining to  
25 voting or the conduct of the election;

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1           B. printing, causing to be printed, distributing or  
2 displaying any official ballot, sample ballot, facsimile  
3 diagram or pretended ballot that includes the name of any  
4 person not entitled by law to be on the ballot, or omits the  
5 name of any person entitled by law to be on the ballot, or  
6 otherwise contains false or misleading information or headings;

7           C. defacing, altering, forging, making false  
8 entries in or changing in any way a certificate of nomination,  
9 registration record or election return required by or prepared  
10 and issued pursuant to the Election Code;

11           D. suppressing any certificate of nomination,  
12 registration record or election return required by or prepared  
13 and issued pursuant to the Election Code;

14           E. preparing or submitting any false certificate of  
15 nomination, registration record or election return; or

16           F. knowingly falsifying any information on a  
17 nominating petition.

18           Whoever falsifies election documents is guilty of a fourth  
19 degree felony."

20           **SECTION 76.** Section 1-20-11 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 435) is amended to read:

22           "1-20-11. OFFERING A BRIBE.--Offering a bribe [~~consists~~  
23 consists of [~~wilfully~~] willfully advancing, paying, or causing  
24 to be paid, or promising, directly or indirectly, any money or  
25 other valuable consideration, office or employment to any

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1 person for the following purposes connected with or incidental  
2 to any election:

3 A. to induce such person, if a voter, to vote or  
4 refrain from voting for or against any candidate, proposition,  
5 question or constitutional amendment;

6 B. to induce such person, if [~~a precinct~~] an  
7 election board member or other election official, to mark,  
8 alter, suppress or otherwise change any ballot that has been  
9 cast, any election return or any certificate of election; or

10 C. to induce such person to use such payment or  
11 promise to bribe others for the purposes specified in this  
12 section.

13 Whoever offers a bribe is guilty of a fourth degree  
14 felony."

15 SECTION 77. Section 1-20-14 NMSA 1978 (being Laws 1969,  
16 Chapter 240, Section 438) is amended to read:

17 "1-20-14. INTIMIDATION.--Intimidation consists of  
18 inducing or attempting to induce fear in any member of [~~a~~  
19 ~~precinct~~] an election board, voter, challenger or watcher by  
20 use of or threatened use of force, violence, infliction of  
21 damage, harm or loss, or any form of economic retaliation upon  
22 any voter, [~~precinct~~] election board member, challenger or  
23 watcher for the purpose of impeding or preventing the free  
24 exercise of the elective franchise or the impartial  
25 administration of the election or Election Code.

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1           Whoever commits intimidation is guilty of a fourth degree  
2 felony."

3           **SECTION 78.** Section 1-20-17 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 441, as amended) is amended to read:

5           "1-20-17. OBSTRUCTING THE POLLING PLACE.--

6           A. Obstructing the polling place consists of:

7                   (1) any person other than a voter offering to  
8 vote, a member of the [~~precinct~~] election board, a lawfully  
9 appointed challenger or watcher, an election observer, an  
10 election official having business in the polling place or a  
11 person authorized by the Election Code to give assistance to a  
12 voter who, during the conduct of the election, approaches  
13 nearer than fifty feet from the door through which voters may  
14 enter to vote at the office of the county clerk, an alternate  
15 voting location, a mobile voting site or any location used as a  
16 polling place; or

17                   (2) any person who willfully blocks the  
18 entrance to a polling place so as to prevent free ingress and  
19 egress.

20           B. A person conducting lawful, non-election-related  
21 business nearer than fifty feet from the door through which  
22 voters may enter to vote is not guilty of obstructing a polling  
23 place, provided the person does not willfully block the  
24 entrance to the polling place.

25           C. Whoever obstructs the polling place is guilty of

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1 a petty misdemeanor."

2 SECTION 79. Section 1-20-19 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 443) is amended to read:

4 "1-20-19. OFFENSES BY MESSENGERS.--Offense by messenger  
5 consists of the [~~wilful~~] willful delay or failure of any  
6 official messenger to convey or deliver election supplies to  
7 the [~~precinct~~] election board, or the [~~wilful~~] willful delay or  
8 failure of any official messenger to convey or deliver the  
9 ballot box, key, election returns or other supplies to the  
10 county clerk.

11 Any messenger committing such offense is guilty of a petty  
12 misdemeanor."

13 SECTION 80. Section 1-20-20 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 444) is amended to read:

15 "1-20-20. DISTURBING THE POLLING PLACE.--Disturbing the  
16 polling place consists of creating any disorder or disruption  
17 at the polling place on election day, or consists of  
18 interfering with in any manner the conduct of the election or  
19 with a member of the [~~precinct~~] election board, voter,  
20 challenger or watcher in the performance of [~~his~~] that person's  
21 duties.

22 Whoever disturbs the polling place is guilty of a petty  
23 misdemeanor."

24 SECTION 81. Section 1-20-21 NMSA 1978 (being Laws 1969,  
25 Chapter 240, Section 445) is amended to read:

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1           "1-20-21. UNLAWFUL POSSESSION OF ALCOHOLIC LIQUORS.--  
2 Unlawful possession of alcoholic liquors consists of the use or  
3 possession of any alcoholic liquor by any member of the  
4 [~~precinct~~] election board while performing [~~his~~] official  
5 duties on election day. Unlawful possession also consists of  
6 the use, possession or carrying of alcoholic liquor within two  
7 hundred feet of the polling place during any election.

8           Whoever commits unlawful possession of alcoholic liquors  
9 is guilty of a petty misdemeanor."

10           **SECTION 82.** Section 1-21-11 NMSA 1978 (being Laws 1971,  
11 Chapter 322, Section 11) is amended to read:

12           "1-21-11. HANDLING PRESIDENTIAL BALLOTS BY ABSENT VOTER  
13 [~~PRECINCT~~] ELECTION BOARD.--Presidential ballots shall be  
14 handled in the same manner as that specified for absentee  
15 ballots in the Election Code."

16           **SECTION 83.** Section 1-22-11 NMSA 1978 (being Laws 1985,  
17 Chapter 168, Section 13, as amended) is amended to read:

18           "1-22-11. PUBLICATION.--The proper filing officer for the  
19 school district shall issue and publish the proclamation  
20 listing the name of each candidate for membership on the board,  
21 each question to be submitted to the voters of the school  
22 district and the names of the [~~precinct~~] election board members  
23 of the school district. The publication shall be made once  
24 each week for two successive weeks, with the last publication  
25 being made within seven days but not later than two days before

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1 the date of the school district election. The names of the  
2 candidates shall be published in the same order and for the  
3 same positions as will appear on the ballot. The publication  
4 shall be in a newspaper of general circulation in the school  
5 district and shall conform to the provisions of the federal  
6 Voting Rights Act of 1965, as amended. The cost of the  
7 publication shall be paid by the school district."

8 SECTION 84. Section 1-22-12 NMSA 1978 (being Laws 1985,  
9 Chapter 168, Section 14, as amended) is amended to read:

10 "1-22-12. CONDUCT OF ELECTIONS.--

11 A. Except as otherwise provided in the School  
12 Election Law, the county clerk shall administer and conduct  
13 school district elections pursuant to the provisions of the  
14 Election Code for the conduct of general elections.

15 B. [~~Precinct~~] Election board members for each  
16 polling place shall be appointed by the county clerk from among  
17 those persons who meet the qualifications set forth in Section  
18 1-2-7 NMSA 1978 and who reside within the school district. The  
19 number of members on each [~~precinct~~] election board shall be as  
20 provided in Section 1-2-12 NMSA 1978. Vacancies on election  
21 day shall be filled as provided in Section 1-2-15 NMSA 1978.

22 C. In the event that only one candidate has filed a  
23 declaration of candidacy for each position to be filled at the  
24 election, no declared write-ins have filed for any position and  
25 there are no questions or bond issues on the ballot, the county

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1 clerk shall perform the duties of the [~~precinct~~] election board  
2 and no other [~~precinct~~] election board shall be appointed.

3 D. All costs of school district elections shall be  
4 paid by the school district."

5 SECTION 85. Section 1-22-15 NMSA 1978 (being Laws 1985,  
6 Chapter 168, Section 17, as amended by Laws 1987, Chapter 249,  
7 Section 49 and also by Laws 1987, Chapter 338, Section 3) is  
8 amended to read:

9 "1-22-15. CANVASSING BOARD--DUTIES.--

10 A. The canvassing board for the canvass of the  
11 results of a school district election shall be composed of the  
12 superintendent, the county clerk of record who is the proper  
13 filing officer and the magistrate or the presiding judge of the  
14 metropolitan court, as the case may be, of the county in which  
15 the administrative office of the school district is situate.

16 B. Ballots cast in each county in which the school  
17 district is situate shall be transported by the presiding judge  
18 of the [~~precinct~~] election board upon the closing of the polls  
19 to the office of the proper filing officer. Each ballot box  
20 shall have two locks. The key to one lock on each ballot box  
21 when emergency ballots are used and one copy of the signature  
22 roster shall at that time be placed in a stamped, addressed  
23 envelope provided for that purpose and shall be mailed to the  
24 magistrate or the presiding judge of the metropolitan court, as  
25 the case may be, of the county in which the administrative

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1 office of the school district is situate. If emergency ballots  
2 are not used, both ballot box keys shall be returned to the  
3 proper filing officer.

4 C. Within three days after the date of the school  
5 district election, the canvassing board shall meet in the  
6 office of the proper filing officer or the administrative  
7 office of the school district as determined by the proper  
8 filing officer and shall:

9 (1) canvass the returns in the same manner as  
10 county election returns are canvassed;

11 (2) determine the total number of persons in  
12 the school district voting in the election; and

13 (3) issue a certificate of canvass of the  
14 results of the election and send one copy of the certified  
15 results:

16 (a) to the board;

17 (b) to the secretary of state; and

18 (c) to the proper filing officer to be  
19 filed in [~~his~~] the filing officer's office.

20 D. The canvassing board shall issue a certificate  
21 of election to each candidate which it determines to be  
22 elected.

23 E. The county clerk of record shall cause the  
24 results of the election to be published once in a newspaper of  
25 general circulation in the school district."

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1           SECTION 86. Section 1-22-18 NMSA 1978 (being Laws 1985,  
2 Chapter 168, Section 20, as amended) is amended to read:

3           "1-22-18. WRITE-IN CANDIDATES.--

4           A. Write-in candidates for the office of board  
5 member shall be permitted in school district elections.

6           B. A person may be a write-in candidate only if the  
7 person has the qualifications to be a candidate for membership  
8 on the board in the school district election as provided in the  
9 School Election Law.

10          C. A person desiring to be a write-in candidate for  
11 the office of board member shall file with the proper filing  
12 officer a declaration of intent to be a write-in candidate.  
13 The declaration shall be filed before 5:00 p.m. on the thirty-  
14 fifth day preceding the date of the election.

15          D. A write-in vote shall be counted and canvassed  
16 only if:

17                 (1) the name written in is the name of a  
18 declared write-in candidate and shows two initials and last  
19 name; first name, middle initial or name and last name; first  
20 and last name; or the full name as it appears on the  
21 declaration of intent to be a write-in candidate and if  
22 misspellings of those combinations can be reasonably determined  
23 by a majority of the members of the [~~precinct~~] election board  
24 to identify a declared write-in candidate; and

25                 (2) the name is written on the proper line

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1 provided on the ballot for write-in votes for the office and  
2 position for which the candidate has declared intent and the  
3 voter has followed the directions for voting for the write-in  
4 candidate.

5 E. At the time of filing the declaration of intent  
6 to be a write-in candidate, the write-in candidate shall be  
7 considered a candidate for all purposes and provisions relating  
8 to candidates in the School Election Law except that the write-  
9 in candidate's name shall not be printed on the ballot.

10 F. A write-in vote shall be cast by writing in the  
11 name. As used in this section, "write-in" does not include the  
12 imprinting of any name by rubber stamp or similar device or the  
13 use of a preprinted sticker or label."

14 SECTION 87. Section 1-22-19 NMSA 1978 (being Laws 1985,  
15 Chapter 168, Section 21, as amended) is amended to read:

16 "1-22-19. ABSENTEE VOTING.--

17 A. A voter may vote in a school district election  
18 by absentee ballot for all candidates and on all questions  
19 appearing on the ballot in [~~his~~] the voter's precinct as if  
20 [~~he~~] the voter were casting [~~his~~] the ballot in person at the  
21 polling place on election day.

22 B. The provisions of the Absent Voter Act [~~of the~~  
23 ~~Election Code~~] apply to absentee voting in school district  
24 elections, provided that absentee ballots may be marked in  
25 person during the regular hours and days of business at the

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1 county clerk's office from 8:00 a.m. on the twenty-fifth day  
2 preceding the election until 5:00 p.m. on the Friday  
3 immediately prior to the date of the election. Absentee  
4 ballots shall be printed at least thirty days prior to the date  
5 of the election. Provisions may be made by the board in the  
6 proclamation for absentee voting by electronic voting machine  
7 from 8:00 a.m. on the twentieth day preceding an election until  
8 5:00 p.m. on the Friday immediately prior to the date of the  
9 election.

10 C. A regular [~~precinct~~] election board may be  
11 designated to serve as the absent voter [~~precinct~~] election  
12 board. A member of the absent voter [~~precinct~~] election board  
13 shall receive the same compensation as a regular [~~precinct~~]  
14 election board member. A regular [~~precinct~~] election board  
15 member who also serves as a member of the absent voter  
16 [~~precinct~~] election board shall not be entitled to extra  
17 compensation for serving on the absent voter [~~precinct~~]  
18 election board."

19 SECTION 88. Section 3-8-2 NMSA 1978 (being Laws 1985,  
20 Chapter 208, Section 10, as amended) is amended to read:

21 "3-8-2. DEFINITIONS.--

22 A. The definitions in Section 3-1-2 NMSA 1978 shall  
23 apply to the Municipal Election Code in addition to those  
24 definitions set forth in the Municipal Election Code.

25 B. As used in the Municipal Election Code:

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

4 (2) "ballot" means a system for arranging and  
5 designating for the voter the names of candidates and questions  
6 to be voted on and for the marking, casting or otherwise  
7 recording of such votes. "Ballot" includes paper ballots,  
8 absentee ballots, ballot sheets and paper ballots used in lieu  
9 of voting machines;

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

14 (4) "consolidated precinct" means the  
15 combination of two or more precincts pursuant to the Municipal  
16 Election Code;

17 (5) "county clerk" means the clerk of the  
18 county or the county clerk's designee within which the  
19 municipality is located;

20 (6) "election returns" means all certificates  
21 of the [~~precinct~~] election board, including the certificate  
22 showing the total number of votes cast for each candidate, if  
23 any, and for or against each question, if any, and shall  
24 include statements of canvass, signature rosters, registered  
25 voter lists, machine-printed returns, paper ballots used in

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1 lieu of voting machines, absentee ballots, absentee ballot  
2 registers and absentee voter lists or absent voter machine-  
3 printed returns;

4 (7) "municipal clerk" means the municipal  
5 clerk or any deputy or assistant municipal clerk;

6 (8) "municipal clerk's office" means the  
7 office of the municipal clerk or any other room used in the  
8 process of absentee voting, counting and tallying of absentee  
9 ballots or canvassing the election results within the confines  
10 of the building where the municipal clerk's office is located;

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

14 (10) "precinct" means a portion of a county  
15 situated entirely in or partly in a municipality that has been  
16 designated by the county as a precinct for election purposes  
17 and that is entitled to a polling place and [~~a precinct~~] an  
18 election board. If a precinct includes territory both inside  
19 and outside the boundaries of a municipality, "precinct", for  
20 municipal elections, shall mean only that portion of the  
21 precinct lying within the boundaries of the municipality;

22 (11) "~~[precinct]~~ election board" means the  
23 appointed election officials serving a single or consolidated  
24 precinct;

25 (12) "qualified elector" means any person

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1 whose affidavit of voter registration has been filed by the  
2 county clerk, who is registered to vote in a general election  
3 precinct established by the board of county commissioners that  
4 is wholly or partly within the municipal boundaries and who is  
5 a resident of the municipality. Persons who would otherwise be  
6 qualified electors if land on which they reside is annexed to a  
7 municipality shall be deemed to be qualified electors:

8 (a) upon the effective date of the  
9 municipal ordinance effectuating the terms of the annexation as  
10 certified by the board of arbitration pursuant to Section  
11 3-7-10 NMSA 1978;

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

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

21 (13) "recheck" pertains to voting machines and  
22 means a verification procedure where the counter compartment of  
23 the voting machine is opened and the results of the balloting  
24 as shown on the counters of the machine are compared with the  
25 results shown on the official returns;

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1 (14) "recount" pertains to ballots and  
2 absentee ballots and means a retabulation and retallying of  
3 individual ballots;

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

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

9 SECTION 89. Section 3-8-7 NMSA 1978 (being Laws 1965,  
10 Chapter 300, Section 14-8-5, as amended) is amended to read:

11 "3-8-7. MUNICIPAL CLERK--COUNTY CLERK--ELECTION  
12 DUTIES.--

13 A. The municipal clerk shall:

- 14 (1) administer the municipal election;
- 15 (2) with the consent of the governing body,  
16 secure the necessary polling places;
- 17 (3) see that all necessary supplies and  
18 equipment are present at each polling place prior to the  
19 opening of the polls on the day of the election;
- 20 (4) certify voting machines;
- 21 (5) conduct an election school for [~~precinct~~]  
22 election board members as required in Section 3-8-21 NMSA 1978;
- 23 (6) keep the office of the municipal clerk  
24 open on election day for the purpose of receiving ballot boxes,  
25 election returns and materials until all election returns and

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1 materials are received; and

2 (7) within fifteen days of the holding of any  
3 municipal election, forward to the county clerk a listing of  
4 all individuals voting in the municipal election.

