

1 AN ACT

2 RELATING TO ELECTIONS; ENACTING THE LOCAL ELECTION ACT;  
3 PROVIDING FOR A SINGLE ELECTION DAY AND UNIFORM PROCESSES FOR  
4 CERTAIN LOCAL GOVERNMENT ELECTIONS; PROVIDING THAT CERTAIN  
5 BALLOT MEASURE ELECTIONS THAT ARE HELD AT TIMES OTHER THAN  
6 WITH REGULAR LOCAL ELECTIONS ONLY BE CONDUCTED BY MAILED  
7 BALLOT; REQUIRING SPECIAL STATEWIDE BALLOT QUESTION ELECTIONS  
8 TO BE CONDUCTED BY MAILED BALLOT; PROHIBITING ADVISORY  
9 QUESTIONS ON THE BALLOT; PROVIDING FOR RECALL ELECTION FOR  
10 COMMISSIONER-MANAGER MUNICIPALITIES; MAKING AN APPROPRIATION;  
11 REPEALING THE SCHOOL ELECTION LAW, THE MAIL BALLOT ELECTION  
12 ACT, THE MUNICIPAL ELECTION CODE AND OTHER PROVISIONS OF LAW  
13 IN CONFLICT WITH THE LOCAL ELECTION ACT; MAKING CONFORMING  
14 AMENDMENTS TO OTHER SECTIONS OF LAW.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "1-1-19. ELECTIONS COVERED BY CODE.--

20 A. The Election Code applies to the following:

21 (1) general elections;

22 (2) primary elections;

23 (3) special elections;

24 (4) elections to fill vacancies in the

25 office of representative in congress;

1 (5) local elections included in the Local  
2 Election Act; and

3 (6) recall elections of county officers,  
4 school board members or applicable municipal officers.

5 B. To the extent procedures are incorporated or  
6 adopted by reference by separate laws governing such  
7 elections or to the extent procedures are not specified by  
8 such laws, certain provisions of the Election Code shall also  
9 apply to special district elections not covered by the Local  
10 Election Act."

11 SECTION 2. Section 1-2-1.1 NMSA 1978 (being Laws 1979,  
12 Chapter 74, Section 3, as amended) is amended to read:

13 "1-2-1.1. ATTORNEY GENERAL REQUIRED TO ASSIST SECRETARY  
14 OF STATE--DISTRICT ATTORNEYS REQUIRED TO ASSIST SECRETARY OF  
15 STATE AND COUNTY CLERKS.--

16 A. The attorney general shall, upon request of the  
17 secretary of state, provide legal advice, assistance,  
18 services and representation as counsel in any action to  
19 enforce the provisions of the Election Code.

20 B. Upon the request of the secretary of state or a  
21 county clerk, the attorney general and the several district  
22 attorneys of the state shall assign investigators or lawyers  
23 to aid the secretary of state and county clerks to ensure the  
24 proper conduct of an election.

25 C. Each district attorney shall assign a lawyer to HLELC/HB 174  
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1 be the elections prosecutor for the judicial district or for  
2 each county in the judicial district. The district attorney  
3 shall communicate and maintain current the name and contact  
4 information of the assigned elections prosecutor to the  
5 secretary of state and to each county clerk in the judicial  
6 district. The assigned elections prosecutor shall receive  
7 from the county clerk in the prosecutor's county or judicial  
8 district referrals of suspected violations of the Election  
9 Code. The assigned elections prosecutor shall each month  
10 report in writing to the county clerk and the district  
11 attorney the status of each referral until the matter is  
12 concluded."

13 SECTION 3. Section 1-3-2 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 51, as amended) is amended to read:

15 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

16 A. In June or July of each odd-numbered year, the  
17 board of county commissioners shall by resolution:

18 (1) designate the polling place of each  
19 precinct that shall provide individuals with physical  
20 mobility limitations an unobstructed access to at least one  
21 voting machine;

22 (2) create additional precincts to meet the  
23 requirements of Section 1-3-1 NMSA 1978 or upon petition  
24 pursuant to Section 4-38-21 NMSA 1978;

25 (3) create additional polling places in

1 existing precincts as necessary pursuant to Section 1-3-7.1  
2 NMSA 1978;

3 (4) consolidate precincts for primary and  
4 general elections pursuant to Section 1-3-4 NMSA 1978;

5 (5) consolidate precincts for local  
6 elections as provided in Section 1-3-4 NMSA 1978;

7 (6) divide any precincts as necessary to  
8 meet legal and constitutional requirements for redistricting;  
9 and

10 (7) designate any mail ballot election  
11 precincts.

12 B. The county clerk shall notify the secretary of  
13 state in writing of any proposed changes in precincts or the  
14 designation of polling places made by the board of county  
15 commissioners and shall furnish a copy of the map showing the  
16 current geographical boundaries, designation and word  
17 description of each new polling place and each new or changed  
18 precinct.

19 C. The secretary of state shall review all new or  
20 changed precinct maps submitted pursuant to this section for  
21 compliance under the Precinct Boundary Adjustment Act. Any  
22 necessary precinct boundary adjustments shall be made and  
23 submitted to the secretary of state no later than the first  
24 Monday in December of each odd-numbered year. Upon approval  
25 of the new or changed precincts by the secretary of state,

1 the precincts and polling places as changed by the resolution  
2 of the boards of county commissioners and approved by the  
3 secretary of state shall be the official precincts and  
4 polling places for the next succeeding local, primary and  
5 general elections."

6 SECTION 4. Section 1-3-4 NMSA 1978 (being Laws 1975,  
7 Chapter 255, Section 30, as amended) is amended to read:

8 "1-3-4. CONSOLIDATION OF PRECINCTS.--

9 A. Precincts may be consolidated by the board of  
10 county commissioners for the following elections:

11 (1) primary and general elections;

12 (2) local elections; and

13 (3) special elections to fill vacancies in  
14 the office of United States representative.

15 B. When precincts are consolidated for a local,  
16 primary or general election, the resolution required by  
17 Section 1-3-2 NMSA 1978, in addition to the other matters  
18 required by law, shall state therein which precincts have  
19 been consolidated and the designation of the polling place.

20 In addition, when consolidating precincts:

21 (1) any voter of the county shall be allowed  
22 to vote in any consolidated precinct polling location in the  
23 county;

24 (2) each consolidated precinct in a primary  
25 election, general election or special election to fill a

1 vacancy in the office of United States representative shall  
2 be composed of no more than ten precincts;

3 (3) each consolidated precinct in a local  
4 election shall be composed of no more than twenty precincts;

5 (4) each consolidated precinct shall comply  
6 with the provisions of Section 1-3-7 NMSA 1978;

7 (5) each consolidated precinct polling  
8 location shall have a broadband internet connection and real-  
9 time access to the statewide voter registration electronic  
10 management system;

11 (6) the county clerk may maintain any  
12 alternative voting locations previously used in the same  
13 election open for voting on election day for any voter in the  
14 county, in addition to the polling location established in  
15 each consolidated precinct; and

16 (7) the board of county commissioners may  
17 permit rural precincts to be exempted from operating as or  
18 being a part of a consolidated precinct; provided that if the  
19 precinct is not designated as a mail ballot election precinct  
20 pursuant to Section 1-6-22.1 NMSA 1978 and the polling place  
21 for the rural precinct does not have real-time access to the  
22 statewide voter registration electronic management system,  
23 voters registered in a rural precinct as described in this  
24 paragraph are permitted to vote in any consolidated precinct  
25 polling location on election day only by use of a provisional

1 paper ballot, which shall be counted after the county clerk  
2 confirms that the voter did not also vote in the rural  
3 precinct.

4 C. When precincts are consolidated for a special  
5 election to fill a vacancy in the office of United States  
6 representative, within twenty-one days after the proclamation  
7 of election is issued by the governor, the board of county  
8 commissioners shall pass a resolution that, in addition to  
9 other matters required by law, shall state which precincts  
10 have been consolidated and the designation of the polling  
11 place. Precincts consolidated for a special election to fill  
12 a vacancy in the office of United States representative may  
13 allow any voter to vote in any consolidated precinct in the  
14 county, which shall be stated in the resolution.

15 D. Unless the county clerk receives a written  
16 waiver from the secretary of state specifying the location  
17 and specific provision being waived, each consolidated  
18 precinct polling location shall:

19 (1) have ballots available for voters from  
20 every precinct that is in the consolidated precinct;

21 (2) have at least one optical scan tabulator  
22 programmed to read every ballot style able to be cast in the  
23 consolidated precinct;

24 (3) have at least one voting system  
25 available to assist disabled voters to cast and record their

1 votes;

2 (4) have sufficient spaces for at least five  
3 voters to simultaneously and privately mark their ballots,  
4 with at least one of those spaces wheelchair-accessible;

5 (5) have sufficient check-in stations to  
6 accommodate voters throughout the day as provided in Section  
7 1-9-5 NMSA 1978;

8 (6) have a secure area for storage of  
9 preprinted ballots or for storage of paper ballot stock and a  
10 system designed to print ballots at a polling location;

11 (7) issue a ballot to voters who have  
12 provided the required voter identification after the voter  
13 has signed a signature roster or an electronic equivalent  
14 approved by the voting system certification committee or  
15 after the voter has subscribed an application to vote on a  
16 form approved by the secretary of state; and

17 (8) be in a location that is accessible and  
18 compliant with the requirements of the federal Americans with  
19 Disabilities Act of 1990.

20 E. As a prerequisite to consolidation, the  
21 authorizing resolution must find that consolidation will make  
22 voting more convenient and accessible to voters of the  
23 consolidated precinct and will not result in delays for  
24 voters in the voting process and that the consolidated  
25 precinct voting location will be centrally located within the



1 consolidated precinct."

2 SECTION 5. Section 1-3-7 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 57, as amended) is amended to read:

4 "1-3-7. POLLING PLACES.--

5 A. No less than one polling place shall be  
6 provided for each precinct that is not a mail ballot election  
7 precinct; provided that in a local election, a precinct that  
8 lies partly within and partly without a district may be  
9 consolidated in a polling place for that election.

10 B. The board of county commissioners shall  
11 designate as the polling place or places, as the case may be,  
12 in each precinct, other than a mail ballot election precinct,  
13 the most convenient and suitable public building or public  
14 school building in the precinct that can be obtained.

15 C. If no public building or public school  
16 building is available, the board of county commissioners  
17 shall provide some other suitable place, which shall be the  
18 most convenient and appropriate place obtainable in the  
19 precinct, considering the purpose for which it is to be used  
20 pursuant to the Election Code.