5 B. Within fifteen days of the adoption of the  
6 election resolution, the municipal clerk shall request in  
7 writing from the county clerk the registered voter lists and  
8 signature rosters containing only the qualified electors  
9 eligible to vote in the municipal election. The county clerk  
10 shall provide to the municipal clerk a printed registered voter  
11 list and the voter registration information in compatible  
12 electronic format containing only the qualified electors  
13 eligible to vote in the municipal election twenty days prior to  
14 the election. At least seven days prior to every municipal  
15 election, the county clerk shall furnish to the municipal clerk  
16 the registered voter list and signature roster containing only  
17 the qualified electors eligible to vote in the municipal  
18 election. A municipal clerk shall not amend, add or delete any  
19 information to or from the registered voter list except as  
20 otherwise provided by law. The registered voter list shall  
21 constitute the registration list for the municipal election.  
22 The registered voter list does not have to be returned to the  
23 county clerk. The municipality shall bear the reasonable cost  
24 of preparation of the voter lists, signature rosters and voter  
25 registration in electronic format but in no case in an amount

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1 that exceeds the actual cost to the county."

2 SECTION 90. Section 3-8-9 NMSA 1978 (being Laws 1985,  
3 Chapter 208, Section 17, as amended) is amended to read:

4 "3-8-9. ELECTION SCHEDULING--CONFLICTS--NOTICE.--

5 A. Except as otherwise provided by law, a municipal  
6 election may be held concurrently with, but shall not be held  
7 within forty-two days prior to or within thirty days after, any  
8 statewide special, general or primary election or any regular  
9 school district election. Whenever a municipal election would  
10 be or has been scheduled within the prohibited time, the  
11 governing body shall adopt an election resolution scheduling or  
12 rescheduling the election on a date as soon as is practicable  
13 outside the prohibited period and in compliance with the  
14 requirements of the Municipal Election Code and any other  
15 statute specifically related to such election. If an election  
16 resolution has already been adopted, the new election  
17 resolution shall supersede the existing election resolution and  
18 the new election resolution shall be published as required by  
19 the Municipal Election Code.

20 B. Except as otherwise provided by law, one or more  
21 municipal special elections, including but not limited to bond  
22 elections, may be held in conjunction with a regular municipal  
23 election or one or more special municipal elections.

24 C. When concurrent elections are called for,  
25 publications, notices, selection of [~~precinct~~] election boards,

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1 election schools, ordering election supplies, conduct of the  
2 election, canvassing, [~~record keeping~~] recordkeeping and all  
3 other election matters shall be conducted to comply with all  
4 election requirements for each such election as if it were held  
5 separately. However, any requirement may be satisfied by a  
6 combined action if such action would satisfy the requirements  
7 set by law for each individual election. Allowable combined  
8 actions include but are not limited to, combined:

- 9 (1) publications;
- 10 (2) notices;
- 11 (3) appointment of [~~precinct~~] election boards;
- 12 (4) ordering of election supplies;
- 13 (5) conduct of election;
- 14 (6) canvassing; and
- 15 (7) recordkeeping."

16 SECTION 91. Section 3-8-19 NMSA 1978 (being Laws 1971,  
17 Chapter 306, Section 8, as amended) is amended to read:

18 "3-8-19. [~~PRECINCT~~] ELECTION BOARDS--APPOINTMENTS--  
19 COMPENSATION.--

20 A. In order to qualify as a member of [~~a precinct~~]  
21 an election board, a person shall:

- 22 (1) be a [~~resident~~] qualified elector of the  
23 municipality and a resident of the precinct or consolidated  
24 precinct within the jurisdiction of the [~~precinct~~] election  
25 board. However, if there is a shortage or absence of

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1     ~~[precinct]~~ election board members in certain precincts or  
2     consolidated precincts, a person who is a ~~[resident]~~ qualified  
3     elector of the municipality and a nonresident of the precinct  
4     or consolidated precinct may be appointed;

5                     (2) be able to read and write;

6                     (3) have the necessary capacity to carry out  
7     the functions of the office with acceptable skill and dispatch;  
8     and

9                     (4) execute the ~~[precinct]~~ election board  
10    member's oath of office.

11                    B. No person shall be qualified for appointment or  
12    service on ~~[a precinct]~~ an election board if that person is a:

13                     (1) candidate for any municipal office;

14                     (2) spouse, parent, child, brother or sister  
15    of any candidate to be voted for at the election;

16                     (3) sheriff, deputy sheriff, marshal, deputy  
17    marshal or state or municipal ~~[policeman]~~ police officer;

18                     (4) spouse, parent, child, brother or sister  
19    of the municipal clerk or any deputy or assistant municipal  
20    clerk; or

21                     (5) municipal clerk or deputy or assistant  
22    municipal clerk.

23                    C. Not less than thirty-five days before the day of  
24    the municipal election, the governing body shall appoint ~~[a~~  
25    ~~precinct]~~ an election board for each polling place. The

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1    [~~precinct~~] election board shall consist of no fewer than three  
2    members. Each board shall have no fewer than three election  
3    judges and no fewer than two election clerks. Election judges  
4    may also be appointed as election clerks. Not less than two  
5    alternates shall be appointed who shall become either election  
6    judges or election clerks or both as the need arises. On the  
7    thirty-fifth day before the day of the election, the municipal  
8    clerk shall post and maintain in the clerk's office until the  
9    day of the election the names of the election judges, election  
10    clerks and alternates for each polling place. The posting of  
11    the names of the election judges, election clerks and  
12    alternates for each polling place may be proved by an affidavit  
13    signed by the municipal clerk. The municipal clerk shall, by  
14    mail, notify each person appointed, request a written  
15    acceptance and keep a record of all notifications and  
16    acceptances. The notice shall state the date by which the  
17    person must accept the appointment. If any person appointed to  
18    [~~a precinct~~] an election board, or as an alternate, fails to  
19    accept an appointment within seven days after the notice is  
20    sent, the position shall be deemed vacant and the position  
21    shall be filled as provided in this section.

22            D. The county clerk shall furnish upon request of  
23    the municipal clerk the names and addresses of qualified  
24    [~~precinct~~] election board members for general elections, and  
25    such [~~precinct~~] election board members may be appointed as

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1     ~~[precinct]~~ election board members for municipal elections.

2             E. The municipal clerk shall appoint a qualified  
3     elector as ~~[a-precinct]~~ an election board member to fill any  
4     vacancy that may occur between the day when the list of  
5     ~~[precinct]~~ election board members is posted and the day of the  
6     election. If a vacancy occurs on the day of the election, the  
7     ~~[precinct]~~ election board members present at the polling place  
8     may appoint by a majority vote a qualified elector to fill the  
9     vacancy. If the vacancy was filled after the date of the  
10    election school, that person need not attend an election school  
11    in order to validly serve on the ~~[precinct]~~ election board.

12            F. Members of ~~[a-precinct]~~ an election board shall  
13    be compensated for their services at the rate provided in  
14    Section 1-2-16 NMSA 1978 for the day of the election. The  
15    governing body may authorize payment to alternates who are  
16    required by the ~~[precinct]~~ election board or municipal clerk to  
17    stand by on election day at the rate of not more than twenty  
18    dollars (\$20.00) for the day of the election.

19            G. Compensation shall be paid within thirty days  
20    following the date of election."

21            **SECTION 92.** Section 3-8-20 NMSA 1978 (being Laws 1971,  
22    Chapter 306, Section 9, as amended) is amended to read:

23            "3-8-20. ~~[PRECINCT]~~ ELECTION BOARD--DUTIES.--

24            A. The ~~[precinct]~~ election board shall:

25            (1) conduct the municipal election in the

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1 manner provided for the conduct of elections in the Municipal  
2 Election Code; and

3 (2) at the close of the polls, count the votes  
4 cast on each question, if any, and for each candidate, if any,  
5 and perform all duties as required by the Municipal Election  
6 Code.

7 B. A member of the [~~precinct~~] election board shall  
8 not disclose the name of any candidate for whom any voter has  
9 voted.

10 C. No person shall serve on [~~a precinct~~] an  
11 election board unless that person has attended election  
12 training conducted by the municipal clerk in the previous four  
13 years."

14 SECTION 93. Section 3-8-21 NMSA 1978 (being Laws 1985,  
15 Chapter 208, Section 29, as amended) is amended to read:

16 "3-8-21. MUNICIPAL CLERK--~~[PRECINCT]~~ ELECTION BOARD--  
17 ELECTION TRAINING.--

18 A. The municipal clerk shall conduct or cause to be  
19 conducted election training not less than five days prior to  
20 the election. All major details of the conduct of elections  
21 shall be covered at the training, with special emphasis given  
22 to recent changes in the Municipal Election Code. The training  
23 session shall be open to the public, with notice published not  
24 less than four days prior to the training.

25 B. Notice of the training shall be mailed to each

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1 [precinct] election board member and alternate not less than  
2 seven days prior to the training.

3 C. Two or more municipalities may jointly conduct  
4 election training.

5 D. The governing body may authorize payment of  
6 mileage to [precinct] election board members who attend  
7 election training."

8 SECTION 94. Section 3-8-22 NMSA 1978 (being Laws 1985,  
9 Chapter 208, Section 30, as amended) is amended to read:

10 "3-8-22. CONDUCT OF ELECTION--ELIGIBILITY FOR ASSISTANCE--  
11 ORAL ASSISTANCE FOR LANGUAGE MINORITY VOTERS--AID OR ASSISTANCE  
12 TO VOTER MARKING BALLOT--WHO MAY ASSIST VOTER--TYPE OF  
13 ASSISTANCE.--

14 A. A voter may request assistance in voting only if  
15 the voter is:

- 16 (1) visually impaired;
- 17 (2) a person with a physical disability;
- 18 (3) unable to read or write;
- 19 (4) a member of a language minority who is  
20 unable to read well enough to exercise the elective franchise;  
21 or

22 (5) not able to operate a voting machine or  
23 mark a ballot without assistance.

24 B. When a voter who is eligible for assistance  
25 requires assistance in marking a ballot or recording a vote on

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1 a voting machine, the voter shall announce this fact before  
2 receiving the ballot or before entering the voting machine.

3 C. The voter's request for assistance shall be  
4 noted next to the voter's name in the signature roster and  
5 shall be initialed by the presiding judge.

6 D. After noting the voter's request for assistance  
7 in the signature roster, the voter shall be allowed to receive  
8 assistance in marking a ballot or recording a vote on a voting  
9 machine. The name of the person providing assistance to a  
10 voter pursuant to this section shall be recorded on the  
11 signature roster.

12 E. A person who swears falsely in order to secure  
13 assistance with voting is guilty of perjury.

14 F. If a voter who has requested assistance in  
15 marking a ballot has a visual impairment or physical  
16 disability, is unable to read or write or is a member of a  
17 language minority who has requested assistance, the voter may  
18 be accompanied into the voting machine by a person of the  
19 voter's own choice; provided that the person shall not be the  
20 voter's employer, an agent of that employer, an officer or  
21 agent of the voter's union or a candidate whose name appears on  
22 the ballot in the election. A member of the [~~precinct~~]  
23 election board may assist a voter, if requested to do so by  
24 that voter.

25 G. A person who accompanies the voter into the

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1 voting booth or voting machine may assist the voter in marking  
2 a ballot or recording a vote on the voting machine. A member  
3 of the [~~precinct~~] election board who assists a voter shall not  
4 disclose the name of any candidate or questions for whom any  
5 voter voted.

6 H. Oral assistance shall be made available to  
7 assist language minority voters who cannot read sufficiently  
8 well to exercise the elective franchise. As used in this  
9 subsection, "language minority" means a person who is Native  
10 American or of Spanish heritage, and "inability to read well  
11 enough to exercise the elective franchise" means inability to  
12 read the languages in which the ballot is printed or the  
13 inability to understand instructions for operating the voting  
14 machine.

15 I. The position of election translator is created.  
16 The election translator shall be an additional member of the  
17 regular [~~precinct~~] election board, unless oral assistance to  
18 language minorities can otherwise be rendered by a member of  
19 the regular [~~precinct~~] election board. The election translator  
20 shall be appointed by the municipal clerk in the same manner as  
21 other [~~precinct~~] election board members are appointed, except  
22 that the municipal clerk in appointing Native American election  
23 translators shall seek the advice of the pueblo or tribal  
24 officials residing in that municipality. The election  
25 translator shall take the oath required of [~~precinct~~] election

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1 board members and shall meet the same qualifications as other  
2 [~~precinct~~] election board members.

3 J. Each municipal clerk shall compile and maintain  
4 a list of standby election translators to serve in those  
5 precincts on election day when the appointed election  
6 translator is unavailable for such service."

7 SECTION 95. Section 3-8-30 NMSA 1978 (being Laws 1965,  
8 Chapter 300, Section 14-8-9, as amended) is amended to read:

9 "3-8-30. REGULAR MUNICIPAL ELECTION--PUBLICATION OF NAMES  
10 OF CANDIDATES AND OTHER ELECTION DATA.--The municipal clerk  
11 shall publish the names of the candidates for each office to be  
12 filled, the order their names will appear on the ballot, the  
13 location and address of the polling place for each precinct and  
14 the names of all [~~precinct~~] election board members and  
15 alternates and the precincts to which they are appointed. If  
16 districted, the municipal clerk shall also publish the  
17 precincts or portion of precincts in each election district.  
18 Publication shall be once each week for two successive weeks,  
19 with the first publication not more than twenty-eight days  
20 prior to the day of the election and the last publication not  
21 less than two days before the day of election. This material  
22 shall also be posted in the office of the municipal clerk from  
23 the day it is first published until the day of the election."

24 SECTION 96. Section 3-8-31 NMSA 1978 (being Laws 1971,  
25 Chapter 306, Section 10, as amended) is amended to read:

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1           "3-8-31. REGULAR MUNICIPAL ELECTION--CHALLENGERS--  
2 WATCHERS--OBSERVERS.--

3           A. Upon petition filed with the municipal clerk by  
4 an unopposed candidate or by both candidates for a municipal  
5 office, if only two candidates are running for the office, or  
6 by a majority of the candidates for a municipal office, if more  
7 than two candidates are running for the office, those  
8 candidates may:

9                   (1) appoint one person as a challenger and one  
10 alternate for each polling place in the municipal election; and

11                   (2) appoint one person as a watcher and one  
12 alternate for each polling place in the municipal election.