21 D. If, in a precinct that is not a mail ballot  
22 election precinct or a consolidated precinct, there is no  
23 public building or public school building available in the  
24 precinct, and there is no other suitable place obtainable in  
25 the precinct, the board of county commissioners may designate

1 as a polling place for the precinct the most convenient and  
2 suitable building or public school building nearest to that  
3 precinct that can be obtained. No polling place shall be  
4 designated outside the boundary of the precinct as provided  
5 in this subsection until such designated polling place is  
6 approved by written order of the district court of the county  
7 in which the precinct is located.

8 E. Upon application of the board of county  
9 commissioners, the governing board of any school district  
10 shall permit the use of any school building or a part thereof  
11 for registration purposes and the conduct of any election;  
12 provided that the building or the part used for the election  
13 complies with the standards set out in the federal Voting  
14 Accessibility for the Elderly and Handicapped Act.

15 F. Public schools may be closed for elections at  
16 the discretion of local school boards."

17 **SECTION 6.** Section 1-6-1 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 127) is amended to read:

19 "1-6-1. ABSENT VOTER ACT--SHORT TITLE.--Chapter 1,  
20 Article 6 NMSA 1978 may be cited as the "Absent Voter Act"."

21 **SECTION 7.** Section 1-6B-1 NMSA 1978 (being Laws 2015,  
22 Chapter 145, Section 25) is amended to read:

23 "1-6B-1. SHORT TITLE.--Chapter 1, Article 6B NMSA 1978  
24 may be cited as the "Uniform Military and Overseas Voters  
25 Act"."

1           **SECTION 8.** Section 1-6B-2 NMSA 1978 (being Laws 2015,  
2 Chapter 145, Section 26) is amended to read:

3           "1-6B-2. DEFINITIONS.--As used in the Uniform Military  
4 and Overseas Voters Act:

5           A. "appropriate clerk" means the county clerk of  
6 the county in which the federal qualified elector is eligible  
7 to vote;

8           B. "federal postcard application" means the  
9 application prescribed under the federal Uniformed and  
10 Overseas Citizens Absentee Voting Act;

11           C. "federal write-in absentee ballot" means the  
12 ballot approved pursuant to the federal Uniformed and  
13 Overseas Citizens Absentee Voting Act;

14           D. "military-overseas ballot" means:

15                   (1) a federal write-in absentee ballot; or

16                   (2) a ballot sent to a federal qualified  
17 elector by the appropriate clerk and cast in accordance with  
18 the provisions of the Uniform Military and Overseas Voters  
19 Act;

20           E. "state" means a state of the United States,  
21 the District of Columbia, Puerto Rico, the United States  
22 Virgin Islands or any territory or insular possession subject  
23 to the jurisdiction of the United States; and

24           F. "United States", used in the territorial  
25 sense, means the several states, the District of Columbia,

1 Puerto Rico, the United States Virgin Islands and any  
2 territory or insular possession subject to the jurisdiction  
3 of the United States."

4 SECTION 9. Section 1-6B-3 NMSA 1978 (being Laws 2015,  
5 Chapter 145, Section 27) is amended to read:

6 "1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT  
7 MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS  
8 VOTERS ACT.--

9 A. The procedures in the Uniform Military and  
10 Overseas Voters Act apply to elections conducted pursuant to  
11 the Election Code.

12 B. A federal qualified elector may vote for all  
13 candidates and on all questions as if the voter were able to  
14 cast a ballot in person.

15 C. The form of the military-overseas ballot shall  
16 be the same as the ballot provided to all other voters. The  
17 form of the military-overseas ballot materials shall be the  
18 same as the ballot materials provided to all other voters,  
19 except as required by the Uniform Military and Overseas  
20 Voters Act.

21 D. To receive the benefits of the Uniform  
22 Military and Overseas Voters Act, a federal qualified elector  
23 shall inform the appropriate clerk that the individual is a  
24 federal qualified elector. Methods of informing the  
25 appropriate clerk include:

1 (1) the use of a federal postcard  
2 application or federal write-in absentee ballot;

3 (2) the use of an army post office, fleet  
4 post office or diplomatic post office address in the correct  
5 format as a mailing address on a certificate of registration  
6 or as a delivery address on an absentee ballot application;

7 (3) the use of an overseas address as a  
8 mailing address on a certificate of registration or as a  
9 delivery address on an absentee ballot application; or

10 (4) the inclusion on a certificate of  
11 registration or an absentee ballot application or other  
12 information sufficient to identify the voter as a federal  
13 qualified elector."

14 **SECTION 10.** Section 1-6B-4 NMSA 1978 (being Laws 2015,  
15 Chapter 145, Section 28) is amended to read:

16 "1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED  
17 AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

18 A. The secretary of state shall make available to  
19 federal qualified electors information regarding voter  
20 registration procedures for federal qualified electors and  
21 procedures for casting military-overseas ballots.

22 B. The secretary of state shall establish an  
23 electronic transmission system through which a federal  
24 qualified elector may apply for and receive voter  
25 registration materials, military-overseas ballots and other

1 information pursuant to the Uniform Military and Overseas  
2 Voters Act. The secretary of state shall ensure that the  
3 electronic transmission system is capable of accepting a  
4 federal postcard application, any other approved electronic  
5 registration application and any other approved electronic  
6 military-overseas ballot application sent to a county clerk.

7 C. Official transmittal envelopes and official  
8 mailing envelopes for transmission of absentee ballot  
9 materials to and from federal qualified electors shall be in  
10 the same form as those used in the jurisdiction where the  
11 voter is registered except as modified to comply with the  
12 Uniform Military and Overseas Voters Act or federal law. The  
13 secretary of state may, to the extent reasonably possible,  
14 coordinate with other states to develop standardized  
15 absentee-voting materials, including privacy and transmission  
16 envelopes and their electronic equivalents, authentication  
17 materials and voting instructions, to be used with the  
18 military-overseas ballot of a voter authorized to vote in any  
19 jurisdiction in this state.

20 D. The secretary of state shall prescribe the  
21 form and content of a declaration for use by a federal  
22 qualified elector to swear or affirm specific representations  
23 pertaining to the voter's identity, eligibility to vote,  
24 status as a federal qualified elector and timely and proper  
25 completion of a military-overseas ballot. The declaration

1 shall be based on the declaration prescribed to accompany a  
2 federal write-in absentee ballot, as modified to be  
3 consistent with the Uniform Military and Overseas Voters Act.  
4 The secretary of state shall ensure that a form for the  
5 execution of the declaration, including an indication of the  
6 date of execution of the declaration, is a prominent part of  
7 all balloting materials for which the declaration is  
8 required.

9 E. The secretary of state shall prescribe to the  
10 appropriate clerk the form of and distribute to each county  
11 clerk a supply of:

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

14 (2) official mailing envelopes for use in  
15 returning the official inner envelope to the appropriate  
16 clerk; provided that only the official mailing envelope for  
17 absentee ballots in a primary election shall contain a  
18 designation of party affiliation;

19 (3) absentee ballot instructions describing  
20 the proper methods for completion and return of the ballot,  
21 including instructions for those federal qualified electors  
22 returning a ballot electronically;

23 (4) official transmittal envelopes for use  
24 by the appropriate clerk in mailing absentee ballot  
25 materials; and

1 (5) official holding envelopes for ballots  
2 returned electronically by federal qualified electors."

3 SECTION 11. Section 1-6B-6 NMSA 1978 (being Laws 2015,  
4 Chapter 145, Section 30) is amended to read:

5 "1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS  
6 BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR  
7 MILITARY-OVERSEAS BALLOT.--

8 A. A federal qualified elector who is currently  
9 registered to vote in this state may, by the deadline  
10 specified in the Absent Voter Act for receipt of absentee  
11 ballot applications, apply for a military-overseas ballot by:

12 (1) using an absentee ballot application  
13 pursuant to the Absent Voter Act;

14 (2) using the federal postcard application  
15 or the application's electronic equivalent; or

16 (3) using the declaration accompanying a  
17 federal write-in absentee ballot as an application for a  
18 military-overseas ballot simultaneously with the submission  
19 of the federal write-in absentee ballot.

20 B. A federal qualified elector who is not  
21 currently registered to vote in this state may, by the  
22 deadline in the Election Code for registering to vote,  
23 simultaneously register to vote and apply for a  
24 military-overseas ballot by using a federal postcard  
25 application or the application's electronic equivalent.



1           C. An application for a military-overseas ballot  
2 for a primary election, whether or not timely, is effective  
3 as an automatic application for a military-overseas ballot  
4 for the general election.

5           D. An application for a military-overseas ballot  
6 is effective as an automatic application for a military-  
7 overseas ballot for a runoff election necessary to conclude  
8 the election for which the application was submitted."

9           **SECTION 12.** Section 1-6B-7 NMSA 1978 (being Laws 2015,  
10 Chapter 145, Section 31) is amended to read:

11           "1-6B-7. TRANSMISSION OF UNVOTED MILITARY-OVERSEAS  
12 BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

13           A. Not later than forty-five days before an  
14 election, even if the forty-fifth day before an election  
15 falls on a weekend or a holiday, the appropriate clerk shall  
16 transmit a ballot and balloting materials to all federal  
17 qualified electors who by that date submit a valid  
18 military-overseas ballot application.

19           B. The appropriate clerk shall transmit a ballot  
20 and balloting materials as soon as practicable when the  
21 ballot application from a federal qualified elector arrives  
22 after the forty-fifth day before the election and before  
23 absentee ballots are transmitted to other voters pursuant to  
24 the Absent Voter Act.

25           C. The appropriate clerk shall transmit a ballot

1 and balloting materials in accordance with the procedures for  
2 processing of all other absentee ballot applications for that  
3 jurisdiction when the ballot application from a federal  
4 qualified elector arrives after the appropriate clerk has  
5 begun transmitting ballots and balloting materials to other  
6 voters.

7 D. A federal qualified elector may request that  
8 the ballot and balloting materials be sent by facsimile  
9 transmission, electronic mail delivery or other equivalent  
10 electronic transmission available to the appropriate clerk  
11 where the ballot and balloting materials are sent directly by  
12 the clerk to the federal qualified elector. The clerk shall  
13 transmit the ballot and balloting materials using the means  
14 of transmission requested by the federal qualified elector.  
15 The clerk shall determine the most reasonable expedited means  
16 of delivery for a ballot and balloting materials for a  
17 federal qualified elector who does not request a particular  
18 means of transmission."

19 **SECTION 13.** Section 1-12-71 NMSA 1978 (being Laws  
20 1977, Chapter 222, Section 7, as amended) is amended to read:

21 "1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--  
22 No municipal, county or special district election or special  
23 local election shall be held within fifty days prior to or  
24 following any statewide election. This section does not  
25 prohibit a local government ballot question authorized by the

1 board of county commissioners from appearing on the general  
2 election ballot or regular local election ballot. As used in  
3 this section, "statewide election" means a primary, general  
4 or special statewide election or a regular local election as  
5 provided in the Local Election Act."

6 SECTION 14. Section 1-14-14 NMSA 1978 (being Laws  
7 1969, Chapter 240, Section 343, as amended) is amended to  
8 read:

9 "1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

10 A. Whenever any candidate believes that any error  
11 or fraud has been committed by any precinct board in counting  
12 or tallying the ballots, in the verification of the votes  
13 cast on the voting machines or in the certifying of the  
14 results of any election whereby the results of the election  
15 in the precinct have not been correctly determined, declared  
16 or certified, the candidate, within six days after completion  
17 of the canvass by the proper canvassing board, may have a  
18 recount of the ballots, or a recheck of the votes shown on  
19 the voting machines, that were cast in the precinct.

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

24 C. In the case of any office for which the county  
25 canvassing board or secretary of state issues a certificate

1 of nomination or election, application for recount or recheck  
2 shall be filed with the district judge for the county in  
3 which the applicant resides."

4 SECTION 15. Section 1-16-8 NMSA 1978 (being Laws 1969,  
5 Chapter 240, Section 380, as amended) is amended to read:

6 "1-16-8. OTHER QUESTIONS.--

7 A. The form for ballots on questions other than  
8 proposed constitutional amendments to be submitted to the  
9 voters of the entire state shall be prescribed by the  
10 secretary of state. The form for ballots on those questions  
11 not statewide in application to be submitted to the voters of  
12 a county or local government shall be furnished by the county  
13 clerk, and a copy of the resolution proposing the question  
14 shall be sent by the county clerk to the secretary of state  
15 not less than seventy days prior to the election. In each  
16 case, the ballots shall conform as nearly as practicable to  
17 the form required for ballots on proposed constitutional  
18 amendments.

19 B. A local government ballot question shall be  
20 submitted to the voters by title only, and the local  
21 government may provide an analysis of the question on the  
22 ballot.

23 C. In no case shall a nonbinding or merely  
24 advisory question be placed on the ballot for any election  
25 held pursuant to the Election Code."

1           **SECTION 16.** Section 1-22-1 NMSA 1978 (being Laws 1985,  
2 Chapter 168, Section 3) is repealed and a new Section 1-22-1  
3 NMSA 1978 is enacted to read:

4           "1-22-1. SHORT TITLE.--Chapter 1, Article 22 NMSA 1978  
5 may be cited as the "Local Election Act"."

6           **SECTION 17.** Section 1-22-2 NMSA 1978 (being Laws 1985,  
7 Chapter 168, Section 4, as amended) is repealed and a new  
8 Section 1-22-2 NMSA 1978 is enacted to read:

9           "1-22-2. DEFINITIONS.--As used in the Local Election  
10 Act:

11           A. "local election" means a local government  
12 election;

13           B. "local governing body" means a board, council  
14 or commission, as appropriate for a given local government;

15           C. "local government" means a school district, a  
16 special hospital district, a community college district, a  
17 technical and vocational institute district, a learning  
18 center district, an arroyo flood control district, a special  
19 zoning district, a soil and water conservation district, a  
20 water and sanitation district and a municipality, including a  
21 home rule municipality governed pursuant to Article 10,  
22 Section 6 of the constitution of New Mexico, a municipality  
23 operating pursuant to a territorial charter or special  
24 charter and, beginning July 1, 2022, a conservancy district  
25 governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978

1 and a watershed district governed pursuant to the Watershed  
2 District Act; and

3 D. "proper filing officer" means the clerk of the  
4 county in which the candidate resides."

5 **SECTION 18.** Section 1-22-3 NMSA 1978 (being Laws 1985,  
6 Chapter 168, Section 5, as amended) is repealed and a new  
7 Section 1-22-3 NMSA 1978 is enacted to read:

8 "1-22-3. REGULAR LOCAL ELECTIONS--SPECIAL LOCAL  
9 ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

10 A. A regular local election shall be held on the  
11 first Tuesday after the first Monday in November of each odd-  
12 numbered year.

13 B. A local election shall be held to elect  
14 qualified persons to membership on a local governing body  
15 and, where applicable, to municipal executive office and to  
16 municipal judicial office. No person shall become a  
17 candidate in a local election unless the person's record of  
18 voter registration shows that the person is a qualified  
19 elector of the state, physically resides in the district in  
20 which the person is a candidate and was registered to vote in  
21 the district on the date the proclamation calling a local  
22 election is filed in the office of the secretary of state.

23 C. In addition to candidates in the election, a  
24 regular local election ballot may contain ballot questions  
25 proposed by the state, county or local government or as

1 otherwise provided by law. An election on a ballot question  
2 held at any time other than the date for a regular local  
3 election shall be held with the general election or shall be  
4 a special local election called, conducted and canvassed as  
5 provided in Chapter 1, Article 24 NMSA 1978.

6 D. Except as otherwise provided in the Local  
7 Election Act, local elections shall be called, conducted and  
8 canvassed as provided in the Election Code."

9 SECTION 19. Section 1-22-4 NMSA 1978 (being Laws 1985,  
10 Chapter 168, Section 6, as amended) is repealed and a new  
11 Section 1-22-4 NMSA 1978 is enacted to read:

12 "1-22-4. REGULAR LOCAL ELECTION--PROCLAMATION--  
13 PUBLICATION.--

14 A. The secretary of state shall by resolution  
15 issue a public proclamation in Spanish and English calling a  
16 regular local election on the date prescribed by the Local  
17 Election Act. The proclamation shall be filed by the  
18 secretary of state in the office of the secretary of state  
19 ninety days preceding the date of the election.

20 B. Between one hundred twenty and one hundred  
21 fifty days before the next local election, each local  
22 government shall notify the secretary of state of all local  
23 government positions that are to be filled at that election.

24 C. The proclamation shall specify the:

25 (1) date when the election will be held;

1 (2) positions on each local governing body  
2 to be filled;

3 (3) executive and judicial positions to be  
4 filled; and

5 (4) date on which declarations of candidacy  
6 are to be filed and the date on which declarations of intent  
7 to become a write-in candidate are to be filed.

8 D. After receipt of the proclamation from the  
9 secretary of state, the county clerk shall post the entire  
10 proclamation on the county clerk's website and, not less than  
11 seventy days before the date of the election, shall publish  
12 portions of the proclamation relevant to the county at least  
13 once in a newspaper of general circulation within the county.  
14 The publication of the proclamation shall conform to the  
15 requirements of the federal Voting Rights Act of 1965, as  
16 amended, and shall specify the:

17 (1) date when the election will be held;

18 (2) positions on each local governing body  
19 of a district situated in whole or in part in the county;

20 (3) elective executive and judicial  
21 positions of each local government situated in whole or in  
22 part in the county;

23 (4) date on which declarations of candidacy  
24 are to be filed;

25 (5) precincts in each county in which the



1 election is to be held and the location of each polling  
2 place;

3 (6) location of each alternate voting  
4 location for early voting;

5 (7) hours each polling place and alternate  
6 voting location will be open; and

7 (8) date and time of the closing of the  
8 registration books by the county as required by law."

9 **SECTION 20.** Section 1-22-6 NMSA 1978 (being Laws 1985,  
10 Chapter 168, Section 8, as amended) is repealed and a new  
11 Section 1-22-6 NMSA 1978 is enacted to read:

12 "1-22-6. PRECINCTS.--The same precincts that were used  
13 in the immediately preceding general election shall be used  
14 in a local election; provided that if a precinct lies partly  
15 within and partly without a district, the part of the  
16 precinct lying within the district constitutes a precinct  
17 part in the local election."

18 **SECTION 21.** Section 1-22-7 NMSA 1978 (being Laws 1985,  
19 Chapter 168, Section 9, as amended) is repealed and a new  
20 Section 1-22-7 NMSA 1978 is enacted to read:

21 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--  
22 PENALTY.--

23 A. A candidate for a position that will be filled  
24 at a local election shall file a declaration of candidacy  
25 with the proper filing officer during the period commencing

1 at 9:00 a.m. on the seventieth day before the date of the  
2 local election and ending at 5:00 p.m. on the same day.

3 B. A candidate shall file for only one position  
4 in the same local government but may file for a position in  
5 more than one local government during a filing period.

6 C. Whoever knowingly makes a false statement in a  
7 declaration of candidacy is guilty of a fourth degree felony  
8 and shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978."

10 SECTION 22. Section 1-22-8 NMSA 1978 (being Laws 1985,  
11 Chapter 168, Section 10, as amended) is repealed and a new  
12 Section 1-22-8 NMSA 1978 is enacted to read:

13 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF  
14 INTENT--FORM.--In making a declaration of candidacy, the  
15 candidate shall submit a sworn statement of intent in  
16 substantially the following form:

17 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

18 I, \_\_\_\_\_, (candidate's name on  
19 certificate of registration) being first duly sworn, say that  
20 I am a voter of the county of \_\_\_\_\_, State of New  
21 Mexico. I reside at

22 \_\_\_\_\_  
23 and was registered to vote at that place on the date of the  
24 proclamation calling this election;

25 I reside within and am registered to vote in the area

1 to be represented;

2 I desire to become a candidate for the office of  
3 \_\_\_\_\_ at the local election to be held on the  
4 date set by law;

5 I will be eligible and legally qualified to hold this  
6 office at the beginning of its term; and

7 I make the foregoing affidavit under oath, knowing that  
8 any false statement herein constitutes a felony punishable  
9 under the criminal laws of New Mexico.

10 \_\_\_\_\_  
11 (Declarant)

12 \_\_\_\_\_  
13 (Mailing Address)

14 \_\_\_\_\_  
15 (Residence Address)

16 Subscribed and sworn to before me this \_\_\_\_\_ day of  
17 \_\_\_\_\_, 20 \_\_\_\_\_.

18 \_\_\_\_\_.  
19 (Notary Public)

20 My commission expires:  
21 \_\_\_\_\_".

22 **SECTION 23.** A new section of the Local Election Act,  
23 Section 1-22-8.1 NMSA 1978, is enacted to read:

24 "1-22-8.1. WRITE-IN CANDIDATES.--

25 A. Write-in candidates shall be permitted in

1 local elections.