13           B. The petition appointing a challenger and watcher  
14 and alternates shall be filed not later than 5:00 p.m. on the  
15 fourth day preceding the election.

16           C. Upon receipt of the petition, the municipal  
17 clerk shall verify whether the challengers, watchers and  
18 alternates are properly qualified pursuant to Subsection D of  
19 this section. Not later than 3:00 p.m. on the day prior to the  
20 election, the municipal clerk shall prepare official  
21 identification badges for those challengers, watchers and  
22 alternates who are properly qualified. Such identification  
23 badges shall be signed by the municipal clerk and contain the  
24 name of the challenger, watcher or alternate and state that  
25 person's title and the polling place where such person serves.



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1 Challengers, watchers and alternates shall be responsible to  
2 obtain their identification badges from the office of the  
3 municipal clerk prior to the opening of the polls on election  
4 day.

5 D. A challenger, watcher or alternate shall  
6 function only at a polling place that serves the precinct  
7 within which such challenger, watcher or alternate resides. No  
8 sheriff, deputy sheriff, marshal, deputy marshal, municipal or  
9 state police officer, candidate or any person who is a spouse,  
10 parent, child, brother or sister of a candidate to be voted for  
11 at the election or any municipal clerk, deputy municipal clerk  
12 or assistant shall serve as a challenger, watcher or alternate.  
13 No person shall serve as a challenger or watcher unless that  
14 person is a qualified elector of the municipality.

15 E. Upon presentation of their official  
16 identification badges to the [~~precinct~~] election board,  
17 challengers, watchers and alternates shall be permitted to be  
18 present at the polling place from the time the [~~precinct~~]  
19 election board convenes at the polling place until the  
20 completion of the counting and tallying of the ballots after  
21 the polls close.

22 F. Challengers, watchers and alternates shall wear  
23 their official identification badges at all times while they  
24 are present in the polling place. They shall not wear any  
25 other form of identification or any pins or other

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1 identification associated with any candidate, group of  
2 candidates or any question presented at the election.

3 G. Challengers, watchers and alternates shall not:

4 (1) be permitted to perform any duty of [~~a~~  
5 ~~precinct~~] an election board member;

6 (2) handle the ballots, signature rosters,  
7 absentee voter lists or voting machines;

8 (3) take any part in the tallying or counting  
9 of the ballots; or

10 (4) interfere with the orderly conduct of the  
11 election.

12 H. If a challenger, watcher or alternate is wearing  
13 [~~his~~] an official identification badge, it is a petty  
14 misdemeanor to:

15 (1) deny [~~him~~] that person the right to be  
16 present at the polling place;

17 (2) deny [~~him~~] that person the right to  
18 examine voting machines as authorized by law;

19 (3) deny a challenger or alternate challenger  
20 the right to challenge voters pursuant to Section 3-8-43 NMSA  
21 1978 and inspect the signature rosters; or

22 (4) deny [~~him~~] the challenger, watcher or  
23 alternate the right to witness the counting and tallying of  
24 ballots.

25 I. A challenger or alternate challenger, for the

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1 purposes of interposing challenges pursuant to Section 3-8-43  
2 NMSA 1978, shall be permitted to:

3 (1) inspect the voter registration list;

4 (2) inspect the signature rosters or absentee  
5 voter lists to determine whether entries are being made in  
6 accordance with law;

7 (3) examine each voting machine before the  
8 polls are opened to compare the number on the metal seal and  
9 the numbers on the counters with the numbers on the key  
10 envelope, to see that all ballot labels are in their proper  
11 places and to see that the voting machine is ready for voting  
12 at the opening of the polls;

13 (4) make written memoranda of any action or  
14 omission on the part of any member of the [~~precinct~~] election  
15 board and preserve such memoranda for future use; and

16 (5) witness the counting and tallying of the  
17 ballots.

18 J. A watcher or alternate watcher shall be  
19 permitted to:

20 (1) observe the election to assure that it is  
21 conducted in accordance with law;

22 (2) examine any voting machine used at the  
23 polling place in the same manner that challengers may examine  
24 voting machines;

25 (3) make written memoranda of any action or

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1 omission on the part of any member of the [~~precinct~~] election  
2 board and preserve such memoranda for future use; and

3 (4) witness the counting and tallying of  
4 ballots.

5 K. The governing body of a municipality may, at its  
6 discretion, appoint one qualified elector for each polling  
7 place to serve as an observer of the election. The governing  
8 body shall make such appointment not later than 3:00 p.m. on  
9 the day before the election and shall notify the municipal  
10 clerk of such appointment. The municipal clerk shall issue  
11 identification badges to all observers. An observer shall have  
12 no powers other than to observe the conduct of the election and  
13 observe the counting and tallying and report to the governing  
14 body."

15 SECTION 97. Section 3-8-36 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 44, as amended) is amended to read:

17 "3-8-36. SPECIAL ELECTIONS--PUBLICATION OF ELECTION  
18 DATA.--The municipal clerk shall publish the location or  
19 address of the polling place for each precinct or consolidated  
20 precinct and the names of all [~~precinct~~] election board members  
21 and alternates and the precincts to which they are appointed.  
22 Publication shall be once each week for two successive weeks.  
23 The first publication shall be not more than twenty-eight days  
24 before the day of election and the last publication shall be  
25 not less than two days prior to the election. This material

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1 shall also be posted in the office of the municipal clerk from  
2 the day it is first published until the day of the election."

3 SECTION 98. Section 3-8-38 NMSA 1978 (being Laws 1985,  
4 Chapter 208, Section 46, as amended) is amended to read:

5 "3-8-38. CONDUCT OF ELECTION--SWEARING IN--DELIVERY OF  
6 SUPPLIES--OPENING AND CLOSING OF POLLS--~~[PRECINCT]~~ ELECTION  
7 BOARD ATTENDANCE.--

8 A. Not earlier than noon on the day before the  
9 election and not later than one hour prior to the opening of  
10 the polls, the municipal clerk shall swear in the presiding  
11 judge and cause the election supplies, voting machine keys,  
12 ballot box, ballot box keys and other election materials to be  
13 delivered to the presiding judge.

14 B. The presiding judge shall cause all materials  
15 delivered to ~~[him]~~ the presiding judge to be delivered to the  
16 polling place not later than 6:00 a.m. on election day.

17 C. The presiding judge shall swear in all  
18 ~~[precinct]~~ election board members upon their arrival at the  
19 polling place.

20 D. Polls shall be opened at 7:00 a.m. on the date  
21 of the election and shall be closed at 7:00 p.m. on the same  
22 day.

23 E. ~~[Precinct]~~ Election board members shall present  
24 themselves at the polling place not later than 6:00 a.m. on the  
25 day of the election and shall remain at the polling place until

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1 all duties of the [~~precinct~~] election board are properly  
2 completed."

3 SECTION 99. Section 3-8-39 NMSA 1978 (being Laws 1985,  
4 Chapter 208, Section 47, as amended) is amended to read:

5 "3-8-39. CONDUCT OF ELECTION--MAINTENANCE OF ORDER--PEACE  
6 OFFICER--MEMORANDA OF ACTIONS OR OMISSIONS.--

7 A. The election judges shall maintain order within  
8 the polling place.

9 B. Crowding or disruption of the voting process  
10 shall not be permitted in the polling place.

11 C. Admittance of voters to the polling place shall  
12 be controlled and limited to prevent crowding or rushing the  
13 [~~precinct~~] election board in the performance of its duties.

14 D. The election judges may call upon any state or  
15 local law enforcement officer to assist in the maintenance of  
16 order in the polling place. When so requested, the law  
17 enforcement officer shall render assistance.

18 E. The election judges may request any state or  
19 local law enforcement officer to assist in the conduct of the  
20 election by standing outside the polling place entrance and  
21 controlling the admission of voters to the polling place.

22 F. Any state or local law enforcement officer may  
23 enter a polling place upon request of [~~a precinct~~] an election  
24 board member for the purpose of observing the conduct of the  
25 election.

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1           G. No state or local law enforcement officer shall  
2 interfere in any way with a member of the [~~precinct~~] election  
3 board, a person voting or the conduct of the election, except  
4 to assist in maintaining order and orderly control of access,  
5 when requested by an election judge.

6           H. Any state or local law enforcement officer  
7 violating Subsection G of this section is guilty of a petty  
8 misdemeanor and in addition to any other penalty provided by  
9 law shall be subject to dismissal and is ineligible for  
10 reinstatement.

11           I. Any member of the [~~precinct~~] election board may  
12 make written memoranda and preserve them for future reference.  
13 The memoranda may concern any action or omission on the part of  
14 any person charged with a duty under the Municipal Election  
15 Code."

16           **SECTION 100.** Section 3-8-41 NMSA 1978 (being Laws 1985,  
17 Chapter 208, Section 49, as amended) is amended to read:

18           "3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,  
19 SIGNATURE--ENTRIES BY [~~PRECINCT~~] ELECTION BOARD.--

20           A. When a person goes to the polls to vote, the  
21 person shall announce the person's name and address in an  
22 audible tone of voice and locate the person's name and number  
23 in the registered voter list posted for such purpose. An  
24 election clerk shall locate the person's name and number in the  
25 signature roster. The person shall then sign the person's name

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1 in the signature roster or, if the person is unable to write,  
2 the election clerk shall sign the person's name in the  
3 signature roster, which shall be initialed by an election judge  
4 in the signature roster. Thereupon, a challenge may be  
5 interposed as provided in the Municipal Election Code.

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

17 SECTION 101. Section 3-8-43 NMSA 1978 (being Laws 1985,  
18 Chapter 208, Section 51, as amended) is amended to read:

19 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED  
20 CHALLENGES--ENTRIES--DISPOSITION.--

21 A. A challenge may be interposed by a member of the  
22 [~~precinct~~] election board or by a challenger for the following  
23 reasons, which shall be stated in an audible tone by the person  
24 making the challenge:

25 (1) the person offering to vote is not

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1 registered;

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

5 (3) the person offering to vote is not a  
6 qualified elector;

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

9 (5) in the case of an absentee ballot, the  
10 official mailing envelope containing an absentee ballot has  
11 been opened prior to delivery of absentee ballots to the absent  
12 voter [~~precinct~~] election board; or

13 (6) the person offering to vote is a qualified  
14 elector of the municipality but does not reside in the district  
15 where the person is offering to vote.

16 B. When a person has offered to vote and a  
17 challenge is interposed and the person's name appears in the  
18 signature roster or the person's name has been entered in the  
19 signature roster pursuant to Subsection C of Section 3-8-40  
20 NMSA 1978, the election clerk shall write the word "challenged"  
21 above the person's signature in the signature roster and:

22 (1) if the challenge is unanimously affirmed  
23 by the election judges:

24 (a) the election clerk shall write the  
25 word "affirmed" above the person's signature next to the

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1 challenge notation in the signature roster;

2 (b) the person shall nevertheless be  
3 furnished a paper ballot, whether or not voting machines are  
4 being used at the polling place, and the election clerk shall  
5 write the number of the ballot so furnished next to the  
6 person's signature in the signature roster;

7 (c) the person shall be allowed to mark  
8 and prepare the ballot. The person shall return the paper  
9 ballot to an election judge who shall announce the person's  
10 name in an audible tone and in the person's presence place the  
11 challenged ballot in an envelope marked "rejected", which shall  
12 be sealed and the person's name shall be written on the  
13 envelope; and

14 (d) the envelope containing the rejected  
15 ballot shall then be deposited in the ballot box and shall not  
16 be counted; or

17 (2) if the challenge is not unanimously  
18 affirmed by the election judges:

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

22 (b) the person shall be allowed to vote  
23 in the manner allowed by law as if the challenge had not been  
24 interposed.

25 C. A required challenge shall be interposed by the

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1    [~~precinct~~] election board when a person attempts to offer to  
2    vote and demands to vote and the person's name does not appear  
3    on the signature roster and cannot be entered pursuant to  
4    Subsection B of Section 3-8-40 NMSA 1978. A required challenge  
5    shall be interposed by the [~~precinct~~] election board as  
6    follows:

7                    (1) the election judge shall cause the  
8    election clerks to enter the person's name and address under  
9    the heading "name and address" in the signature roster in the  
10   first blank space immediately below the last name and address  
11   that appears in the signature roster;

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

15                   (3) the person shall sign the person's name in  
16   the signature roster;

17                   (4) the person shall nevertheless be furnished  
18   a paper ballot, whether or not voting machines are being used  
19   at the polling place, and the election clerk shall write the  
20   number of the ballot so furnished next to the person's  
21   signature in the signature roster; and

22                   (5) the person shall be allowed to mark and  
23   prepare the ballot. The person shall return the paper ballot  
24   to an election judge who shall announce the person's name in an  
25   audible tone and in the person's presence place the required

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1 challenge ballot in an envelope marked "rejected--required  
2 challenge" that shall be sealed. The person's name shall be  
3 written on the envelope and the envelope containing the  
4 rejected ballot shall then be deposited in the ballot box and  
5 shall not be counted."

6 SECTION 102. Section 3-8-44 NMSA 1978 (being Laws 1985,  
7 Chapter 208, Section 52, as amended) is amended to read:

8 "3-8-44. CONDUCT OF ELECTION--VOTING MACHINES--  
9 INSTRUCTIONS--INSPECTION OF VOTING MACHINE FACE AFTER VOTE--  
10 ENTRY INTO MACHINE.--

11 A. Before each person votes, a member of the  
12 [~~precinct~~] election board shall, at the request of the voter  
13 and so far as possible, instruct the person on how to operate  
14 the voting machine, illustrate its operation on the model and  
15 call attention to the posted sample ballot. If any person,  
16 before voting, asks for further information regarding the  
17 machine's operation, an election judge shall give the person  
18 the necessary information prior to the person's casting a vote.

19 B. The member of the [~~precinct~~] election board  
20 attending the voting machine shall inspect the face of the  
21 machine after each person has voted to see that the ballot  
22 labels are in their proper places and have not been defaced.

23 C. After a person has announced the person's name  
24 and address, had voter registration confirmed, signed the  
25 signature roster and has had no challenge affirmed against

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1 casting a ballot, the person may vote. No more than one voter  
2 shall be permitted at the voting machine at one time unless the  
3 voter is being assisted."

4 SECTION 103. Section 3-8-45 NMSA 1978 (being Laws 1985,  
5 Chapter 208, Section 53) is amended to read:

6 "3-8-45. CONDUCT OF ELECTION--CLOSING POLLS--ARRIVAL OF  
7 VOTER AFTER THE POLLS CLOSE--ELECTION CLERK CERTIFICATE.--

8 A. When the polls are closed, the [~~precinct~~]  
9 election board shall proclaim that fact aloud at the place of  
10 election. After the proclamation, no person shall cast a vote.  
11 However, if at the hour of closing there are other persons  
12 inside the polling place and in line to offer themselves to  
13 vote, who are qualified to vote and have not been able to do so  
14 since appearing, the polls shall be kept open a sufficient time  
15 to enable them to vote. When the polls are proclaimed closed,  
16 an election judge shall determine the last person in the  
17 polling place and in line who may offer [~~themselves~~]  
18 and announce that person's name in an audible tone, and no  
19 person arriving at the polling place thereafter may vote.

20 B. Immediately after the last vote is cast and the  
21 polls are closed, the [~~precinct~~] election board shall complete  
22 and sign a certificate which shall state: "We certify the  
23 ..... election complete with the voting of voting machine  
24 number ..... by voter number ..... on the signature  
25 roster."