2 B. A person may be a write-in candidate only if  
3 the person has the qualifications to be a candidate for the  
4 position for which the person is running.

5 C. A person desiring to be a write-in candidate  
6 for an office shall file with the proper filing officer a  
7 declaration of intent to be a write-in candidate. The  
8 declaration shall be filed between 9:00 a.m. and 5:00 p.m. on  
9 the sixty-third day preceding the date of the election.

10 D. A write-in vote shall be counted and canvassed  
11 only if:

12 (1) the name written in is the name of a  
13 declared write-in candidate and shows two initials and last  
14 name; first name, middle initial or name and last name; first  
15 and last name; or the full name as it appears on the  
16 declaration of intent to be a write-in candidate and if  
17 misspellings of those combinations can be reasonably  
18 determined by a majority of the members of the precinct board  
19 to identify a declared write-in candidate; and

20 (2) the name is written on the proper line  
21 provided on the ballot for write-in votes for the office and  
22 position for which the candidate has declared intent and the  
23 voter has followed the directions for voting for the write-in  
24 candidate.

25 E. At the time of filing the declaration of

1 intent to be a write-in candidate, the write-in candidate  
2 shall be considered a candidate for all purposes and  
3 provisions relating to candidates in the Local Election Act  
4 except that the write-in candidate's name shall not be  
5 printed on the ballot.

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

10 G. No unopposed write-in candidate shall have an  
11 election certified unless the candidate receives at least the  
12 number of write-in votes equal to twenty percent of the total  
13 number of ballots on which the office appears on the ballot  
14 that are cast in the local election, or two hundred."

15 **SECTION 24.** Section 1-22-9 NMSA 1978 (being Laws 1985,  
16 Chapter 168, Section 11) is repealed and a new Section 1-22-9  
17 NMSA 1978 is enacted to read:

18 "1-22-9. WITHDRAWAL OF CANDIDATES.--A candidate  
19 seeking to withdraw from a local election shall withdraw no  
20 later than the sixty-third day before that election by filing  
21 a signed and notarized statement of withdrawal with the  
22 proper filing officer."

23 **SECTION 25.** Section 1-22-10 NMSA 1978 (being Laws  
24 1985, Chapter 168, Section 12, as amended) is repealed and a  
25 new Section 1-22-10 NMSA 1978 is enacted to read:

1 "1-22-10. BALLOTS.--

2 A. The proper filing officer shall determine  
3 whether a candidate filing a declaration of candidacy is  
4 registered to vote within the local election district and, if  
5 required for the office being sought, whether the candidate's  
6 nominating petition for that office has been filed. If the  
7 candidate is so qualified and no withdrawal of candidacy has  
8 been filed as provided in the Local Election Act, the proper  
9 filing officer shall place the candidate's name on the ballot  
10 for the position specified in the declaration of candidacy  
11 and notify each candidate in writing no later than 5:00 p.m.  
12 on the sixty-third day before the local election. A  
13 declaration of candidacy shall not be amended after it has  
14 been filed with the proper filing officer.

15 B. Ballots for the local election shall be  
16 prepared by the proper filing officer and printed in  
17 accordance with the provisions of Section 1-10-5 NMSA 1978.  
18 The printed ballot shall contain the name of each person who  
19 is a candidate and the position for which the person is a  
20 candidate. The ballot shall also contain all questions to be  
21 submitted to the voters as certified to the county clerk in  
22 each county in which the local government is situate by the  
23 local governing body and shall conform to the requirements of  
24 Section 1-16-8 NMSA 1978.

25 C. Paper ballots shall be printed in a form in

1 substantial compliance with the provisions of Section 1-10-12  
2 NMSA 1978 and in compliance with the provisions of the  
3 federal Voting Rights Act of 1965, as amended.

4 D. A local election shall be a nonpartisan  
5 election, and the names of all candidates shall be listed on  
6 the ballot without party or slate designation. The order in  
7 which the names of candidates are listed on the ballot shall  
8 be determined by the secretary of state either by lot or by  
9 randomization as provided by rule.

10 E. Whenever two or more members of a local  
11 governing body are to be elected at large for terms of the  
12 same length of time, the secretary of state shall numerically  
13 designate the positions on the ballot as "position one",  
14 "position two" and such additional consecutively numbered  
15 positions as are necessary, but only one member shall be  
16 elected for each position.

17 F. Space shall be provided on each ballot for a  
18 voter to write in the name of one candidate for each position  
19 to be filled when a declaration of intent to be a write-in  
20 candidate has been filed."

21 **SECTION 26.** A new Section 1-22-10.1 NMSA 1978 is  
22 enacted to read:

23 "1-22-10.1. BALLOT ORDER.--

24 A. The Local Election Act ballot shall list  
25 offices in the following order, when applicable:

1 (1) municipal elections, with executive  
2 officers listed first, governing board members listed second  
3 and judicial officers listed third;

4 (2) school board elections;

5 (3) community college elections;

6 (4) special district elections listed in  
7 order by voting population of each special district, with the  
8 most populous listed first and the least populous listed  
9 last; and

10 (5) in the order prescribed by the  
11 secretary of state:

12 (a) county questions;

13 (b) local government questions; and

14 (c) other ballot questions authorized  
15 by law.

16 B. A board of county commissioners shall permit  
17 local government questions on the local election ballot;  
18 provided that there is sufficient space on a single page  
19 ballot to accommodate the questions using both sides of the  
20 page. If there is not sufficient room, then questions shall  
21 be included in the order received by the county clerk until  
22 space on the ballot is exhausted. For multicounty districts,  
23 exclusion from one county's ballot excludes that question  
24 from the local election ballot in all counties comprising the  
25 special district.



1           C. A local government question that would require  
2 a second ballot page shall be permitted if the local  
3 government requesting the inclusion of the question pays the  
4 additional costs of the second ballot page; provided that if  
5 more than one local government has a question included on the  
6 second ballot page, the local governments with questions on  
7 the second ballot page shall share the costs of providing the  
8 second ballot page."

9           **SECTION 27.** Section 1-22-11 NMSA 1978 (being Laws  
10 1985, Chapter 168, Section 13, as amended) is repealed and a  
11 new Section 1-22-11 NMSA 1978 is enacted to read:

12           "1-22-11. PUBLICATION.--Each county clerk shall issue  
13 and publish the proclamation listing the name of each local  
14 government that has a candidate or question appearing on the  
15 ballot in that county; the name of each candidate for  
16 membership on each local governing body; the name of each  
17 candidate for executive or judicial office; each question to  
18 be submitted to the voters; and the names of the precinct  
19 board members for the election. The publication shall be  
20 made once each week for two successive weeks, with the last  
21 publication being made within twelve days but not later than  
22 five days before the date of the local election. The names  
23 of the candidates shall be published in the same order and  
24 for the same positions as will appear on the ballot. The  
25 publication shall be in a newspaper of general circulation in

1 the county and shall conform to the provisions of the federal  
2 Voting Rights Act of 1965, as amended."

3 **SECTION 28.** Section 1-22-12 NMSA 1978 (being Laws  
4 1985, Chapter 168, Section 14, as amended) is repealed and a  
5 new Section 1-22-12 NMSA 1978 is enacted to read:

6 "1-22-12. CONDUCT OF ELECTIONS.--Except as otherwise  
7 provided in the Local Election Act, the county clerk shall  
8 administer and conduct local elections pursuant to the  
9 provisions of the Election Code for the conduct of general  
10 elections."

11 **SECTION 29.** Section 1-22-13 NMSA 1978 (being Laws  
12 1985, Chapter 168, Section 15) is repealed and a new Section  
13 1-22-13 NMSA 1978 is enacted to read:

14 "1-22-13. CHALLENGERS.--Upon written notice filed with  
15 the county clerk no later than seven days before the  
16 election, any candidate in a local election may appoint one  
17 person as challenger for each precinct in the local election  
18 who shall have the powers and be subject to the restrictions  
19 provided for challengers in the Election Code."

20 **SECTION 30.** Section 1-22-15 NMSA 1978 (being Laws  
21 1985, Chapter 168, Section 17, as amended by Laws 1987,  
22 Chapter 249, Section 49 and also by Laws 1987, Chapter 338,  
23 Section 3) is repealed and a new Section 1-22-15 NMSA 1978 is  
24 enacted to read:

25 "1-22-15. CANVASSING BOARD--DUTIES.--

1           A. The canvassing board for the canvass of the  
2 results of a local election shall be composed of the board of  
3 county commissioners of the county in which the votes were  
4 cast in that election.

5           B. Within ten days after the date of the  
6 election, the canvassing board shall meet and shall:

7                   (1) canvass the returns in the same manner  
8 as county election returns are canvassed; and

9                   (2) issue a certificate of canvass of the  
10 results of the election and send one copy of the certified  
11 results to:

12                           (a) each local governing body  
13 receiving votes in the county;

14                           (b) the secretary of state; and

15                           (c) the county clerk.

16           C. In the event of a tie vote between any  
17 candidates in the election for the same office, the  
18 determination as to which of the candidates shall be declared  
19 to have been elected shall be decided by lot. The method of  
20 determining by lot shall be agreed upon by a majority of a  
21 committee consisting of the tied candidates and the county  
22 clerk and district judge of the county in which the  
23 administrative office of the local government is situate.  
24 The secretary of state shall issue the certificate of  
25 election to the candidate chosen by lot.

1 D. If a runoff election is required in a  
2 municipal election, the canvassing board shall notify the  
3 relevant municipality within ten days following the local  
4 election.

5 E. Except in the case of a runoff election, on  
6 the twenty-first day following the election, the secretary of  
7 state shall issue a certificate of election to each candidate  
8 who received the most votes for each position on the ballot  
9 and shall certify the passage or defeat of each ballot  
10 question."

11 **SECTION 31.** Section 1-22-16 NMSA 1978 (being Laws  
12 1985, Chapter 168, Section 18) is repealed and a new Section  
13 1-22-16 NMSA 1978 is enacted to read:

14 "1-22-16. MUNICIPAL RUNOFF ELECTIONS.--If a  
15 municipality that provides for runoff elections is notified  
16 by the county canvassing board that a runoff election is  
17 required following a local election, the runoff election  
18 shall be called, conducted and canvassed in accordance with  
19 the provisions of the municipality's ordinance or charter;  
20 provided that:

21 A. the county clerk shall perform the duties of  
22 the municipal clerk regarding administration of the election;

23 B. the canvassing board for the canvass of the  
24 election shall be composed of the board of county  
25 commissioners; and

1 C. the election shall be held on the first  
2 Tuesday after the first Monday of the month following the  
3 local election."