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1           SECTION 104. Section 3-8-46 NMSA 1978 (being Laws 1985,  
2 Chapter 208, Section 54, as amended) is amended to read:

3           "3-8-46. CONDUCT OF ELECTIONS--CLOSING POLLS--LOCKING  
4 VOTING MACHINES--OPENING VOTING MACHINES--VERIFICATION OF  
5 VOTES--ADMITTANCE OF WATCHERS AND CANDIDATES--PROCLAMATION OF  
6 RESULTS--COMPLETION OF LOCKING--DURATION OF LOCKING AND  
7 SEALING.--

8           A. When the last person has voted, the [~~precinct~~  
9 election board, in the presence of all persons lawfully  
10 permitted to be present, shall immediately lock and, if  
11 required by the county clerk, seal the voting machine against  
12 further voting. The [~~precinct~~ election board shall release  
13 the machine-printed returns from the machine. The [~~precinct~~  
14 election board shall then sign a certificate stating that the  
15 machine was locked; giving the exact time; stating the number  
16 of voters shown on the public counters, which shall be the  
17 total number of votes cast on the machine in that precinct;  
18 stating the number on the seal; and stating the number  
19 registered on the protective counter.

20           B. The [~~precinct~~ election board shall verify that  
21 the counter settings registered on the machine-printed returns  
22 are legible. The machine-printed returns shall show the number  
23 of votes cast for each candidate and the number of votes cast  
24 for and against any other question submitted, and the return  
25 shall be signed by each member of the [~~precinct~~ election board

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1 and the challengers and watchers, if there be such.

2 C. If the machine-printed returns are not legible,  
3 or if the [~~precinct~~] election board officials are unable to  
4 obtain the returns from the voting machine, the [~~precinct~~]  
5 election board officials shall call the municipal clerk, who  
6 shall immediately contact the county clerk, who shall dispatch  
7 a voting machine technician to that polling place to help the  
8 [~~precinct~~] election board officials obtain the returns from the  
9 voting machine.

10 D. A write-in vote shall be cast by writing in the  
11 name of a declared write-in candidate on the ballot or, on  
12 voting machines, write-ins shall be written in the slot  
13 provided for each designated office. A write-in vote shall be  
14 counted and canvassed only if:

15 (1) the name written in is the name of a  
16 declared write-in candidate and shows two initials and last  
17 name; first name, middle initial or name and last name; first  
18 and last name; or the full name as it appears on the  
19 declaration of write-in candidacy of the declared write-in  
20 candidate and misspellings of the above combinations that can  
21 be reasonably determined by a majority of the members of the  
22 [~~precinct~~] election board to identify the declared write-in  
23 candidate;

24 (2) the name is written in the proper slot on  
25 the voting machine or on the proper line for write-in votes

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1 provided on an absentee ballot or paper ballot used in lieu of  
2 voting machines;

3 (3) the name written in is not a vote for a  
4 person who is on the ballot for that office; and

5 (4) the name written in is not imprinted by  
6 rubber stamp or similar device or by the use of preprinted  
7 stickers or labels.

8 E. Only the members of the [~~precinct~~] election  
9 board, candidates or their representatives, representatives of  
10 the news media, certified challengers, watchers and observers  
11 and the municipal clerk may be present while the votes are  
12 being counted and tallied. Only members of the [~~precinct~~]  
13 election board shall handle ballots, machine-printed returns  
14 and signature rosters or take part in the counting and  
15 tallying.

16 F. The proclamation of the results of the votes  
17 cast shall be distinctly announced by an election judge, who  
18 shall read the name of each candidate and the total number of  
19 votes cast for each candidate shown on the printed returns. An  
20 election judge shall also read the total number of votes cast  
21 for and against each question submitted. During the  
22 proclamation, ample opportunity shall be given to any person  
23 lawfully present to compare the result so proclaimed with the  
24 printed returns. The [~~precinct~~] election board may make  
25 corrections then and there.

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1           G. When the [~~precinct~~] election board is satisfied  
2 that the election results have been correctly tallied, an  
3 election judge shall complete a separate election return  
4 certificate in triplicate on which is recorded the total number  
5 of votes cast in that polling place for each candidate and for  
6 and against each question. The certificate shall be signed by  
7 all the members of the [~~precinct~~] election board. One copy  
8 shall be posted at the door of the polling place, one copy  
9 mailed to the district court in the envelope provided and the  
10 original returned to the municipal clerk in the envelope  
11 provided.

12           H. Before adjourning, the [~~precinct~~] election board  
13 shall complete the locking procedures on the voting machine.

14           I. On the voting machine, the machine return sheet  
15 is the official vote tally for that machine and the separate  
16 election return certificate is the official vote tally for that  
17 precinct or consolidated precinct.

18           J. If in the district court's opinion a contest is  
19 likely to develop, the court may order a voting machine to  
20 remain locked and sealed for such time as it deems necessary.

21           K. The county clerk shall break the seal for  
22 purposes of lawful investigation when ordered to do so by a  
23 court of competent jurisdiction. When the investigation is  
24 completed, the voting machine shall again be sealed and across  
25 the envelope containing the keys shall be written the signature

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1 of the county clerk, unless other provisions for the use of the  
2 voting machine are ordered by the court."

3 SECTION 105. Section 3-8-47 NMSA 1978 (being Laws 1985,  
4 Chapter 208, Section 55, as amended) is amended to read:

5 "3-8-47. CONDUCT OF ELECTIONS--DISPOSITION OF SIGNATURE  
6 ROSTER--MACHINE-PRINTED RETURNS--BALLOT BOXES--ELECTION RETURN  
7 CERTIFICATE--AFFIDAVITS--OTHER ELECTION MATERIALS.--

8 A. After all certificates have been executed, the  
9 [~~precinct~~] election board shall place the voter checklist and  
10 one copy of the machine-printed returns in the stamped,  
11 addressed envelope provided for that purpose by the municipal  
12 clerk and immediately mail it to the district court.

13 B. The following election returns and materials  
14 shall not be placed in the ballot box and shall be returned by  
15 the [~~precinct~~] election board to the municipal clerk in the  
16 envelope or other container provided by the municipal clerk for  
17 such purpose:

- 18 (1) all ballot box keys;
- 19 (2) the signature roster;
- 20 (3) one voter registration list;
- 21 (4) the election returns certificate, if  
22 separate from the signature roster;
- 23 (5) one copy of the machine-printed returns;
- 24 (6) a machine cartridge or memory card for any  
25 voting machine, if required by the county clerk;

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1 (7) voting machine permits; and

2 (8) all unused election supplies.

3 C. All materials listed in Subsection B of this  
4 section, along with the locked ballot box containing any paper  
5 ballots cast in the election, including spoiled and challenged  
6 ballots, shall be returned by the [~~precinct~~] election board to  
7 the municipal clerk within twenty-four hours after the polls  
8 close.

9 D. After receipt of ballot boxes and election  
10 returns and materials but not later than twenty-four hours  
11 after the polls close, the municipal clerk shall ascertain  
12 whether the locked ballot box and all the election returns and  
13 materials enumerated in Subsection B of this section have been  
14 returned to the municipal clerk as provided in Subsection C of  
15 this section. If the locked ballot box or all such election  
16 returns and materials are not timely returned by each  
17 [~~precinct~~] election board, the municipal clerk shall  
18 immediately issue a summons requiring the delinquent [~~precinct~~]  
19 election board to appear and produce the missing ballot box or  
20 election returns or materials within twenty-four hours. The  
21 summons shall be served by a sheriff or state police officer  
22 without cost to the municipality, and the members of the  
23 [~~precinct~~] election board shall not be paid for their service  
24 on election day unless the delay was unavoidable. If delivery  
25 pursuant to the summons is not timely made, the vote in the

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1 precinct shall not be canvassed or made a part of the final  
2 election results except upon order of the district court after  
3 finding that the delay in the delivery of materials was due to  
4 forces beyond the control of the [~~precinct~~] election board.

5 E. Once the ballot box is locked, it shall not be  
6 opened prior to canvassing by the municipal clerk."

7 SECTION 106. Section 3-8-49 NMSA 1978 (being Laws 1985,  
8 Chapter 208, Section 57, as amended) is amended to read:

9 "3-8-49. CONDUCT OF ELECTION--PAPER BALLOTS--MARKING--USE  
10 OF PEN OR OTHER WRITING IMPLEMENT--IDENTIFICATION MARKS.--

11 A. In order to vote for a candidate, the person  
12 voting shall mark a cross (X) or a check (V) in the box next to  
13 the name of that candidate or write in the name of the person  
14 for whom the voter desires to vote in the space for write-in  
15 candidates and mark a cross (X) or a check (V) in the box next  
16 to the line upon which the write-in vote is cast. Such write-  
17 in vote shall be cast in accordance with the provisions of  
18 Subsection D of Section 3-8-46 NMSA 1978. Notwithstanding the  
19 requirements of this subsection, if a different mark, other  
20 than a cross or check, is required for proper counting of the  
21 ballot, then the person voting shall make such mark on the  
22 ballot in the place so designated on the ballot utilizing the  
23 required writing implement pursuant to the instructions of the  
24 [~~precinct~~] election board.

25 B. If a question is included on the paper ballot,

1 the person voting shall mark the paper ballot by marking a  
2 cross (X) or a check (V) in the box for or against the question  
3 submitted or otherwise marking the ballot in accordance with  
4 Subsection A of this section.

5 C. All crosses, checks or other proper marks on the  
6 ballot shall be made only with pen or other writing implement  
7 and in the manner required for the proper counting of the  
8 ballot. The cross used in marking ballots shall be two lines  
9 intersecting at any angle within the circle or box. The check  
10 shall be a "V"-shaped mark with it being permissible for either  
11 side of the "V" to be longer than the other side. Any mark  
12 discernible either as a cross or a check, whether or not any of  
13 the lines extends outside the circle or box, shall be counted  
14 as a valid marking of the ballot when crosses or checks are  
15 required.

16 D. A vote shall be counted if:

17 (1) the ballot is marked in accordance with  
18 the instructions for that ballot type;

19 (2) the preferred candidate's name or answer  
20 to a ballot question is circled;

21 (3) there is a cross or check within the  
22 voting response area for the preferred candidate or answer to  
23 the ballot question; or

24 (4) the presiding judge and election judges  
25 for the precinct unanimously agree that the voter's intent is

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1 clearly discernable.

2 E. A person voting shall not place any mark on the  
3 ballot by which it may be afterwards identified as one voted by  
4 that person."

5 SECTION 107. Section 3-8-51 NMSA 1978 (being Laws 1985,  
6 Chapter 208, Section 59, as amended) is amended to read:

7 "3-8-51. CONDUCT OF ELECTION--PAPER BALLOTS--UNUSED  
8 BALLOTS--DESTRUCTION OF UNUSED BALLOTS--COUNTING AND  
9 TALLYING.--

10 A. Immediately upon closing of the polls, the  
11 election judge shall prepare a certificate of destruction,  
12 which shall state the number of the last ballot that was used  
13 for voting, the numbers of the ballots that were destroyed and  
14 the fact that all unused ballots were destroyed.

15 B. Immediately after preparation of the certificate  
16 of destruction and before any ballot box is unlocked, the  
17 [~~precinct~~] election board shall destroy all unused ballots in  
18 the presence of the candidates, if present, the municipal  
19 clerk, if present, certified challengers and watchers, if any,  
20 and representatives of the news media, if any.

21 C. On the day of the election, immediately upon the  
22 arrival of the hour when the polls are required by law to be  
23 closed, the municipal clerk shall publicly, in the clerk's  
24 office, proceed to destroy every unused ballot that remains in  
25 the clerk's control and make and file an affidavit in writing

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1 as to the number of ballots so destroyed.

2 D. The [~~precinct~~] election board shall count and  
3 tally the ballots and certify the results of the election on  
4 the form provided on the cover of the signature roster by  
5 writing opposite the name of each candidate in words and  
6 figures the total number of votes cast for the candidate and  
7 shall set forth in the spaces provided therefor in words and  
8 figures the total number of votes cast for or against each  
9 question submitted. Ballots not marked as required by the  
10 Municipal Election Code shall not be counted.

11 E. Only the members of the [~~precinct~~] election  
12 board, candidates, municipal clerk, representatives of the news  
13 media and certified challengers and watchers may be present  
14 while the votes are being counted and tallied. Only members of  
15 the [~~precinct~~] election board shall handle ballots and  
16 signature rosters or take part in the counting and tallying.

17 F. The proclamation of the results of the votes  
18 cast shall be distinctly announced by the election judge, who  
19 shall read the name of each candidate and the total vote cast  
20 for each candidate. The election judge shall also read the  
21 total vote cast for and against each question submitted. The  
22 election judge shall thereupon complete an election return  
23 certificate on which is recorded the total number of votes cast  
24 for each candidate and for and against each question. The  
25 certificate shall be signed by all the members of the

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1 [~~precinct~~] election board."

2 SECTION 108. Section 3-8-52 NMSA 1978 (being Laws 1985,  
3 Chapter 208, Section 60, as amended) is amended to read:

4 "3-8-52. CONDUCT OF ELECTION--PAPER BALLOTS--SIGNATURE  
5 ROSTERS--DISPOSITION.--

6 A. After the counting and tallying of ballots is  
7 completed and after all certificates have been executed, the  
8 [~~precinct~~] election board shall place the voter checklist and  
9 one copy of all certificates and tally sheets in the stamped,  
10 addressed envelope provided for that purpose by the municipal  
11 clerk and immediately mail it to the district court.

12 B. The signature roster, all certificates, tally  
13 sheets and all ballot box keys shall be returned to the  
14 municipal clerk. The signature roster, certificates, tally  
15 sheets and ballot box [~~key~~] keys shall not be placed in the  
16 ballot box.

17 C. After paper ballots used in lieu of voting  
18 machines are counted and tallied, the [~~precinct~~] election board  
19 shall place the following in the ballot box:

20 (1) the bundles of counted paper ballots used  
21 in lieu of voting machines;

22 (2) the envelopes containing spoiled ballots;  
23 and

24 (3) the envelopes containing rejected ballots.

25 D. After the required items have been placed in the

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1 ballot box, the ballot box shall be closed and locked.

2 E. The locked ballot box containing those materials  
3 required by law, the election returns and all other election  
4 materials shall be delivered to the municipal clerk by the  
5 [~~precinct~~] election board within twenty-four hours after the  
6 polls are closed. If such delivery is not timely made, then  
7 the vote in the precinct shall not be canvassed or made a part  
8 of the final election results except upon order of the district  
9 court after finding that the delay in the delivery of materials  
10 was due to forces beyond the control of the [~~precinct~~] election  
11 board.

12 F. Once the ballot box is locked, it shall not be  
13 opened prior to canvassing."

14 SECTION 109. Section 3-8-53 NMSA 1978 (being Laws 1965,  
15 Chapter 300, Section 14-8-14, as amended) is amended to read:

16 "3-8-53. POST-ELECTION DUTIES--CANVASS OF RETURNS--  
17 MAJORITY VOTE FOR QUESTIONS.--

18 A. After the polls are closed and after the return  
19 of the ballot box, election returns and other materials by [~~a~~  
20 ~~precinct~~] an election board and not later than noon on the  
21 third day after the election, the municipal clerk shall call  
22 [~~to his~~] for assistance to open the returns:

23 (1) a magistrate within the county, so long as  
24 the magistrate is not a candidate for an office of the  
25 municipality;

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1 (2) the members of the governing body of the  
2 municipality who are not candidates for municipal office;  
3 provided that if the members of the governing body who are not  
4 candidates for municipal office constitute a quorum, a special  
5 meeting shall be called; or

6 (3) a district court judge from the judicial  
7 district in which the municipality is located.

8 B. The municipal clerk and the persons called to  
9 open the returns are the municipal canvassing board, and the  
10 municipal clerk shall be the presiding officer of the municipal  
11 canvassing board.