4 SECTION 32. Section 1-22-17 NMSA 1978 (being Laws  
5 1985, Chapter 168, Section 19, as amended) is repealed and a  
6 new Section 1-22-17 NMSA 1978 is enacted to read:

7 "1-22-17. RECORDS.--The returns and certificates of  
8 the result of the canvass are public documents, subject to  
9 inspection and retention as provided by Section 1-12-69 NMSA  
10 1978. The certificate of results of the canvass of the  
11 election shall, thirty days after the election or recount or  
12 immediately after any contest has been settled by the court,  
13 be preserved as a permanent record in the state records  
14 center. A copy of the certificate of results of the canvass  
15 of the election shall be preserved as a permanent record in  
16 the office of the county clerk."

17 SECTION 33. Section 1-22-18 NMSA 1978 (being Laws  
18 1985, Chapter 168, Section 20, as amended) is repealed and a  
19 new Section 1-22-18 NMSA 1978 is enacted to read:

20 "1-22-18. LOCAL ELECTION--DATE TERM OF OFFICE  
21 BEGINS.--The term of office of a candidate elected in a local  
22 election or ensuing runoff election shall begin on January 1  
23 following the candidate's election, and the candidate shall  
24 take the oath of office on or after January 1 following  
25 election."

1           **SECTION 34.** Section 1-22-19 NMSA 1978 (being Laws  
2 1985, Chapter 168, Section 21, as amended) is repealed and a  
3 new Section 1-22-19 NMSA 1978 is enacted to read:

4           "1-22-19. ABSENTEE VOTING--ALTERNATE VOTING  
5 LOCATIONS.--

6           A. The provisions of the Absent Voter Act and  
7 Uniform Military and Overseas Voter Act apply to absentee  
8 voting in local elections.

9           B. Early voting shall be conducted in each office  
10 of the county clerk and at such alternate voting locations as  
11 may be established by the county clerk pursuant to the  
12 provisions of Section 1-6-5.7 NMSA 1978."

13           **SECTION 35.** A new section of the Local Election Act is  
14 enacted to read:

15           "COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--LOCAL  
16 ELECTION FUND ESTABLISHED.--

17           A. There is created in the state treasury the  
18 "local election fund" solely for the purposes of:

19                   (1) reimbursing the counties for the costs  
20 of conducting and administering regular local elections  
21 required by the Local Election Act;

22                   (2) paying the administrative costs of the  
23 office of the secretary of state of administering elections  
24 required by the Local Election Act; and

25                   (3) carrying out all other specified

1 provisions of the Local Election Act.

2 B. The state treasurer shall invest the local  
3 election fund as other state funds are invested, and all  
4 income derived from the fund shall be credited directly to  
5 the fund. Remaining balances at the end of a fiscal year  
6 shall remain in the fund and not revert to the general fund.

7 C. Money received from the following sources  
8 shall be deposited directly into the local election fund:

9 (1) annual assessments imposed on local  
10 governments pursuant to Subsection F of this section; and

11 (2) money appropriated to the fund by the  
12 legislature.

13 D. Money in the local election fund is  
14 appropriated to the secretary of state for the purposes  
15 authorized in Subsection A of this section and for  
16 distribution to the counties for reimbursement of reasonable  
17 costs associated with conducting and administering regular  
18 local elections required by the Local Election Act. Money in  
19 the fund shall only be expended on warrants of the department  
20 of finance and administration pursuant to vouchers signed by  
21 the secretary of state or the secretary's designee.

22 E. In the event that current year balances in the  
23 local election fund do not cover the costs of local  
24 elections, the secretary of state may apply to the state  
25 board of finance for an emergency grant to cover those costs

1 pursuant to Section 6-1-2 NMSA 1978.

2 F. Each local government subject to the Local  
3 Election Act shall be assessed by the secretary of state  
4 annually the greater of one hundred fifty dollars (\$150) or  
5 an amount equal to twenty-five thousandths percent of the  
6 local government's general operating expenses to be paid to  
7 the secretary of state for deposit into the local election  
8 fund for the purpose of paying the costs of regular local  
9 elections; provided that a municipality that requires runoff  
10 elections shall be assessed an additional ten-thousandths  
11 percent of the municipality's general operating expenses."

12 SECTION 36. A new section of the Local Election Act is  
13 enacted to read:

14 "APPLICATION TO MUNICIPALITIES OPTING OUT OF CERTAIN  
15 PROVISIONS OF THE LOCAL ELECTION ACT--OPT-OUT PROVISIONS--  
16 STANDARD ELECTION DATE--PROCEDURES--EXCEPTIONS.--

17 A. In accordance with the provisions of  
18 Subsection B of this section, a municipality, including a  
19 home rule municipality governed pursuant to Article 10,  
20 Section 6 of the constitution of New Mexico or a municipality  
21 operating pursuant to a territorial charter or a special  
22 charter, may opt out of the provisions of Subsection A of  
23 Section 1-22-3 NMSA 1978, Sections 1-22-16 and 1-22-18 NMSA  
24 1978 and Section 35 of this 2017 act.

25 B. A municipality may by ordinance opt out of the HLELC/HB 174  
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1 provisions of the Local Election Act listed in Subsection A  
2 of this section if the municipality passes the ordinance and  
3 files the ordinance with the secretary of state at least one  
4 hundred eighty days before the next regular local election.  
5 A municipality that has passed an ordinance pursuant to this  
6 subsection may at any time rescind the ordinance opting out  
7 of the provisions of the Local Election Act listed in  
8 Subsection A of this section upon filing the rescission with  
9 the secretary of state at least one hundred eighty days  
10 before the next regular local election.

11 C. All other provisions of the Local Election  
12 Act, as supplemented by the Election Code, shall apply to the  
13 conduct of elections for municipalities that have passed an  
14 ordinance pursuant to Subsection B of this section, except  
15 for election procedures that operate in lieu of or in  
16 addition to the provisions of the Local Election Act and  
17 Election Code contained in the charter of a home rule  
18 municipality or other chartered municipality.

19 D. Elections held pursuant to this section shall  
20 be held on the first Tuesday in March of each even-numbered  
21 year, except as provided in the charter of a municipality;  
22 provided that the election date in the charter does not  
23 conflict with the provisions of Section 1-12-71 NMSA 1978.

24 E. Except for home rule municipalities that have  
25 a run-off election, the term of office for municipalities

1 holding elections pursuant to this section shall begin the  
2 first day of the month following the election. For home rule  
3 municipalities that hold a run-off election, the term of  
4 office for municipalities holding elections pursuant to this  
5 section shall begin the first day of the month following the  
6 run-off election. Terms of office for municipal offices are  
7 four years unless the municipality's charter provides for  
8 shorter terms.

9 F. A municipality holding elections pursuant to  
10 this section may place ballot questions on the ballot of an  
11 election held pursuant to this section and as provided in the  
12 Local Election Act.

13 G. The municipal clerk shall fulfill the duties  
14 of the county clerk in the conduct of elections held pursuant  
15 to this section. The county clerk shall maintain accurate  
16 voter registration information for each municipality located  
17 in the county. The county clerk shall provide to the  
18 municipal clerk, in advance of a election held pursuant to  
19 this section, the names of only those voters entitled to vote  
20 in the municipal election. The municipality shall bear the  
21 reasonable cost of preparation of the voter lists, signature  
22 rosters and voter registration in electronic format.

23 H. The governing body of the municipality shall  
24 fulfill the duties of passing the resolution calling for an  
25 election pursuant to this section and may act in relation to

1 the duties of the board of county commissioners set forth in  
2 Section 1-3-2 NMSA 1978 that are applicable to the conduct of  
3 an election pursuant to this section."

4 **SECTION 37.** Section 1-22A-2 NMSA 1978 (being Laws  
5 2013, Chapter 180, Section 2) is amended to read:

6 "1-22A-2. DEFINITIONS.--As used in the School District  
7 Campaign Reporting Act:

8 A. "campaign committee" means one or more persons  
9 authorized by a candidate to raise, collect or expend  
10 contributions on the candidate's behalf for the purpose of  
11 electing the candidate to office;

12 B. "candidate" means a person who seeks or  
13 considers an office in an election covered by the School  
14 District Campaign Reporting Act and who either has filed a  
15 declaration of candidacy or has received contributions or  
16 made expenditures of five hundred dollars (\$500) or more or  
17 authorized another person or campaign committee to receive  
18 contributions or make expenditures of five hundred dollars  
19 (\$500) or more for the purpose of seeking election to a  
20 covered office;

21 C. "contribution" means a gift, subscription,  
22 loan, advance or deposit of money or other thing of value,  
23 including the estimated value of an in-kind contribution,  
24 that is made or received for a political purpose, including  
25 payment of a debt incurred in an election campaign; but

1 "contribution" does not include the value of services  
2 provided without compensation or unreimbursed travel or other  
3 personal expenses of individuals who volunteer a portion or  
4 all of their time on behalf of a candidate or campaign  
5 committee;

6 D. "covered office" means the position of board  
7 of education member of a school district that has an  
8 enrollment of twelve thousand students or more or the  
9 position of board member of a community college organized or  
10 operating pursuant to the provisions of Chapter 21, Article  
11 13 or Article 16 NMSA 1978;

12 E. "election cycle" means the period beginning  
13 thirty days after an election for an office and ending thirty  
14 days following the subsequent election day for that office;

15 F. "expenditure" means a payment, transfer or  
16 distribution or obligation or promise to pay, transfer or  
17 distribute any money or other thing of value for a political  
18 purpose, including payment of a debt incurred in an election  
19 campaign;

20 G. "political purpose" means advocating the  
21 election or defeat of a candidate in an election;

22 H. "prescribed form" means a form or electronic  
23 format prepared and prescribed by the secretary of state; and

24 I. "reporting individual" means a candidate or  
25 treasurer of a campaign committee."

1           **SECTION 38.** Section 1-22A-3 NMSA 1978 (being Laws  
2 2013, Chapter 180, Section 3) is amended to read:

3           "1-22A-3. REPORTS REQUIRED--TIME AND PLACE OF  
4 FILING.--

5           A. A candidate or campaign committee that has  
6 received contributions or made expenditures of five hundred  
7 dollars (\$500) or more shall file with the secretary of state  
8 a report of all contributions received and expenditures made  
9 on a prescribed form, and the report shall be filed in the  
10 same or similar electronic system as that used for the  
11 Campaign Reporting Act. Except as otherwise provided in this  
12 section, all reports pursuant to the School District Campaign  
13 Reporting Act shall be filed electronically and  
14 electronically authenticated by the candidate using an  
15 electronic signature in conformance with the Electronic  
16 Authentication of Documents Act and the Uniform Electronic  
17 Transactions Act.