12 C. In the presence of the other members of the  
13 municipal canvassing board, the municipal clerk shall publicly:

14 (1) canvass the returns in the manner set  
15 forth in the Municipal Election Code;

16 (2) prepare and execute a certificate of  
17 canvass certifying the results of the election. Such  
18 certificate shall contain the total number of voters who voted  
19 at the election, the total number of votes cast for each  
20 candidate, each declared write-in candidate and for and against  
21 each question, which candidates were elected to office and  
22 whether each question passed or failed;

23 (3) sign the certificate of canvass with the  
24 municipal canvassing board signing the certificate of canvass  
25 as witnesses; and

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1 (4) immediately file the certificate of  
2 canvass in the official minute book of the municipality.

3 D. The matters to be performed pursuant to  
4 Subsection C of this section shall be completed not later than  
5 5:00 p.m. on the third day following the election, and such  
6 matters shall be performed solely at the office of the  
7 municipal clerk.

8 E. All questions submitted to the voters shall be  
9 decided by a majority of the voters voting on the question  
10 except as otherwise provided by law."

11 SECTION 110. Section 3-8-55 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 63, as amended) is amended to read:

13 "3-8-55. POST-ELECTION DUTIES--CANVASS--DEFECTIVE  
14 RETURNS--CORRECTION.--

15 A. The municipal clerk shall immediately order the  
16 [~~precinct~~] election board to appear and make the necessary  
17 corrections or supply omissions or any missing election returns  
18 if it appears:

19 (1) on the face of the election returns that  
20 any certificate has not been properly executed;

21 (2) that there is a discrepancy within the  
22 election returns;

23 (3) that there is a discrepancy between the  
24 number of votes set forth in the certificate for all candidates  
25 and the number of electors voting as shown by the election

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1 returns;

2 (4) that there is any omission, informality,  
3 ambiguity, error or uncertainty on the face of the returns; or

4 (5) that there are missing election returns.

5 B. If any members of the [~~precinct~~] election board  
6 fail to appear as required, the municipal clerk shall  
7 immediately issue a summons commanding them to appear. The  
8 summons shall be served by a sheriff or state police officer as  
9 in the manner of civil cases, and for each service a sheriff or  
10 state police officer shall be allowed the same mileage as is  
11 paid in civil cases.

12 C. After issuing the necessary notifications or  
13 summonses, the canvass of all correct election returns shall  
14 proceed."

15 SECTION 111. Section 3-8-67 NMSA 1978 (being Laws 1985,  
16 Chapter 208, Section 75) is amended to read:

17 "3-8-67. CONTEST OF ELECTION--BURDEN OF PROOF.--

18 A. If a contestant makes a prima facie showing that  
19 the [~~precinct~~] election board or municipal clerk failed to  
20 substantially comply with those provisions of the Municipal  
21 Election Code [~~which~~] that protect the secrecy and sanctity of  
22 the ballot and prescribe the duties of the [~~precinct~~] election  
23 board or municipal clerk, [~~then~~] the burden shall be on the  
24 contestee to prove that no fraud, intimidation, coercion or  
25 undue influence was exerted by [~~such precinct~~] the election

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1 board members or the municipal clerk and that the secrecy and  
2 purity of the ballot [~~was~~] were safeguarded and no intentional  
3 evasion of the substantial requirements of the law was made.

4 B. If the contestee fails to make such a showing,  
5 the votes of that entire polling place shall be rejected;  
6 provided that no such rejection shall be made [~~where~~] when it  
7 appears to the court that the members of the [~~precinct~~]  
8 election board or municipal clerk ignored the requirements of  
9 the Municipal Election Code with the probable intent of  
10 procuring the rejection of the entire vote in the precinct."

11 SECTION 112. Section 3-8-68 NMSA 1978 (being Laws 1985,  
12 Chapter 208, Section 76, as amended) is amended to read:

13 "3-8-68. RECOUNT--RECHECK--APPLICATION--COSTS.--

14 A. Whenever any candidate for any office for which  
15 the municipal clerk issues a certificate of election believes  
16 that any error or fraud has been committed by any [~~precinct~~]  
17 election board in counting or tallying the ballots or absentee  
18 ballots, in the verification of the votes cast on the voting  
19 machines or in the certifying of the results of any election  
20 whereby the results of the election in the precinct have not  
21 been correctly determined, declared or certified, the  
22 candidate, within six days after completion of the canvass by  
23 the municipal canvassing board, may have a recount of the  
24 ballots or absentee ballots, or a recheck of the voting machine  
25 and the voting machine cartridge or memory card that contains

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1 the number of total votes that were cast in the precinct.

2 B. In the case of any office for which the  
3 municipal clerk issues a certificate of election, application  
4 for recount or recheck shall be filed with the municipal clerk.

5 C. Any applicant for a recount shall deposit with  
6 the municipal clerk fifty dollars (\$50.00) in cash or a  
7 sufficient surety bond in an amount equal to fifty dollars  
8 (\$50.00) for each precinct or consolidated precinct for which a  
9 recount is demanded. Any applicant for a recheck shall deposit  
10 with the municipal clerk ten dollars (\$10.00) in cash or a  
11 sufficient surety bond in an amount equal to ten dollars  
12 (\$10.00) for each voting machine to be rechecked.

13 D. The deposit or surety bond shall be security for  
14 the payment of the costs and expenses of the recount or recheck  
15 in case the results of the recount or recheck are not  
16 sufficient to change the results of the election.

17 E. If it appears that error or fraud sufficient to  
18 change the winner of the election has been committed, the costs  
19 and expenses of the recount or recheck shall be paid by the  
20 municipality upon warrant of the municipal clerk from the  
21 general fund of the municipality.

22 F. If no error or fraud appears to be sufficient to  
23 change the winner, the costs and expenses for the recount or  
24 recheck shall be paid by the applicant. Costs shall consist of  
25 any docket fees, mileage of a sheriff or state police officer

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1 in serving summons and fees and mileage of [~~precinct~~] election  
2 board members, at the same rates allowed witnesses in civil  
3 actions. If fraud has been committed by [~~a precinct~~] an  
4 election board, it shall not be entitled to such mileage or  
5 fees."

6 SECTION 113. Section 3-8-69 NMSA 1978 (being Laws 1985,  
7 Chapter 208, Section 77, as amended) is amended to read:

8 "3-8-69. RECOUNT--RECHECK--PROCEEDINGS.--

9 A. Immediately after filing of the application for  
10 recount or recheck, the municipal clerk shall issue a summons  
11 directed to the [~~precinct~~] election board of each precinct or  
12 consolidated precinct specified in the application commanding  
13 it to appear at the office of the municipal clerk on a day  
14 fixed in the summons, which date shall not be more than ten  
15 days after the filing of the application for recount or  
16 recheck. A copy of the summons shall be forwarded to the  
17 county clerk of the concerned county.

18 B. The municipal clerk shall deliver the summons to  
19 a sheriff or state police officer who shall forthwith  
20 personally serve it upon each of the [~~precinct~~] election board  
21 members. The municipal clerk shall send notices by registered  
22 mail of the date, time and place fixed for recount or recheck  
23 to the district judge and county clerk.

24 C. The [~~precinct~~] election board, district judge or  
25 the district court judge's designee, county clerk and the

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1 municipal clerk shall meet on the date, time and place fixed  
2 for the recount or recheck, and the ballot boxes or voting  
3 machines of the precinct or consolidated precinct involved in  
4 the recount or recheck shall be opened. The [~~precinct~~]  
5 election boards shall recount and retally the ballots or  
6 recheck the votes cast on the voting machine, as the case may  
7 be, and recount and retally the absentee ballots for the office  
8 in question in the presence of the municipal clerk, the county  
9 clerk, district judge or person designated to act for the judge  
10 and any other person who may desire to be present.

11 D. During the recount or recheck, the [~~precinct~~]  
12 election board of a precinct or consolidated precinct where  
13 paper ballots used in lieu of voting machines or absentee  
14 ballots were used shall recount and retally only the ballots  
15 that the election judge accepted and placed in the ballot box  
16 at the time they were cast or received, as the case may be.

17 E. After completion of the recount or recheck, the  
18 [~~precinct~~] election board shall replace the ballots or absentee  
19 ballots in the ballot box and lock it, or the voting machines  
20 shall be locked and resealed, and the [~~precinct~~] election board  
21 shall certify to the municipal clerk the results of the recount  
22 or recheck. The district judge or the person designated to act  
23 for the judge, the county clerk and the municipal clerk shall  
24 also certify that the recount or recheck was made in their  
25 presence."

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1           SECTION 114. Section 3-8-70 NMSA 1978 (being Laws 1985,  
2 Chapter 208, Section 78) is amended to read:

3           "3-8-70. RECOUNT--RECHECK--RECANVASS.--

4           A. Immediately upon receipt of the certificate of  
5 recount or recheck from all the [~~precinct~~] election boards  
6 making a recount or recheck, the municipal canvassing board  
7 shall meet and recanvass the returns for the office in  
8 question.

9           B. In making the recanvass, the municipal  
10 canvassing board shall be bound by the certificates of recount  
11 or recheck from the [~~precinct~~] election boards instead of the  
12 original returns from those [~~precinct~~] election boards.

13           C. After the recanvass, if it appears that fraud or  
14 error has been committed sufficient to change the winner of the  
15 election, then the municipal clerk shall revoke the certificate  
16 of election already issued to any person for that office and  
17 shall issue a certificate of election in favor of the person  
18 receiving a plurality of the votes cast at the election as  
19 shown by the recount or recheck, and such certificate shall  
20 supersede all others and entitle the holder to all of the  
21 rights and privileges of the office. The person shall take  
22 office after complying with Section 3-8-33 NMSA 1978 with the  
23 time to take office running from the date that the new  
24 certificate is issued."

25           SECTION 115. Section 3-8-71 NMSA 1978 (being Laws 1985,

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1 Chapter 208, Section 79, as amended) is amended to read:

2 "3-8-71. PRESERVATION OF ELECTION INFORMATION.--

3 A. The municipal clerk shall retain for two years  
4 after each municipal election:

5 (1) the absentee ballot register, application  
6 for absentee ballots, absentee voter lists and affidavits of  
7 destruction;

8 (2) signature roster and registered voter  
9 list;

10 (3) the machine-printed returns;

11 (4) oaths of office of the [~~precinct~~] election  
12 board;

13 (5) declarations of candidacy and withdrawals;

14 (6) copies of all election material required  
15 to be published or posted;

16 (7) a copy of all sample ballots and ballot  
17 sheets;

18 (8) voting machine permits;

19 (9) certificates submitted by voters;

20 (10) copies of all affidavits and certificates  
21 prepared in connection with the election;

22 (11) all results of recounts, rechecks,  
23 contests and recanvass; and

24 (12) all other significant election materials.

25 B. The district court shall retain for forty-five

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1 days after each municipal election all election materials sent  
2 by the [~~precinct~~] election board. Thereafter, the material may  
3 be destroyed unless needed by the court in connection with a  
4 contest or other case or controversy.

5 C. The municipal clerk shall destroy election  
6 records two years after the election by shredding, burning or  
7 otherwise destroying."

8 SECTION 116. Section 3-8-75 NMSA 1978 (being Laws 1985,  
9 Chapter 208, Section 83, as amended) is amended to read:

10 "3-8-75. FALSE VOTING--FALSIFYING ELECTION DOCUMENTS--  
11 FALSE SWEARING--PENALTY.--

12 A. False voting consists of:

13 (1) voting or offering to vote with the  
14 knowledge of not being a qualified elector;

15 (2) voting or offering to vote in the name of  
16 any other person;

17 (3) knowingly voting or offering to vote in  
18 any precinct except that in which one is registered;

19 (4) voting or offering to vote more than once  
20 in the same election;

21 (5) inducing, abetting or procuring or  
22 attempting to induce, abet or procure a person known not to be  
23 a qualified elector to vote; or

24 (6) inducing, abetting or procuring or  
25 attempting to induce, abet or procure a person who has voted

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1 once in any election to vote or attempt to vote again at the  
2 same election.

3 B. A person who commits false voting is guilty of a  
4 fourth degree felony.

5 C. Falsifying election documents consists of  
6 performing any of the following acts willfully and with  
7 knowledge and intent to deceive or mislead any voter,  
8 [~~precinct~~] election board, municipal clerk or other election  
9 official:

10 (1) printing, causing to be printed,  
11 distributing or displaying false or misleading instructions  
12 pertaining to voting or the conduct of the election;

13 (2) printing, causing to be printed,  
14 distributing or displaying any official ballot, absentee  
15 ballot, sample ballot, facsimile diagram, ballot sheet or  
16 pretended ballot that includes the name of any person not  
17 entitled by law to be on the ballot or omits or defaces the  
18 name of any person entitled by law to be on the ballot or  
19 otherwise contains false or misleading information or headings;

20 (3) defacing, altering, forging, making false  
21 entries in or changing any election document, including  
22 election returns, a certificate of election registration record  
23 or signature rosters, affidavits, certificates or any other  
24 election document except as authorized in the Municipal  
25 Election Code;

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1 (4) withholding any certificate of election,  
2 registered voter list, signature roster, election return or any  
3 other election document required by or prepared and issued  
4 pursuant to the Municipal Election Code; or

5 (5) preparing or submitting any false  
6 certificate of election, signature roster, registered voter  
7 list, election return or any other election document.

8 D. A person who falsifies election documents is  
9 guilty of a fourth degree felony.

10 E. False swearing consists of knowingly taking or  
11 giving any oath required by the Municipal Election Code with  
12 the knowledge that the thing or matter sworn to is not a true  
13 and correct statement.

14 F. A person who falsely swears is guilty of a  
15 fourth degree felony."

16 SECTION 117. Section 3-8-76 NMSA 1978 (being Laws 1985,  
17 Chapter 208, Section 84, as amended) is amended to read:

18 "3-8-76. OFFERING A BRIBE--ACCEPTING A BRIBE--  
19 INTIMIDATION--PENALTY.--

20 A. Offering a bribe consists of willfully offering,  
21 advancing, paying or causing to be paid or promising, directly  
22 or indirectly, any money, other valuable consideration, office  
23 or employment to any person for any of the following purposes  
24 connected with or incidental to any election:

25 (1) to induce such person to vote or refrain

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1 from voting for or against any candidate or question;

2 (2) to induce such person, if [~~a precinct~~] an  
3 election board member, municipal clerk or other election  
4 official, to mark, alter, withhold or otherwise change or  
5 falsify any ballot or vote that has been cast, any election  
6 return, any certificate of election or any other election  
7 document; or

8 (3) to induce such person to use such payment  
9 or promise to bribe others for the purposes specified in this  
10 section.

11 B. A person who offers a bribe is guilty of a  
12 fourth degree felony.

13 C. Accepting a bribe consists of knowingly  
14 accepting any payment or promise of payment, directly or  
15 indirectly, of money, other valuable consideration, office or  
16 employment for the unlawful purposes specified in Subsection A  
17 of this section.

18 D. A person who accepts a bribe is guilty of a  
19 fourth degree felony.

20 E. Intimidation consists of any person, including  
21 but not limited to any elected or appointed municipal official  
22 or employee, inducing or attempting to induce fear by use of or  
23 threatened use of force, violence, infliction of damage, harm  
24 or loss to any person or property or any form of economic  
25 retaliation upon any person voting or intending to vote,

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1 [precinct] election board member, challenger, watcher or  
2 municipal clerk to impede or prevent the free, fair and secret  
3 exercise of the elective franchise or the impartial and legally  
4 correct administration of the election pursuant to the  
5 Municipal Election Code.

6 F. A person who commits intimidation is guilty of a  
7 fourth degree felony."

8 SECTION 118. Section 3-8-78 NMSA 1978 (being Laws 1985,  
9 Chapter 208, Section 86, as amended) is amended to read:

10 "3-8-78. COERCION OF EMPLOYEES--PERMITTING PRISONERS TO  
11 VOTE--MALFEASANCE BY MESSENGERS--UNLAWFUL USE OR POSSESSION OF  
12 ALCOHOLIC LIQUOR OR ILLEGAL DRUGS--PENALTY.--

13 A. Coercion of employees consists of any officer or  
14 agent of any corporation, company or association or any person  
15 having supervision over or employing persons entitled to vote  
16 at any election directly or indirectly discharging or  
17 penalizing or threatening to discharge or penalize [~~such~~] an  
18 employee because of the employee's opinions or beliefs or  
19 because of such employee's intention to vote or to refrain from  
20 voting for any candidate or for or against any question.

21 B. A person who commits coercion of employees is  
22 guilty of a fourth degree felony.

23 C. Permitting prisoners to vote consists of any  
24 person who has custody of convicts or prisoners taking [~~such~~]  
25 convicts or prisoners or permitting them to be taken to any

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1 polling place for the purpose of voting in any election.

2 D. A person who permits prisoners to vote is guilty  
3 of a petty misdemeanor and shall be punished by a fine of not  
4 less than one hundred dollars (\$100) [~~not~~] or more than five  
5 hundred dollars (\$500) or by imprisonment for not less than  
6 thirty days [~~not~~] or more than ninety days, or both.

7 E. [~~Subsection~~] Subsections C and [~~Subsection~~] D of  
8 this section do not prohibit permitting prisoners who are  
9 legally qualified to vote to cast an absentee ballot pursuant  
10 to the provisions of the Municipal Election Code.

11 F. Malfeasance by messengers consists of the  
12 willful delay or failure of any official messenger to convey or  
13 deliver election supplies to the [~~precinct~~] election board or  
14 municipal clerk, the willful delay or failure of any official  
15 messenger to convey or deliver the ballot box, key, election  
16 returns or other election materials, documents or supplies to  
17 the municipal clerk or [~~precinct~~] election board or the willful  
18 delay or failure of any official messenger to perform as  
19 required by any [~~precinct~~] election board member or the  
20 municipal clerk who makes a legal demand.

21 G. Any messenger committing [~~such~~] malfeasance by  
22 messengers is guilty of a petty misdemeanor.

23 H. Unlawful use or possession of alcoholic liquor  
24 or illegal drugs consists of the use or possession of any  
25 alcoholic liquor or illegal drug by any member of the

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1 [precinct] election board, challengers, watchers or the  
2 municipal clerk prior to or while performing official duties on  
3 election day. Unlawful use or possession also consists of the  
4 use, possession or carrying of alcoholic liquor or illegal  
5 drugs within two hundred feet of the polling place during any  
6 election.

7 I. A person who commits unlawful possession of  
8 alcoholic liquor or illegal drugs is guilty of a petty  
9 misdemeanor."

10 SECTION 119. Section 3-9-8 NMSA 1978 (being Laws 1973,  
11 Chapter 375, Section 9, as amended) is amended to read:

12 "3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED  
13 BALLOTS BY MUNICIPAL CLERK.--

14 A. The municipal clerk shall mark on each completed  
15 official outer envelope the date and time of receipt in the  
16 municipal clerk's office, record this information in the  
17 absentee ballot register and safely and securely keep the  
18 official outer envelope unopened until it is delivered on  
19 election day to the proper [precinct] election board or until  
20 it is canceled and destroyed in accordance with law. Once a  
21 ballot is officially accepted by the municipal clerk and  
22 recorded in the absentee ballot register, it cannot be returned  
23 to the voter for any reason.

24 B. The municipal clerk shall accept completed  
25 official outer envelopes received by mail or delivered in

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1 person to the municipal clerk's office by the voter signing the  
2 official outer envelope, by a member of the voter's immediate  
3 family or by the caregiver to the voter until 7:00 p.m. on  
4 election day. Any completed outer envelope received after that  
5 time and date shall be marked as to the time and date received,  
6 shall not be delivered to the [~~precinct~~] election board and  
7 shall be preserved until the time for election contests has  
8 expired. In the absence of a court order, after the expiration  
9 of the time for election contests, the municipal clerk shall  
10 destroy all late official mailing envelopes without opening or  
11 permitting the contents to be examined, cast, counted or  
12 canvassed. Before their destruction, the municipal clerk shall  
13 count the numbers of late ballots from voters, overseas voters  
14 and federal qualified electors and record the number from each  
15 category in the absentee ballot register.

16 C. After 5:00 p.m. and not later than 8:00 p.m. on  
17 the Friday immediately preceding the date of the election, the  
18 municipal clerk shall record the numbers of the unused absentee  
19 ballots and shall publicly destroy in the municipal clerk's  
20 office all unused ballots. The municipal clerk shall execute a  
21 certificate of such destruction, which shall include the  
22 numbers on the ballots destroyed, and the certificate shall be  
23 placed within the absentee ballot register.

24 D. At 7:00 p.m. on the day of the election, the  
25 municipal clerk shall determine the number of ballots that were

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1 mailed and have not been received and execute a "certificate of  
2 unreceived absentee ballots". The certificate shall be placed  
3 in the absentee ballot register and shall become an official  
4 part of the register. The municipal clerk shall determine the  
5 form of the certificate of unreceived absentee ballots."

6 SECTION 120. Section 3-9-9 NMSA 1978 (being Laws 1973,  
7 Chapter 375, Section 10, as amended) is amended to read:

8 "3-9-9. ABSENT VOTER PRECINCT.--For the purposes of  
9 absentee voting, the governing body shall create a special  
10 absent voter precinct, cause an absent voter [~~precinct~~]  
11 election board to be appointed consisting of election judges  
12 and election clerks as provided in the Municipal Election Code  
13 and shall designate a polling place for the counting and  
14 tallying of absentee ballots in the election on election day.  
15 The municipal clerk shall administer the oath to the election  
16 judges. A regular [~~precinct~~] election board may be designated  
17 to serve as the absent voter [~~precinct~~] election board.  
18 Members of the absent voter [~~precinct~~] election board shall  
19 receive the same compensation as other [~~precinct~~] election  
20 board members, but in no case shall [~~a precinct~~] an election  
21 board member who also serves as a member of the absent voter  
22 [~~precinct~~] election board be entitled to extra compensation for  
23 serving on the absent voter [~~precinct~~] election board."

24 SECTION 121. Section 3-9-10 NMSA 1978 (being Laws 1985,  
25 Chapter 208, Section 98, as amended) is amended to read:

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1           "3-9-10. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER  
2     [~~PRECINCT~~] ELECTION BOARD.--After 7:00 a.m. on election day,  
3     the municipal clerk shall deliver to the absent voter  
4     [~~precinct~~] election board the absentee ballot register and the  
5     absent voter ballots received by the clerk, any electronic  
6     voting machines used and all absentee voting daily reports.  
7     Prior to 7:00 p.m. on election day, the municipal clerk shall  
8     deliver any ballots received on election day to the absent  
9     voter [~~precinct~~] election board, and the [~~precinct~~] election  
10    board shall note the receipt of ballots in the absentee ballot  
11    register and on the absentee voter list. On delivery of the  
12    ballots, the municipal clerk or [~~his~~] the clerk's designee  
13    shall remain in the presence of the absent voter [~~precinct~~]  
14    election board until the clerk has observed the opening of all  
15    official mailing envelopes, the deposit of all ballots in the  
16    locked ballot box and the listing of the names on all of the  
17    official mailing envelopes in the absentee voter list. All  
18    functions of the absent voter [~~precinct~~] election board shall  
19    be conducted in the place designated as the absent voter  
20    precinct."

21           **SECTION 122.** Section 3-9-11 NMSA 1978 (being Laws 1985,  
22    Chapter 208, Section 99, as amended) is amended to read:

23           "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
24    [~~PRECINCT~~] ELECTION BOARDS.--

25           A. Before opening any official mailing envelope, an

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1 election judge shall determine that the required signature has  
2 been executed on the reverse side of the official mailing  
3 envelope.

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

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

17 (1) the official mailing envelope has been  
18 opened prior to being received by the absent voter [~~precinct~~  
19 election board; or

20 (2) the person offering to vote is not an  
21 overseas voter, federal qualified elector or voter as provided  
22 in the Municipal Election Code.

23 Upon the challenge of an absentee ballot, an election  
24 judge shall generally follow the same procedure as when ballots  
25 are challenged when a person offers to vote in person. If a

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1 challenged ballot is not to be counted, it shall not be opened  
2 and shall be placed in an envelope provided for challenged  
3 ballots.

4 D. If the official mailing envelopes have properly  
5 executed signatures and the voters have not been challenged:

6 (1) an election judge shall open the official  
7 mailing envelopes and deposit the ballots in their still sealed  
8 official inner envelopes in the locked ballot box; and

9 (2) the election clerks shall mark the  
10 notation "AB" opposite the voter's name in the "notations"  
11 column of the absentee voter list.

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

21 F. The municipal clerk shall, prior to the opening  
22 of the polls on election day, notify the absent voter  
23 [~~precinct~~] election board in writing whether absentee ballots  
24 are to be counted and tallied or registered on a voting  
25 machine. The procedures shall be such as to ensure the secrecy

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1 of the ballot.

2 G. Absent voter precinct polls shall be closed at  
3 7:00 p.m. on the day of the election by the absent voter  
4 [~~precinct~~] election board."

5 SECTION 123. Section 3-9-16 NMSA 1978 (being Laws 1973,  
6 Chapter 375, Section 14, as amended) is amended to read:

7 "3-9-16. PENALTIES.--

8 A. A person who knowingly votes or offers to vote  
9 an absentee ballot to which the person is not lawfully entitled  
10 to vote or offer to vote is guilty of a fourth degree felony.

11 B. A municipal official or employee or any other  
12 person who knowingly furnishes absentee ballots to persons who  
13 are not entitled to such ballots under the provisions of the  
14 Municipal Election Code is guilty of a fourth degree felony.

15 C. A municipal official or employee, [~~precinct~~]  
16 election board member or any other person who knowingly  
17 destroys or otherwise disposes of an absentee ballot other than  
18 in the manner provided by the Municipal Election Code is guilty  
19 of a fourth degree felony.

20 D. A person who knowingly or willfully makes any  
21 false statement in any application for an absentee ballot or in  
22 the absentee ballot register or in any certificate required by  
23 the Municipal Election Code is guilty of a fourth degree  
24 felony.

25 E. A person who knowingly possesses an executed or

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1 unexecuted absentee ballot outside the physical confines of the  
2 municipal clerk's office when the ballot is not the personal  
3 ballot of that person or who otherwise knowingly authorizes,  
4 aids or abets the unlawful removal of an executed or unexecuted  
5 absentee ballot from the physical confines of the municipal  
6 clerk's office is guilty of a fourth degree felony.

7 F. A municipal clerk who knowingly possesses an  
8 executed or unexecuted absentee ballot outside the physical  
9 confines of the municipal clerk's office when that ballot is  
10 not the personal ballot of the municipal clerk, or who  
11 otherwise knowingly authorizes, aids or abets the unlawful  
12 removal of an executed or unexecuted absentee ballot that is  
13 not the personal ballot of the municipal clerk from the  
14 physical confines of the municipal clerk's office, is guilty of  
15 a fourth degree felony."

16 SECTION 124. Section 5-11-7 NMSA 1978 (being Laws 2001,  
17 Chapter 305, Section 7) is amended to read:

18 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

19 A. Any election pursuant to the Public Improvement  
20 District Act shall be a nonpartisan election called by posting  
21 notices in three public places within the boundaries of the  
22 district not less than twenty days before the election. Notice  
23 shall also be published in a newspaper of general circulation  
24 in the municipality or county, or, if there is no newspaper so  
25 circulated in the municipality, in a newspaper of general

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1 circulation in the county in which the municipality is located  
2 once a week for two consecutive weeks before the election. The  
3 notice shall state:

4 (1) the place of holding the election and  
5 provisions for voting by mail, if any;

6 (2) the hours during the day, not less than  
7 six, in which the polls will be open;

8 (3) if the election is a formation election,  
9 the boundaries of the proposed district;

10 (4) if the election is a bond election, the  
11 amount of bonds to be authorized for the district, the maximum  
12 rate of interest to be paid on the bonds and the maximum term  
13 of the bonds, not exceeding thirty years;

14 (5) if the election is a property tax levy  
15 election pursuant to Section ~~[19 of the Public Improvement~~  
16 ~~District Act]~~ 5-11-19 NMSA 1978, the maximum tax rate per one  
17 thousand dollars (\$1,000) of assessed valuation to be imposed,  
18 the purposes for which the revenues raised will be used and the  
19 existing maximum tax rate, if any;

20 (6) that a general plan is on file with the  
21 clerk;

22 (7) the purposes for which the property taxes  
23 or the special levies will be imposed, and the revenues raised  
24 will be used, including a description of the public  
25 improvements to be financed with tax revenues, special levies,

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1 district revenues or bond proceeds; and

2 (8) that the imposition of property taxes or  
3 special levies will result in a lien for the payment thereof on  
4 property within the district.

5 B. The district board or, in the case of a  
6 formation election, the governing body, shall determine the  
7 date of the election and the polling places for the election  
8 and may consolidate county precincts. The district board or  
9 governing body may establish provisions for voting by mail.

10 C. Voter lists shall be used to determine the  
11 resident qualified electors. If the district includes land  
12 lying partly in and partly out of any county election precinct,  
13 the voter lists may contain the names of all registered voters  
14 in the precinct, and the [~~precinct~~] election boards at those  
15 precincts shall require that a prospective elector execute an  
16 affidavit stating that the elector is also a resident qualified  
17 elector.

18 D. For all elections held pursuant to the Public  
19 Improvement District Act, a prospective elector who is not a  
20 resident qualified elector shall execute an affidavit stating  
21 that the elector is the owner of land in the proposed district  
22 and stating the area of land in acres owned by the prospective  
23 elector. [~~Precinct~~] Election board members may administer  
24 oaths or take all affirmations for these purposes.

25 E. Except as otherwise provided by this section,

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1 the election shall comply with the general election laws of  
2 this state. The ballot material provided to each voter shall  
3 include:

4 (1) for a formation election, an impartial  
5 description of the district improvements contemplated and a  
6 brief description of arguments for and against the formation of  
7 the district, if any;

8 (2) for an election concerning the imposition  
9 of property taxes, an impartial description of the taxes to be  
10 imposed, the method of apportionment, collection and  
11 enforcement and other details sufficient to enable each elector  
12 to determine the amount of tax it will be obligated to pay; a  
13 brief description of arguments for and against the imposition  
14 of taxes that are the subject of the election, if any; and a  
15 statement that the imposition of property taxes is for the  
16 provision of certain but not necessarily all public  
17 infrastructure improvements and services that may be needed or  
18 desirable within the district, and that other taxes, levies or  
19 assessments by other governmental entities may be presented for  
20 approval by owners and resident qualified electors; and

21 (3) for a formation election, the ballot,  
22 which shall pose the question to be voted upon as "district,  
23 yes" and "district, no"; for a bond election, "bonds, yes" and  
24 "bonds, no"; for a property tax election, if no tax is in  
25 place, "property tax, yes" and "property tax, no"; and for an

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1 election to change an existing maximum or eliminate an existing  
2 tax, "tax change, yes" and "tax change, no", specifying the  
3 type of tax to which the proposed change pertains.

4 F. The governing body or, if after formation, the  
5 district board, may provide for the returns of the election to  
6 be made in person or by mail.

7 G. Within thirty days after an election, the  
8 governing body, or if after formation, the district board,  
9 shall meet and canvass the returns, determining the number of  
10 votes properly cast by owners and resident qualified electors.  
11 At least a three-fourths' majority of the votes cast at the  
12 election shall be required for formation, issuing the bonds,  
13 imposing the tax or special levy or changing the tax or special  
14 levy. The canvass may be continued for an additional period  
15 not to exceed thirty days at the election of the governing body  
16 or district board for the purpose of completing the canvass.  
17 Failure of a majority to vote in favor of the matter submitted  
18 shall not prejudice the submission of the same or similar  
19 matters at a later election.

20 H. If a person listed on the assessment roll is no  
21 longer the owner of land in the district and the name of the  
22 successor owner becomes known and is verified by recorded deed  
23 or other similar evidence of transfer of ownership, the  
24 successor owner is deemed to be the owner for the purposes of  
25 the Public Improvement District Act.