18           B. A candidate or campaign committee shall file a  
19 campaign report of all contributions received and  
20 expenditures made during an election cycle and not previously  
21 reported by midnight on the twenty-first day before the  
22 election and on the thirtieth day following the election.

23           C. If a reporting date set by Subsection B of  
24 this section falls on a holiday, the report shall be filed on  
25 the next business day.

1 D. If a candidate or campaign committee has not  
2 received any contributions and has not made any expenditures  
3 since the last report filed with the secretary of state, the  
4 candidate or campaign committee shall only be required to  
5 file a statement of no activity, which shall not be required  
6 to be notarized, in lieu of a full report when that report  
7 would otherwise be due.

8 E. A report of expenditures and contributions  
9 filed after a deadline set forth in this section shall not be  
10 deemed to have been timely filed.

11 F. Except for candidates and campaign committees  
12 that file a statement of no activity, each candidate or  
13 campaign committee shall file a report of expenditures and  
14 contributions pursuant to the filing schedules set forth in  
15 this section, regardless of whether any expenditures were  
16 made or contributions were received during the reporting  
17 period. Reports shall be required until the candidate or  
18 campaign committee delivers a report to the secretary of  
19 state stating that:

20 (1) there are no outstanding campaign  
21 debts;

22 (2) all money has been expended in  
23 accordance with the provisions of Section 1-22A-6 NMSA 1978;  
24 and

25 (3) the bank account for campaign funds

1 maintained by the candidate or campaign committee has been  
2 closed.

3 G. A candidate who does not ultimately file a  
4 declaration of candidacy and does not file a statement of no  
5 activity shall file reports in accordance with Subsection B  
6 of this section.

7 H. A candidate may apply to the secretary of  
8 state for exemption from electronic filing in case of  
9 hardship, which shall be defined by the secretary of state."

10 **SECTION 39.** Section 1-24-2 NMSA 1978 (being Laws 1989,  
11 Chapter 295, Section 2, as amended) is amended to read:

12 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--  
13 PUBLICATION.--

14 A. Whenever a local government or special  
15 district special election is to be called or is required by  
16 law, the governing body shall by resolution issue a public  
17 proclamation calling the election. The proclamation shall  
18 forthwith be filed with the county clerk. The proclamation  
19 shall specify:

20 (1) the date on which the special election  
21 will be held;

22 (2) the purpose for which the special  
23 election is called;

24 (3) if a question is to be voted upon, the  
25 text of that question;

1 (4) the date and time of closing the  
2 registration books by the county clerk as required by law;  
3 and

4 (5) in elections not subject to the Local  
5 Election Act:

6 (a) the precincts in each county in  
7 which the election is to be held and the location of each  
8 polling place in the precinct; and

9 (b) the hours that each polling place  
10 will be open.

11 B. After filing with the county clerk the  
12 proclamation issued pursuant to Subsection A of this section,  
13 and not less than sixty-three days before the date of the  
14 election, the governing body shall publish the proclamation  
15 once each week for two consecutive weeks in a newspaper of  
16 general circulation within the boundaries of the local  
17 government or special district. The proclamation shall  
18 conform to the requirements of the federal Voting Rights Act  
19 of 1965, as amended.

20 C. Whenever a statewide special election is to be  
21 called or is required by law, the governor shall by  
22 resolution issue a public proclamation calling the election.  
23 Whenever an election to fill a vacancy in the office of  
24 United States representative is to be called or is required  
25 by law, the governor shall by resolution issue a public



1 proclamation calling the election pursuant to the  
2 requirements of Section 1-15-18.1 NMSA 1978. The  
3 proclamation shall forthwith be filed with the secretary of  
4 state. The proclamation shall specify:

5 (1) the date on which the special election  
6 will be held;

7 (2) the purpose for which the special  
8 election is called;

9 (3) if a vacancy in the office of United  
10 States representative is to be filled, the date on which  
11 declarations of candidacy are to be filed;

12 (4) if a question is to be voted upon, the  
13 text of that question; and

14 (5) the date and time of closing the  
15 registration books by the county clerk as required by law.

16 D. After the proclamation issued pursuant to  
17 Subsection C of this section is filed with the secretary of  
18 state, the secretary of state shall within five days certify  
19 the proclamation to each county clerk in the state. Not less  
20 than sixty-three days before the date of the election, the  
21 county clerk shall publish the proclamation once each week  
22 for two consecutive weeks in a newspaper of general  
23 circulation.

24 E. For an election called pursuant to Subsection  
25 F of Section 1-15-18.1 NMSA 1978, the proclamation shall be

1 published consistent with this subsection not less than  
2 thirty-six days before the date of the election and shall  
3 include the precincts in the county in which the election is  
4 to be held and the location of each polling place in the  
5 precinct and the hours that each polling place will be open.  
6 The proclamation shall conform to the requirements of the  
7 federal Voting Rights Act of 1965, as amended."

8           **SECTION 40.** Section 1-24-3 NMSA 1978 (being Laws 1989,  
9 Chapter 295, Section 3) is amended to read:

10           "1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--

11           A. The state shall conduct by mailed ballot any  
12 statewide special election as provided by law.

13           B. Unless the election is held concurrently with  
14 a general election or regular local election, a local  
15 government, county or special district, by resolution of its  
16 governing body, shall conduct any special election by mailed  
17 ballot.

18           C. Upon the calling of an election by a mailed  
19 ballot, each voter of the relevant jurisdiction shall be  
20 mailed an absentee ballot along with a statement that there  
21 will be no polling place for the election. The voter shall  
22 not be required to file an application for the absentee  
23 ballot. The ballot shall be mailed to each voter no earlier  
24 than the twenty-first day prior to the election, and the  
25 mailing shall be completed by the fourteenth day before the

1 election. The return envelope for the ballot shall be  
2 postage-paid.

3 D. Mailed ballot elections shall be used  
4 exclusively for voting in special elections on a ballot  
5 question, including a recall election, and shall not be used  
6 in connection with elections at which candidates are to be  
7 nominated for or elected to office.

8 E. The state shall pay all costs of a statewide  
9 special election. A local government shall reimburse the  
10 county for all costs associated with the conduct of the local  
11 government's special election."

12 SECTION 41. A new section of Chapter 1, Article 24  
13 NMSA 1978 is enacted to read:

14 "SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--  
15 PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

16 A. The costs of conducting a special election  
17 shall be paid for by the state, local government or special  
18 district calling for the election.

19 B. No individual, corporation, person, political  
20 action committee or other nongovernmental entity shall pay  
21 for or reimburse the state, a local government or a special  
22 district for the costs associated with conducting a special  
23 election.

24 C. Upon a finding of a violation of this section,  
25 the district court shall nullify the votes cast in the

1 special election and shall void the result of the special  
2 election."

3 SECTION 42. Section 3-1-5 NMSA 1978 (being Laws 1985,  
4 Chapter 208, Section 2, as amended) is amended to read:

5 "3-1-5. PETITIONS--EXAMINATIONS OF SIGNATURES--  
6 PURGING--JUDICIAL REVIEW.--

7 A. All petitions, filing of petitions,  
8 verification of petitions and all other acts to be performed  
9 by petitioners, public officers or employees, regarding only  
10 those petitions that trigger a municipal special or regular  
11 election as authorized in the Municipal Code or otherwise  
12 authorized by law, shall comply with the terms of this  
13 section, except as otherwise expressly provided by law.

14 B. Each page or group of pages of a petition  
15 shall be accepted for filing by a municipal clerk, a county  
16 clerk, a governing body or a board of county commissioners  
17 only if:

18 (1) the municipal clerk has approved the  
19 form of petitions to be filed with the municipality prior to  
20 circulation of the petition; or

21 (2) the county clerk has approved the form  
22 of petitions to be filed with the county prior to circulation  
23 of the petition; and

24 (3) each page of the petition to be filed  
25 contains the approval or facsimile approval of the municipal

1 or county clerk and the petition heading and penalty  
2 statement are legible when submitted for filing.

3 C. The municipal or county clerk shall approve a  
4 petition as to form if the proposed petition form contains:

5 (1) a heading that complies with a  
6 particular form of heading required by law; or

7 (2) a heading that clearly conveys the  
8 purpose for signing the petition if no particular form of  
9 heading is required by law;

10 (3) a place for the person signing the  
11 petition to write the date and the person's name (printed),  
12 address and signature, unless other requirements are mandated  
13 by law, and then the petition shall comply with those  
14 requirements; and

15 (4) a statement that any person knowingly  
16 providing or causing to be provided any false information on  
17 a petition, forging a signature or signing a petition when  
18 that person knows that person is not a qualified elector in  
19 the municipality is guilty of a fourth degree felony.

20 D. The requirements of Subsection B of this  
21 section shall be deemed complied with if an original form of  
22 petition is submitted to a municipal or county clerk for  
23 approval prior to circulation and after approval by the clerk  
24 that the original form is reproduced by photocopying or other  
25 similar means so that the form and clerk's approval are

1 unchanged from the original and are legible on each page of  
2 the petition to be filed.

3 E. A petition filed with a municipal clerk, a  
4 county clerk, a governing body or a board of county  
5 commissioners shall include all individual pages of a  
6 petition complying with the provisions of this section,  
7 regardless of whether the pages are filed singly or in a  
8 group. Pages complying with the provisions of this section  
9 may be filed at different times so long as filing is within  
10 the time period allowed by law for the filing of the  
11 particular petition to be filed. If no time period is  
12 established by law, petition signatures may not span a period  
13 of time greater than sixty days from the date of the earliest  
14 signature on the petition, and the petition shall be filed  
15 within sixty-five days from the date of the earliest  
16 signature on the petition.

17 F. Upon approval of a proposed petition as to  
18 form, the municipal clerk shall notify the county clerk of  
19 the approval, and the county clerk shall furnish a current  
20 voter registration list of qualified electors entitled to  
21 vote in municipal elections to the municipal clerk within  
22 fourteen days of the notification.