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1 I. Notwithstanding any other provision of the  
2 Public Improvement District Act, if a petition for formation is  
3 signed by owners of all of the land in the district described  
4 in the petition and is approved by the municipality or county,  
5 the municipality or county may waive any or all requirements of  
6 posting, publication, mailing, notice, hearing and owner  
7 election. On receipt of such a petition, and after approval by  
8 an election of resident qualified electors, if any, the  
9 municipality or county shall declare the district formed  
10 without being required to comply with the provisions of the  
11 Public Improvement District Act for posting, publication,  
12 mailing, notice, hearing or owner election.

13 J. If no person has registered to vote within the  
14 district within fifty days immediately preceding any scheduled  
15 election date, any election required to be held pursuant to the  
16 Public Improvement District Act shall be held by vote of the  
17 owners. Each owner shall have the number of votes or portion  
18 of votes equal to the number of acres or portion of acres  
19 rounded upward to the nearest one-fifth of an acre owned in the  
20 district by that owner.

21 K. In any election held pursuant to the Public  
22 Improvement District Act, an owner who is also a resident  
23 qualified elector shall have the number of votes or portion of  
24 votes to which ~~he~~ the owner is entitled as an owner and shall  
25 not be entitled to an additional vote as a result of residing

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1 within the district."

2 SECTION 125. Section 5-15-8 NMSA 1978 (being Laws 2006,  
3 Chapter 75, Section 8) is amended to read:

4 "5-15-8. ELECTION.--

5 A. The election procedures set forth in this  
6 section shall be used for:

7 (1) formation of a new tax increment  
8 development district;

9 (2) election of a district board member;

10 (3) adoption of a property tax levy by a tax  
11 increment development district;

12 (4) use of property tax increment financing by  
13 a tax increment development district; or

14 (5) issuing of property tax increment bonds to  
15 be repaid by funds raised by property tax increments.

16 B. An election may be waived and a tax increment  
17 development district shall be formed upon the governing body's  
18 adoption of a resolution to form a tax increment development  
19 district if a petition is presented to a governing body in  
20 accordance with the Tax Increment for Development Act and if  
21 the petition contains the signatures of all owners of the real  
22 property within the proposed tax increment development area and  
23 states that the owners waive the right to an election.

24 C. An election pursuant to the Tax Increment for  
25 Development Act shall be a nonpartisan election called by

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1 posting notices in three public places within the boundaries of  
2 the district not less than twenty days before the election.  
3 Notice shall also be published in a newspaper of general  
4 circulation once each week for two consecutive weeks before the  
5 election in the municipality or county in which the proposed  
6 district is located.

7 D. The notice shall state:

8 (1) the place of holding the election and  
9 provisions for voting by mail, if any;

10 (2) the hours during the day during which the  
11 polls will be open;

12 (3) if the election is a formation election,  
13 the boundaries of the proposed tax increment development  
14 district;

15 (4) if the election is a bond election, the  
16 purpose for which the bonds are to be issued and the amount of  
17 the issue;

18 (5) if the election is a property tax levy  
19 election, the maximum tax rate per one thousand dollars  
20 (\$1,000) of assessed valuation to be imposed, the purposes for  
21 which the revenues raised will be used and the existing maximum  
22 tax rate, if any;

23 (6) that an approved tax increment development  
24 plan is on file with the clerk of the governing body;

25 (7) the purposes for which property taxes will

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1 be imposed and for which the revenues raised will be used,  
2 including a description of the public improvements to be  
3 financed with tax revenues, bond proceeds or other revenues of  
4 the tax increment development district; and

5 (8) that the imposition of property taxes will  
6 result in a lien for the payment on property within the  
7 district.

8 E. The district board, or, in the case of a  
9 formation election, the governing body, shall determine the  
10 date of the election and the polling places for the election  
11 and may consolidate county precincts. The district board or  
12 the governing body may establish provisions for voting by mail.

13 F. Voter lists shall be used to determine the  
14 resident qualified electors. If a district or proposed  
15 district includes land lying partly in and partly out of any  
16 county election precinct, the voter lists may contain the names  
17 of all registered voters in the precinct, and the [~~precinct~~  
18 election] boards at these precincts shall require that a  
19 prospective elector execute an affidavit stating that the  
20 elector is also a resident qualified elector.

21 G. For an election held pursuant to the Tax  
22 Increment for Development Act, a prospective elector who is not  
23 a resident qualified elector shall execute an affidavit stating  
24 that the elector is the owner of land in the proposed or  
25 existing district and stating the area of land in acres owned



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1 by the prospective elector. If the prospective elector is not  
2 an individual, the affidavit shall provide that the individual  
3 casting the vote is the designated representative of the  
4 corporation, association, partnership, limited liability  
5 company or other legal entity entitled to vote in the election.  
6 [~~Precinct~~] Election board members may administer oaths or  
7 accept affirmations for those purposes.

8 H. Except as otherwise provided by this section,  
9 the election shall comply with the general election laws of the  
10 state. The ballot material provided to each voter shall  
11 include:

12 (1) for a formation election, an impartial  
13 description of the tax increment development plan and a brief  
14 description of arguments for and against the formation of the  
15 tax increment development district, if any;

16 (2) for an election concerning the imposition  
17 of property taxes, an impartial description of the taxes to be  
18 imposed, the method of apportionment, collection and  
19 enforcement and other details sufficient to enable each  
20 resident qualified elector to determine the amount of tax it  
21 will be obligated to pay; a brief description of arguments for  
22 and against the imposition of taxes that are the subject of the  
23 election, if any; and a statement that the imposition of  
24 property taxes is for the provision of certain, but not  
25 necessarily all, public improvements that may be needed or

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1 desirable within the tax increment development district, and  
2 that other taxes, levies or assessments by other governmental  
3 entities may be presented for approval by owners and resident  
4 qualified electors;

5 (3) for an election concerning the use of  
6 property tax increment financing, an impartial description of  
7 the estimated increment to be generated over the life of the  
8 project and the nature and extent of the public improvements to  
9 be constructed and maintained using such financing;

10 (4) for a formation election, the question to  
11 be voted upon as "district, yes" and "district, no";

12 (5) for a property tax imposition election,  
13 the question to be voted upon as "property tax, yes" and  
14 "property tax, no";

15 (6) for an election to change an existing  
16 maximum tax or eliminate an existing tax, the question to be  
17 voted upon as "tax change, yes" and "tax change, no" and shall  
18 specify the type of tax to which the proposed change pertains;  
19 and

20 (7) for an election concerning the use of  
21 property tax increment bonds, the ballot shall pose the  
22 question to be voted upon as "bonds, yes" and "bonds, no".

23 I. The governing body or, if after district  
24 formation, the district board, may provide for the returns of  
25 the election to be made in person or by mail.

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1           J. Within thirty days after an election, the  
2 governing body, or if after district formation, the district  
3 board, shall meet and canvass the returns, determining the  
4 number of votes properly cast by owners and resident qualified  
5 electors. A majority of the votes cast at the election shall  
6 be required. The canvass may be continued for an additional  
7 period not to exceed thirty days at the election of the  
8 governing body or district board for the purpose of completing  
9 the canvass. Failure of a majority to vote in favor of the  
10 matter submitted shall not prejudice the submission of the same  
11 or similar matters at a later election; provided that an  
12 election on the same question shall not be held within one year  
13 of the failure of a majority to vote in favor of that question.

14           K. If a person transfers real property located in a  
15 district and the name of the successor owner becomes known and  
16 is verified by recorded deed or other similar evidence of  
17 transfer of ownership, the successor owner is deemed to be the  
18 owner of the real property for the purposes of the Tax  
19 Increment for Development Act.

20           L. If there are no persons registered to vote  
21 within a district or proposed district within fifty days  
22 immediately preceding a scheduled election date, an election  
23 required to be held pursuant to the Tax Increment for  
24 Development Act shall be held by vote of the owners of property  
25 within the district or proposed district. Each owner shall

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1 have the number of votes or portion of votes equal to the  
2 number of acres or portion of acres rounded upward to the  
3 nearest one-fifth of an acre owned in the district by that  
4 owner.

5 M. In an election held pursuant to the Tax  
6 Increment for Development Act, an owner who is also a resident  
7 qualified elector shall have the number of votes or portion of  
8 votes equal to the number of acres or portion of acres rounded  
9 upward to the nearest one-fifth of an acre owned in the  
10 district by that owner and shall not be entitled to an  
11 additional vote as a result of residing within the district."

12 SECTION 126. Section 5-17-8 NMSA 1978 (being Laws 2009,  
13 Chapter 136, Section 8) is amended to read:

14 "5-17-8. APPROVAL OF SERVICE PLAN--PETITION GRANTED--  
15 ELECTION SCHEDULED.--

16 A. If the service plan is approved as submitted,  
17 the governing body shall issue a resolution of approval to the  
18 petitioners. If the service plan is disapproved, the specific  
19 detailed reasons for the disapproval shall be set forth in  
20 writing. If the service plan is conditionally approved, the  
21 changes or modifications to be made in, or additional  
22 information relating to, the service plan, together with the  
23 reasons for the changes, modifications or additional  
24 information, shall also be set forth in writing, and the  
25 proceeding shall be continued until the changes, modifications

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1 or additional information are incorporated in the service plan.  
2 Upon the incorporation of the changes, modifications or  
3 additional information in the service plan of the proposed  
4 infrastructure development zone, the governing body shall issue  
5 a resolution of approval to the petitioners.

6 B. Upon the approval of the service plan by each  
7 governing body to which the service plan and petition were  
8 submitted, the petition shall be granted and the approving  
9 authority shall designate an election official to take the oath  
10 required of [~~precinct~~] election board members and conduct an  
11 organization election pursuant to Sections [~~10 and 20 of the~~  
12 ~~Infrastructure Development Zone Act~~] 5-17-10 and 5-17-20 NMSA  
13 1978, provided that no organization election shall be held if  
14 all of the eligible electors were petitioners and if there are  
15 no competing candidates for director positions.

16 C. Any interested party aggrieved by the decision  
17 of the governing body may appeal to the district court pursuant  
18 to Section 39-3-1.1 NMSA 1978."

19 SECTION 127. Section 10-11-8 NMSA 1978 (being Laws 1987,  
20 Chapter 253, Section 8, as amended by Laws 2014, Chapter 35,  
21 Section 1 and by Laws 2014, Chapter 39, Section 1 and also by  
22 Laws 2014, Chapter 43, Section 1) is amended to read:

23 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--  
24 BENEFITS CONTINUED--CONTRIBUTIONS.--

25 A. A member may retire upon fulfilling the

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1 following requirements prior to the selected date of  
2 retirement:

3 (1) a written application for normal  
4 retirement, in the form prescribed by the association, is filed  
5 with the association;

6 (2) employment is terminated with all  
7 employers covered by any state system or the educational  
8 retirement system;

9 (3) the member selects an effective date of  
10 retirement that is the first day of a calendar month; and

11 (4) the member meets the age and service  
12 credit requirement for normal retirement specified in the  
13 coverage plan applicable to the member.

14 B. The amount of normal retirement pension is  
15 determined in accordance with the coverage plan applicable to  
16 the member.

17 C. Except as provided in Subsection E of this  
18 section, on or after July 1, 2010, a retired member may be  
19 subsequently employed by an affiliated public employer only  
20 pursuant to the following provisions:

21 (1) the retired member has not been employed  
22 as an employee of an affiliated public employer or retained as  
23 an independent contractor by the affiliated public employer  
24 from which the retired member retired for at least twelve  
25 consecutive months from the date of retirement to the

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1 commencement of subsequent employment or reemployment with an  
2 affiliated public employer;

3 (2) the retired member's pension shall be  
4 suspended upon commencement of the subsequent employment;

5 (3) except as provided in Subsection G of this  
6 section, the retired member shall not become a member and shall  
7 not accrue service credit, and the retired member and that  
8 person's subsequent affiliated public employer shall not make  
9 contributions under any coverage plan pursuant to the Public  
10 Employees Retirement Act; and

11 (4) upon termination of the subsequent  
12 employment, the retired member's pension shall resume in  
13 accordance with the provisions of Subsection A of this section.

14 D. Notwithstanding the provisions of Subsection B  
15 of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if a  
16 retired member becomes employed with an employer pursuant to  
17 the Educational Retirement Act, and effective July 1, 2014, if  
18 a retired member who, subsequent to retirement, is employed and  
19 covered pursuant to the Judicial Retirement Act, and, effective  
20 July 1, 2014, if a retired member who, subsequent to  
21 retirement, is employed and covered pursuant to the Magistrate  
22 Retirement Act:

23 (1) the retired member's cost-of-living  
24 pension adjustment shall be suspended upon commencement of the  
25 employment; and

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1                   (2) upon termination of the employment, the  
2 retired member's suspended cost-of-living pension adjustment  
3 shall be reinstated as provided under Subsection B of Section  
4 10-11-118 NMSA 1978.

5                   E. The provisions of Subsections C, H and I of this  
6 section do not apply to:

7                   (1) a retired member employed by the  
8 legislature for legislative session work;

9                   (2) a retired member employed temporarily as  
10 [~~a precinct~~] an election board member for a municipal election  
11 or an election covered by the Election Code; or

12                   (3) a retired member who is elected to serve a  
13 term as an elected official in an office covered pursuant to  
14 the Public Employees Retirement Act; provided that:

15                   (a) the retired member files an  
16 irrevocable exemption from membership with the association  
17 within thirty days of taking office; and

18                   (b) the irrevocable exemption shall be  
19 for the elected official's term of office.

20                   F. A retired member who returns to employment  
21 during retirement pursuant to Subsection E of this section is  
22 entitled to receive retirement benefits but is not entitled to  
23 accrue service credit or to acquire or purchase service credit  
24 in the future for the period of the retired member's subsequent  
25 employment with an affiliated public employer.

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1           G. At any time during a retired member's subsequent  
2 employment pursuant to Subsection C of this section, the  
3 retired member may elect to become a member and the following  
4 conditions shall apply:

5                   (1) the previously retired member and the  
6 subsequent affiliated public employer shall make the required  
7 employee and employer contributions, and the previously retired  
8 member shall accrue service credit for the period of subsequent  
9 employment; and

10                   (2) when the previously retired member  
11 terminates the subsequent employment with an affiliated public  
12 employer, the previously retired member shall retire according  
13 to the provisions of the Public Employees Retirement Act,  
14 subject to the following conditions:

15                           (a) payment of the pension shall resume  
16 in accordance with the provisions of Subsection A of this  
17 section;

18                           (b) unless the previously retired member  
19 accrued at least three years of service credit on account of  
20 the subsequent employment, the recalculation of pension shall:  
21 1) employ the form of payment selected by the previously  
22 retired member at the time of the first retirement; and 2) use  
23 the provisions of the coverage plan applicable to the member on  
24 the date of the first retirement; and

25                           (c) the recalculated pension shall not

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1 be less than the amount of the suspended pension.

2 H. A retired member who returned to work with an  
3 affiliated public employer prior to July 1, 2010 shall be  
4 subject to the provisions of this section in effect on the date  
5 the retired member returned to work; provided that:

6 (1) on and after July 1, 2010, the retired  
7 member shall pay the employee contribution in an amount  
8 specified in the Public Employees Retirement Act for the  
9 position in which the retired member is subsequently employed;

10 (2) notwithstanding the provisions of  
11 Subsection B of Section 10-11-118 NMSA 1978, on and after July  
12 1, 2013, the retired member's cost-of-living pension adjustment  
13 shall be suspended; and

14 (3) upon termination of the subsequent  
15 employment with the affiliated public employer, the retired  
16 member's cost-of-living pension adjustment shall be reinstated  
17 as provided in Subsection B of Section 10-11-118 NMSA 1978.