23 G. When a petition is filed with a municipal  
24 clerk, a county clerk, a governing body or a board of county  
25 commissioners, the governing body or board of county

1 commissioners shall either certify the petition as valid or  
2 order an examination of the petition and the names, addresses  
3 and signatures on the petition.

4 H. When an examination of the petition and the  
5 names, addresses and signatures on the petition is ordered,  
6 the municipal clerk, county clerk, governing body or board of  
7 county commissioners shall:

8 (1) resolve issues of residency and major  
9 infractions in accordance with the Election Code;

10 (2) determine the minimum number of valid  
11 names, addresses and signatures, as mandated by law, that  
12 must be contained in the particular petition filed in order  
13 for it to be declared a valid petition;

14 (3) examine the petition and the names,  
15 addresses and signatures on the petition, purge from the  
16 petition the signature of any person who is not shown as a  
17 qualified elector of the municipality on the list of  
18 registered voters provided by the county clerk, purge any  
19 signature that is a forgery or that is illegible, purge any  
20 signature that appears more than once or that cannot be  
21 matched to the name, address and signature as shown on the  
22 voter registration lists and the original affidavit of  
23 registration, purge the signature of any person who has not  
24 signed within the time limits set by law and purge the  
25 signature of any person who does not meet the qualifications

1 for signing the petition as prescribed by law; and

2 (4) certify, no later than ten days after  
3 the petition is filed or after the expiration of the period  
4 within which the petition can be filed as prescribed by law,  
5 whichever occurs last, whether the petition contains the  
6 minimum number of valid names, addresses and signatures as  
7 mandated by law.

8 I. Nothing in this section shall preclude a  
9 person with a disability or an illiterate person from causing  
10 another person to sign a petition on a person with a  
11 disability's or an illiterate person's behalf, so long as the  
12 person signing for the person with a disability or illiterate  
13 person executes an affidavit acknowledged before a notary  
14 public that the person is authorized to sign the petition for  
15 the person with a disability or illiterate person. In order  
16 for the signature on behalf of the person with a disability  
17 or illiterate person to be counted and not purged, the  
18 original affidavit shall be submitted along with the petition  
19 containing the signature on behalf of the illiterate person  
20 or person with a disability.

21 J. If the petition is certified as valid pursuant  
22 to Subsection G of this section or is certified as containing  
23 in excess of the minimum number of valid names, addresses and  
24 signatures mandated by law, then such certification shall be  
25 recorded as part of the minutes at the next meeting of the



1 governing body or the board of county commissioners.

2 K. If the petition is certified as containing  
3 less than the minimum number of valid names, addresses and  
4 signatures mandated by law, then the municipal clerk, county  
5 clerk, governing body or board of county commissioners shall:

6 (1) cause the names, addresses and  
7 signatures that were purged from the petition to be posted in  
8 the municipal or county clerk's office no later than on the  
9 day the petition is certified;

10 (2) determine the total number of people  
11 signing the petition, the number purged, the number that were  
12 not purged and the minimum number of valid names, addresses  
13 and signatures required by law for such a petition and post  
14 this information along with and at the same time as the  
15 posting required in Paragraph (1) of this subsection;

16 (3) publish once, pursuant to the  
17 provisions of Subsection J of Section 3-1-2 NMSA 1978, within  
18 one week of the certification, the information compiled  
19 pursuant to Paragraphs (1) and (2) of this subsection; and

20 (4) cause the information compiled pursuant  
21 to Paragraphs (1) and (2) of this subsection and the date and  
22 place of publication pursuant to Paragraph (3) of this  
23 subsection to be recorded as part of the minutes at the next  
24 meeting of the governing body or the board of county  
25 commissioners after publication has occurred.

1           L. The following rules shall govern reinstatement  
2 of purged signatures:

3           (1) within ten days after the petition is  
4 certified as containing less than the minimum number of valid  
5 names, addresses and signatures mandated by law, any person  
6 whose signature has been purged from a petition may present  
7 evidence to the clerk to show that the person's signature has  
8 been wrongfully purged;

9           (2) if the clerk fails to reinstate that  
10 person's signature within three days of demand, then that  
11 person may, within ten days of the clerk's refusal to  
12 reinstate, petition the district court for an order to  
13 reinstate the person's signature on the petition. Upon a  
14 prima facie showing by the petitioner of the right to have  
15 that person's signature included upon the petition, the  
16 district court shall issue an order to the municipal clerk,  
17 county clerk, governing body or board of county commissioners  
18 to require reinstatement of the signature of the petitioner;

19           (3) within ten days after receiving the  
20 order of the district court, the municipal clerk, county  
21 clerk, governing body or board of county commissioners shall  
22 reinstate the signature of the petitioner on the petition or  
23 show cause why the signature of the petitioner has not been  
24 reinstated. Upon hearing, if the district court finds that  
25 the person whose signature has been purged meets the

1 qualifications for signing the petition, the district court  
2 shall make final its order of reinstatement to the municipal  
3 clerk, county clerk, governing body or board of county  
4 commissioners; and

5 (4) if a sufficient number of signatures  
6 are reinstated by the clerk, the district court or both to  
7 make the petition valid, then the reinstatement by the clerk  
8 or the district court, whichever occurs last, shall be deemed  
9 the date of certification of the validity of the petition for  
10 the purposes of adopting election resolutions, calling  
11 elections or for other matters as provided in the Municipal  
12 Code or otherwise provided by law.

13 M. Any petition that contains an insufficient  
14 number of signatures after all signatures have been  
15 reinstated pursuant to Subsection L of this section is  
16 invalid.

17 N. When a petition governed by this section is  
18 filed with the municipal clerk or the governing body of a  
19 municipality, the governing body or municipal clerk shall  
20 perform or cause to be performed the duties required under  
21 this section, except as otherwise prohibited by law. When a  
22 petition governed by this section is required to be filed  
23 with the county clerk or board of county commissioners, the  
24 board of county commissioners or county clerk shall perform  
25 or cause to be performed the duties required under this

1 section, except as otherwise prohibited by law.

2 O. Any person or any municipal or county official  
3 knowingly violating the provisions of this section, knowingly  
4 providing or causing to be provided any false information on  
5 a petition or forging a signature or otherwise signing a  
6 petition when that person knows the person is not a qualified  
7 elector in the municipality is guilty of a fourth degree  
8 felony.

9 P. The provisions of this section shall not be  
10 binding upon a municipality to the extent such provisions are  
11 inconsistent with or superseded by the terms and provisions  
12 of:

13 (1) the charter of a municipality  
14 incorporated by a special act;

15 (2) the charter of a municipality adopted  
16 pursuant to Article 10, Section 6 of the constitution of New  
17 Mexico;

18 (3) the charter of a municipality adopted  
19 pursuant to the Municipal Charter Act; or

20 (4) the charter of a combined municipal  
21 organization.

22 Q. Once a petition has been filed with a  
23 municipal clerk, a county clerk, a governing body or a board  
24 of county commissioners, no name on the petition may be  
25 withdrawn except those names purged pursuant to Subsection H

1 of this section."

2 SECTION 43. Section 3-2-5 NMSA 1978 (being Laws 1965,  
3 Chapter 300, Section 14-2-4, as amended) is amended to read:

4 "3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS  
5 AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--  
6 RIGHT OF APPEAL TO DISTRICT COURT.--

7 A. After the petition for incorporation, together  
8 with the accompanying map or plat, the municipal services and  
9 revenue plan and the amount of money sufficient to pay the  
10 cost of a census have been filed with the board of county  
11 commissioners, the board of county commissioners, in lieu of  
12 complying with the requirements of Section 3-1-5 NMSA 1978,  
13 shall determine within thirty days after the filing of the  
14 petition:

15 (1) from the voter registration list in the  
16 office of the county clerk if the signers of the petition are  
17 qualified electors residing in the territory proposed to be  
18 incorporated; or

19 (2) from the tax schedules of the county if  
20 any of the owners of the real estate who signed the petition  
21 are delinquent in the payment of property taxes; and

22 (3) if the territory proposed to be  
23 incorporated is within an existing municipality or within the  
24 urbanized area of a municipality.

25 B. If the board of county commissioners

1 determines that the territory proposed to be incorporated is:

2 (1) not within the boundary of an existing  
3 municipality and not within the urbanized area of a  
4 municipality; or

5 (2) within the urbanized area of another  
6 municipality and in compliance with Section 3-2-3 NMSA 1978,  
7 the board of county commissioners shall cause a census to be  
8 taken of the persons residing within the territory proposed  
9 to be incorporated.

10 C. The census shall be completed and filed with  
11 the board of county commissioners within thirty days after  
12 the board of county commissioners authorizes the taking of  
13 the census.

14 D. Within fifteen days after the date the results  
15 of the census and the municipal incorporation review team's  
16 report have been filed with the board of county  
17 commissioners, the board of county commissioners shall  
18 determine if the conditions for incorporation of the  
19 territory as a municipality have been met as required in  
20 Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its  
21 determination recorded in the minutes of its meeting.

22 E. Based on the census results and the municipal  
23 incorporation review team's report, if the board of county  
24 commissioners determines that the conditions for  
25 incorporation have not been met, the board of county

1 commissioners shall notify the petitioners of its  
2 determination by publishing in a newspaper of general  
3 circulation in the territory proposed to be incorporated,  
4 once, not more than ten days after its determination, a  
5 notice of its determination that the conditions for  
6 incorporation have not been met. If there is no newspaper of  
7 general circulation in the territory proposed to be  
8 incorporated, notice of the determination shall be posted in  
9 eight public places within the territory proposed to be  
10 incorporated.

11 F. After the board of county commissioners has  
12 determined that all of the conditions for incorporation of  
13 the territory as a municipality have been met, the board of  
14 county commissioners shall hold an election on the question  
15 of incorporating the territory as a municipality. Elections  
16 for the incorporation of municipalities shall only be held in  
17 June or July in odd-numbered years or July or August in even-  
18 numbered years and shall be held pursuant to the provisions  
19 of the Local Election Act. The county clerk shall notify the  
20 secretary of finance and administration and the secretary of  
21 taxation and revenue of the date of the incorporation  
22 election within ten days after the adoption of the resolution  
23 calling the election.

24 G. The signers of the petition or a municipality  
25 within whose urbanized area the territory proposed to be

1 incorporated is located may appeal any determination of the  
2 board of county commissioners to the district court pursuant  
3 to the provisions of Section 39-3-1.1 NMSA 1978."