18 I. Effective July 1, 2014, if a retired member who,  
19 subsequent to retirement, is employed and covered pursuant to  
20 the provisions of the Magistrate Retirement Act or Judicial  
21 Retirement Act, during the period of subsequent employment:

22 (1) the member shall be entitled to receive  
23 retirement benefits;

24 (2) the retired member's cost-of-living  
25 pension adjustment shall be suspended upon commencement of the

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1 employment; and

2 (3) upon termination of the employment, the  
3 retired member's suspended cost-of-living pension adjustment  
4 shall be reinstated as provided under Subsection B of Section  
5 10-11-118 NMSA 1978.

6 J. The pension of a member who has earned service  
7 credit under more than one coverage plan shall be determined as  
8 follows:

9 (1) the pension of a member who has three or  
10 more years of service credit earned on or before June 30, 2013  
11 under each of two or more coverage plans shall be determined in  
12 accordance with the coverage plan that produces the highest  
13 pension;

14 (2) the pension of a member who has service  
15 credit earned on or before June 30, 2013 under two or more  
16 coverage plans but who has three or more years of service  
17 credit under only one of those coverage plans shall be  
18 determined in accordance with the coverage plan in which the  
19 member has three or more years of service credit. If the  
20 service credit is acquired under two different coverage plans  
21 applied to the same affiliated public employer as a consequence  
22 of an election by the members, adoption by the affiliated  
23 public employer or a change in the law that results in the  
24 application of a coverage plan with a greater pension, the  
25 greater pension shall be paid a member retiring from the

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1 affiliated public employer under which the change in coverage  
2 plan took place regardless of the amount of service credit  
3 under the coverage plan producing the greater pension; provided  
4 that the member has three or more years of continuous  
5 employment with that affiliated public employer immediately  
6 preceding or immediately preceding and immediately following  
7 the date the coverage plan changed;

8 (3) the pension of a member who has service  
9 credit earned on or before June 30, 2013 under each of two or  
10 more coverage plans and who has service credit earned under any  
11 coverage plan on or after July 1, 2013 shall be equal to the  
12 sum of:

13 (a) the pension attributable to the  
14 service credit earned on or before June 30, 2013 determined  
15 pursuant to Paragraph (1) or (2) of this subsection; and

16 (b) the pension attributable to the  
17 service credit earned under each coverage plan on or after July  
18 1, 2013;

19 (4) the pension of a member who has service  
20 credit earned only on and after July 1, 2013 shall be equal to  
21 the sum of the pension attributable to the service credit the  
22 member has accrued under each coverage plan; and

23 (5) the provisions of each coverage plan for  
24 the purpose of this subsection shall be those in effect at the  
25 time the member ceased to be covered by the coverage plan.

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1 "Service credit", for the purposes of this subsection, shall be  
2 only personal service rendered an affiliated public employer  
3 and credited to the member under the provisions of Subsection A  
4 of Section 10-11-4 NMSA 1978. Service credited under any other  
5 provision of the Public Employees Retirement Act shall not be  
6 used to satisfy the three-year service credit requirement of  
7 this subsection."

8 SECTION 128. Section 21-13-18.1 NMSA 1978 (being Laws  
9 1993, Chapter 75, Section 3, as amended) is amended to read:

10 "21-13-18.1. REGULAR COMMUNITY COLLEGE ELECTION--  
11 RESOLUTION--PUBLICATION.--

12 A. The community college board shall issue a  
13 resolution in English and Spanish calling for a regular  
14 community college election within the community college  
15 district on the date prescribed by the Community College Act.  
16 The resolution shall be filed with each county clerk in the  
17 community college district on the third Friday in December or,  
18 if the election is held in conjunction with a school district  
19 election, the last Tuesday in November of each even-numbered  
20 year.

21 B. The resolution shall specify:

- 22 (1) the date the election will be held;  
23 (2) the positions on the board to be filled;  
24 (3) the date on which declarations of  
25 candidacy are to be filed;

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1 (4) the date on which declarations of intent  
2 to be a write-in candidate are to be filed;

3 (5) any questions to be submitted to the  
4 voters;

5 (6) the precincts in each county in which the  
6 election is to be held and the location of each polling place;

7 (7) the hours each polling place will be open;  
8 and

9 (8) the date and time of the closing of the  
10 registration books by the county clerks as required by law.

11 C. In the event that only one candidate files a  
12 declaration of candidacy for each position to be filled at an  
13 election and no declared write-in candidates have filed for any  
14 position in which there is any other candidate and there are no  
15 questions or bond issues on the ballot, only one polling place  
16 for the election shall be designated and it shall be in the  
17 office of the county clerk of the county in which the community  
18 college is located.

19 D. In any election held under the Community College  
20 Act, the county clerk shall perform the duties of the  
21 [~~precinct~~] election board and no other [~~precinct~~] election  
22 board shall be appointed."

23 SECTION 129. Section 72-16-34 NMSA 1978 (being Laws 1963,  
24 Chapter 311, Section 34, as amended) is amended to read:

25 "72-16-34. ELECTION RETURNS.--In those polling places

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1 where the county precincts coincide with the boundaries of the  
2 authority, the regular general election [~~precinct~~] election  
3 board shall certify the results of the authority election to  
4 the county canvassing board. The county canvassing board shall  
5 certify directly to the secretary of the authority that portion  
6 of the returns pertaining to the authority election. In those  
7 polling places where the precincts are partly within and partly  
8 without the authority's district, the authority shall appoint a  
9 separate authority [~~precinct~~] election board at the authority's  
10 expense, which shall be provided space in the polling places  
11 where the general election is being conducted. Paper ballots  
12 shall be used in the conduct of the election, and the authority  
13 [~~precinct~~] election board shall conduct the election as  
14 provided in the Election Code where paper ballots are used.  
15 The separate authority [~~precinct~~] election board shall certify  
16 the results of the election in that precinct to the secretary  
17 of the authority within twelve hours after the close of the  
18 polls. The secretary of the authority shall canvass the  
19 results of the authority election as certified by the county  
20 canvassing board and as certified by each of the separate  
21 authority [~~precinct~~] election boards and shall declare the  
22 results of the election at any regular or special meeting held  
23 not less than five days following the date of the election.  
24 Except as [~~herein~~] otherwise provided, any proposal submitted  
25 at any election [~~hereunder~~] held pursuant to the Arroyo Flood

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1 Control Act shall not carry unless the proposal has been  
2 approved by a majority of the qualified electors of the  
3 district voting ~~[thereon]~~ on the proposal."

4 SECTION 130. Section 72-19-34 NMSA 1978 (being Laws 1990,  
5 Chapter 14, Section 34, as amended) is amended to read:

6 "72-19-34. ELECTION RETURNS.--For authority elections  
7 held at the time of the general election, the regular general  
8 election ~~[precinct]~~ election board shall certify the results of  
9 the authority election to the county canvassing board. The  
10 county canvassing board shall certify directly to the secretary  
11 of the authority that portion of the returns pertaining to the  
12 authority election. Electronic voting machines shall be used  
13 in the conduct of any authority election. For authority  
14 elections held at a different time than the general election,  
15 the authority shall appoint an authority ~~[precinct]~~ election  
16 board at the authority's expense for each polling place. The  
17 authority ~~[precinct]~~ election board shall conduct the election  
18 as provided in the Election Code. The separate authority  
19 ~~[precinct]~~ election board shall certify the results of the  
20 election in that precinct to the secretary within twelve hours  
21 after the close of the polls. The secretary shall canvass the  
22 results of the authority election as certified by each of the  
23 separate authority ~~[precinct]~~ election boards and shall declare  
24 the results of the election at any regular or special meeting  
25 held not less than five days following the date of the

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1 election. Except as otherwise provided, any proposal submitted  
2 at any election held pursuant to the Southern Sandoval County  
3 Arroyo Flood Control Act shall not carry unless the proposal  
4 has been approved by a majority of the qualified electors of  
5 the district voting on the proposal."

6 SECTION 131. Section 72-20-34 NMSA 1978 (being Laws 2007,  
7 Chapter 99, Section 34) is amended to read:

8 "72-20-34. ELECTION RETURNS.--For authority elections  
9 held at the time of the general election, the regular general  
10 election [~~precinct~~] election board shall certify the results of  
11 the authority election to the county canvassing board. The  
12 county canvassing board shall certify directly to the secretary  
13 that portion of the returns pertaining to the authority  
14 election. For authority elections held at a different time  
15 than the general election, the authority shall appoint an  
16 authority [~~precinct~~] election board at the authority's expense  
17 for each polling place. The authority [~~precinct~~] election  
18 board shall conduct the election as provided in the Election  
19 Code. The separate authority [~~precinct~~] election board shall  
20 certify the results of the election in that precinct to the  
21 secretary within twelve hours after the close of the polls.  
22 The secretary shall canvass the results of the authority  
23 election as certified by each of the separate authority  
24 [~~precinct~~] election boards and shall declare the results of the  
25 election at any regular or special meeting held not less than

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1 five days following the date of the election. Except as  
2 otherwise provided, any proposal submitted at any election held  
3 pursuant to the Eastern Sandoval County Arroyo Flood Control  
4 Act shall not carry unless the proposal has been approved by a  
5 majority of the qualified electors of the district voting on  
6 the proposal."

7 SECTION 132. Section 73-14-28 NMSA 1978 (being Laws 1975,  
8 Chapter 262, Section 11, as amended) is amended to read:

9 "73-14-28. ELECTION JUDGES.--The election officer or the  
10 election director shall select two or more election judges for  
11 each polling place established within the conservancy district.  
12 The election officer or the election director shall also  
13 appoint absentee-early voter and absent voter [~~precinct~~  
14 election boards."

15 SECTION 133. Section 73-14-31 NMSA 1978 (being Laws 1975,  
16 Chapter 262, Section 14, as amended) is amended to read:

17 "73-14-31. ABSENTEE VOTING BY BALLOT PERMITTED--  
18 PROCEDURE.--

19 A. In [~~any~~] an election of officers of the  
20 conservancy district, a qualified elector shall be entitled to  
21 vote by absentee ballot. An absentee ballot shall be furnished  
22 by the election director in a form prescribed by the board of  
23 directors. The election director shall also furnish to each  
24 qualified elector requesting an absentee ballot an official  
25 inner envelope for use in sealing the completed absentee ballot

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1 and an official outer envelope for use in returning the inner  
2 envelope to the election director. No absentee ballot shall be  
3 delivered or mailed to any person other than the applicant for  
4 the ballot.

5 B. A qualified elector voting by absentee ballot  
6 shall secretly mark [~~his~~] the ballot, place it in the official  
7 inner envelope and securely seal the envelope. The qualified  
8 elector shall place the inner envelope inside the outer  
9 envelope and securely seal the envelope. The qualified elector  
10 shall then sign [~~his~~] the qualified elector's name and address  
11 on the outer envelope and deliver or mail it to the election  
12 director or the election officer.

13 C. Absentee ballots shall be distributed by the  
14 election director or the election officer during the regular  
15 hours and days of business from the fortieth day preceding the  
16 election up until 5:00 p.m. on the Saturday immediately prior  
17 to the date of the election.

18 D. [~~No~~] An absentee ballot shall not be counted  
19 unless it is received by the election director or election  
20 officer prior to the closing of the polls.

21 E. An absentee ballot received after the closing of  
22 the polls on the day of the election shall not be collected by  
23 the absent voter [~~precinct~~] election board but shall be  
24 preserved by the election director or election officer until  
25 the time for election contests has expired. In the absence of

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1 a court order after expiration of the time for election  
2 contests, the election director or election officer shall  
3 destroy all late official mailing envelopes without opening  
4 them or permitting the contents to be examined, cast, counted  
5 or canvassed. Before [~~their~~] destruction of the late mailing  
6 envelopes, the election director or election officer shall  
7 count the number of late ballots from voters of the conservancy  
8 district and report the number to the election officer and the  
9 secretary of state.

10 F. Prior to the delivery of the absentee ballots to  
11 the absentee-early voter and absent voter [~~precinct board~~]  
12 election boards, the absentee ballots shall be held unopened at  
13 the absentee voter precinct in a locked ballot box. At the  
14 close of the polls on election day, the absentee-early voter  
15 and absent voter [~~precinct~~] election boards shall obtain the  
16 absentee ballot box from the election director or election  
17 officer and tally the absentee ballots. The presiding judge  
18 shall have authority to unlock the absentee ballot box.

19 G. Absentee ballots shall be counted and tallied as  
20 are other ballots for the conservancy district election."

21 SECTION 134. Section 73-14-31.2 NMSA 1978 (being Laws  
22 1996, Chapter 42, Section 16) is amended to read:

23 "73-14-31.2. HANDLING OF ABSENTEE BALLOTS BY ABSENT VOTER  
24 [~~PRECINCT~~] ELECTION BOARD.--

25 A. The absent voter [~~precinct~~] election board shall

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1 select one member to serve as presiding judge. The election  
2 director shall appoint a special deputy to serve at the absent  
3 voter precinct.

4 B. Upon receipt of the absentee ballots by the  
5 absent voter [~~precinct~~] election board, the special deputy  
6 shall remain in the polling place of the absent voter precinct  
7 until [~~he~~] the special deputy has observed the opening of the  
8 official mailing envelope, the deposit of the ballot in the  
9 locked ballot box marked for the conservancy district election  
10 and the listing of the names on the official mailing envelope  
11 in the signature rosters. Upon delivery of the absentee  
12 ballots, the special deputy shall obtain a receipt executed by  
13 the presiding judge and each election judge appointed to the  
14 absent voter [~~precinct~~] election board. The special deputy  
15 shall return the receipt to the election director for filing.  
16 The receipts shall specify the number of envelopes received by  
17 the special deputy for each absent voter precinct of the  
18 conservancy district and the number of envelopes received by  
19 the absent voter [~~precinct~~] election board from the special  
20 deputy.

21 C. Before opening any official mailing envelope,  
22 the presiding judge and the election judges shall determine if  
23 the required information has been completed on the reverse side  
24 of the official mailing envelope.

25 D. If the voter's signature is missing, the

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1       presiding judge shall write "rejected" on the front of the  
2       official mailing envelope. The election judges shall enter the  
3       voter's name in the signature rosters and shall write the  
4       notation "rejected--missing signature" in the notations column  
5       of the signature rosters. The presiding judge shall place the  
6       official mailing envelope unopened in an envelope provided for  
7       rejected ballots for the conservancy district, seal the  
8       envelope and write the voter's name on the front of the  
9       envelope and deposit it in the locked ballot box.

10               E. At 5:00 p.m. on the Monday immediately preceding  
11       the date of election, the election officer or election director  
12       shall record the numbers of the unused absentee ballots for the  
13       conservancy district and shall publicly destroy in the  
14       conservancy office all of the unused ballots. The election  
15       officer or election director shall execute a certificate of  
16       destruction, which shall include the numbers on the ballots  
17       destroyed. A copy of the certificate of destruction shall be  
18       sent to the board of directors of the conservancy district and  
19       the secretary of state."

20               **SECTION 135.** Section 74-10-19 NMSA 1978 (being Laws 1993,  
21       Chapter 319, Section 19) is amended to read:

22               "74-10-19. ELECTION RETURNS.--The authority shall appoint  
23       an authority [~~precinct~~] election board at the authority's  
24       expense for each polling place. For authority elections held  
25       at the time of the general election, the authority shall be

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1 provided space in the polling places where the general election  
2 is being conducted. Paper ballots shall be used in the conduct  
3 of any authority election, and the authority [~~precinct~~]  
4 election board shall conduct the election as provided in the  
5 Election Code where paper ballots are used. The separate  
6 authority [~~precinct~~] election board shall certify the results  
7 of the election in that precinct to the secretary within twelve  
8 hours after the close of the polls. The secretary shall  
9 canvass the results of the authority election as certified by  
10 each of the separate authority precinct boards and shall  
11 declare the results of the election at any regular or special  
12 meeting held not less than five days following the date of the  
13 election. Except as otherwise provided, any proposal submitted  
14 at any election held pursuant to the Solid Waste Authority Act  
15 shall not carry unless the proposal has been approved by a  
16 majority of the qualified electors of the authority voting on  
17 the proposal."