4 **SECTION 44.** Section 3-2-8 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-2-7, as amended) is amended to read:

6 "3-2-8. INCORPORATION--ELECTION OF FIRST OFFICERS--  
7 DUTIES OF BOARD OF COUNTY COMMISSIONERS AND COUNTY CLERK--  
8 SELECTION OF TERMS OF FIRST OFFICERS.--

9 A. If a majority of the votes cast favors the  
10 incorporation of the territory as a municipality, the board  
11 of county commissioners shall call an election for the  
12 purpose of electing municipal officers at the first regular  
13 local or general election following approval. The election  
14 shall be conducted pursuant to the provisions of the Local  
15 Election Act. The county clerk shall notify the secretary of  
16 finance and administration and the secretary of taxation and  
17 revenue of the date of the first election of municipal  
18 officers within ten days after the county commissioners have  
19 called the election.

20 B. At the first election for municipal officers  
21 following a vote in favor of incorporating territory as a  
22 municipality, the terms of office for the mayor and the  
23 municipal judge shall be until the next regular local  
24 election. The terms of office for one-half of the members of  
25 the governing body shall be until the next regular local



1 election and for the remaining one-half of the members of the  
2 governing body until the second regular local election is  
3 held. The elected municipal officers shall continue in  
4 office until their successors are elected and qualified. The  
5 length of the terms of the first members shall be determined  
6 by lot."

7 **SECTION 45.** Section 3-3-2 NMSA 1978 (being Laws 1965,  
8 Chapter 300, Section 14-3-2, as amended) is amended to read:

9 "3-3-2. MUNICIPALITIES INCORPORATED UNDER SPECIAL  
10 ACT--PETITION FOR REORGANIZATION--ELECTION.--Any municipality  
11 incorporated under a special act may abandon its organization  
12 and organize itself under the provisions of the general law  
13 relating to municipalities.

14 A. If a petition signed by qualified electors of  
15 the municipality equal in number to not less than one-eighth  
16 of the total number of votes at the last preceding regular  
17 municipal election requests the governing body to submit to  
18 the qualified electors the question of reorganizing the  
19 municipality under the provisions of the Municipal Code, the  
20 governing body shall, within fourteen days after the petition  
21 is certified as valid, adopt an election resolution calling  
22 for a special election in the manner provided in the Local  
23 Election Act on the question of reorganizing the municipality  
24 under the provisions of general law. The election shall only  
25 be held in June or July in odd-numbered years or July or

1 August in even-numbered years in accordance with the  
2 provisions of the Local Election Act.

3 B. The petition may further propose that the  
4 boundary of the municipality incorporated by special act be  
5 extended by including any or all territory that is:

6 (1) laid off or platted;

7 (2) adjoining or contiguous to the  
8 municipality or any addition or subdivision of the  
9 municipality; and

10 (3) not within the boundary of another  
11 municipality.

12 C. The petition shall describe the boundary of  
13 the municipality as it would exist if the municipality  
14 incorporated by special act is reorganized under general law.  
15 The registered voters, residing within the boundary of the  
16 municipality as it would exist if the municipality  
17 incorporated by special act is reorganized, may vote in the  
18 election authorized in this section."

19 **SECTION 46.** Section 3-3-4 NMSA 1978 (being Laws 1965,  
20 Chapter 300, Section 14-3-4, as amended) is amended to read:

21 "3-3-4. MUNICIPALITIES INCORPORATED UNDER SPECIAL  
22 ACT--REORGANIZATION APPROVED--ELECTION FOR NEW OFFICERS--TERM  
23 OF OFFICE.--

24 A. If a majority of the votes cast on the  
25 question of reorganizing a municipality incorporated by a

1 special act favors reorganizing the municipality under  
2 general law, the governing body shall adopt an election  
3 resolution calling for an election of officers, which shall  
4 be held at the first regular local or general election  
5 following approval of reorganization. The election shall be  
6 called, conducted and canvassed in the manner provided in the  
7 Local Election Act.

8 B. The terms of office for the mayor, municipal  
9 judge and one-half of the members of the governing body shall  
10 be until the next regular local election. The terms of  
11 office for the remaining one-half of the governing body shall  
12 be until the second regular local election is held. The  
13 elected municipal officers shall continue in office until  
14 their successors are elected and qualified. The length of  
15 terms of the first members shall be determined by lot."

16 SECTION 47. Section 3-4-1 NMSA 1978 (being Laws 1965,  
17 Chapter 300, Section 14-4-1, as amended) is amended to read:

18 "3-4-1. DISINCORPORATION--PETITION--NOTICE OF  
19 ELECTION.--

20 A. If one-fourth of the registered voters of a  
21 municipality petition the board of county commissioners of  
22 the county in which the municipality is situated to  
23 disincorporate the municipality, the board of county  
24 commissioners shall, within fourteen days after the petition  
25 has been certified as valid, adopt an election resolution

1 calling for a special election to be held within the  
2 municipality on the question of disincorporating the  
3 municipality. At the top of each page of a disincorporation  
4 petition, the following heading shall be printed in  
5 substantially the following form:

6 "PETITION TO DISINCORPORATE THE MUNICIPALITY OF. . . . .

7 We, the undersigned registered voters of the  
8 municipality of . . . . ., pursuant to Section 3-4-1 NMSA 1978,  
9 petition the board of county commissioners of . . . . . county to  
10 conduct a special election on the question of  
11 disincorporating the municipality of . . . . .

12	Date	Name--Printed	Address	Usual
13		As Registered	As Registered	Signature."

14 The day for holding the election shall not be less than  
15 fifty days or more than sixty days after the board of county  
16 commissioners adopts the election resolution.

17 B. Notice of the election shall be published as  
18 required in the Local Election Act."

19 **SECTION 48.** Section 3-4-3 NMSA 1978 (being Laws 1965,  
20 Chapter 300, Section 14-4-3, as amended) is amended to read:

21 "3-4-3. DISINCORPORATION--CONDUCT OF ELECTION.--The  
22 election for disincorporation shall be conducted pursuant to  
23 the provisions of the Local Election Act."

24 **SECTION 49.** Section 3-5-1 NMSA 1978 (being Laws 1965,  
25 Chapter 300, Section 14-5-1, as amended) is amended to read:

1 "3-5-1. MUNICIPAL CONSOLIDATION--COMMISSIONERS--  
2 ORDINANCES--SPECIAL ELECTION--DECLARATION OF CONSOLIDATION--  
3 PAYMENT OF BONDED INDEBTEDNESS OR JUDGMENT LEVY.--

4 A. Whenever any two or more contiguous  
5 municipalities wish to consolidate as one municipality, the  
6 governing body of each municipality shall appoint three  
7 commissioners who shall prepare the terms for consolidation  
8 and submit the terms for consolidation to the respective  
9 governing bodies. If each governing body approves the terms  
10 for consolidation, it shall adopt an ordinance declaring  
11 approval of the terms for consolidation and shall provide for  
12 an election on the question of consolidation. The election  
13 shall be conducted pursuant to the provisions of the Local  
14 Election Act.

15 B. If a majority of the votes cast in each  
16 municipality favors consolidation, the governing body of each  
17 municipality shall declare, by ordinance, that consolidation  
18 has been approved between the municipalities and proceed to  
19 consolidate under the terms for consolidation. The municipal  
20 clerk of each municipality shall notify the secretary of  
21 finance and administration and the secretary of taxation and  
22 revenue that the consolidation has been approved by the  
23 electorate. If the question of consolidating the  
24 municipalities fails to receive a majority vote favoring  
25 consolidation in any one of the municipalities, the

1 consolidation shall fail.

2 C. If on the day of the election on consolidation  
3 any municipality proposing to consolidate has outstanding  
4 indebtedness or a judgment payable from a tax on property and  
5 the consolidation is approved, a tax sufficient to pay the  
6 interest and principal on such indebtedness or judgment shall  
7 continue to be levied on the property within the boundary of  
8 the municipality as it existed on the day of the election on  
9 the question of consolidation. Indebtedness created by the  
10 issuance of revenue bonds and the current obligations of each  
11 municipality shall be assumed by the consolidated  
12 municipality. The consolidated municipality may refund the  
13 indebtedness of the municipalities that are consolidated.

14 D. Certified copies of the entire proceedings for  
15 consolidation shall be filed with the clerk of the  
16 municipality so consolidated, the county clerk and the  
17 secretary of state. When certified copies of the  
18 consolidation have been filed as required in this section,  
19 the consolidation is complete."

20 **SECTION 50.** Section 3-10-1 NMSA 1978 (being Laws 1965,  
21 Chapter 300, Section 14-9-1, as amended) is amended to read:

22 "3-10-1. OFFICERS--ELECTIVE--TERM OF OFFICE.--

23 A. The elective officers of a municipality having a  
24 mayor-council form of government are:

25 (1) one mayor;

1 (2) the members of the governing body; and

2 (3) a municipal judge.

3 B. The elective officers of a municipality having a  
4 commission-manager form of government are:

5 (1) five commissioners; and

6 (2) a municipal judge.

7 C. Notwithstanding the provisions of Subsection A  
8 of this section, a municipality with a population of five  
9 hundred persons or less in the last federal decennial census  
10 shall not have a municipal judge if it adopts an effective  
11 ordinance in accordance with the provisions of Subsection B  
12 of Section 35-14-1 NMSA 1978.

13 D. In every noncharter municipality, except those  
14 noncharter municipalities having a commission-manager form of  
15 government or electing members of the governing body from  
16 districts, the terms of office for the mayor and members of  
17 the governing body shall be four years. The term of office  
18 for members of the governing body shall be staggered so that  
19 the terms of office for one-half of the members of the  
20 governing body will expire every two years.

21 E. Any elected municipal official whose term of  
22 office has expired shall continue in that office until a  
23 successor is elected and has taken office pursuant to the  
24 provisions of the Local Election Act."

25 SECTION 51. Section 3-11-5 NMSA 1978 (being Laws 1965,

1 Chapter 300, Section 14-10-5, as amended) is amended to read:

2 "3-11-5. MAYOR--APPOINTMENT OF OFFICERS AFTER  
3 ELECTION.--

4 A. At the organizational meeting of the governing  
5 body, the mayor shall submit, for confirmation by the  
6 governing body, the names of persons who shall fill the  
7 appointive offices of the municipality and the names of  
8 persons who shall be employed by the municipality. If the  
9 governing body fails to confirm any person as an appointive  
10 official or employee of the municipality, the mayor at the  
11 next regular meeting of the governing body shall submit the  
12 name of another person to fill the appointed office or to be  
13 employed by the municipality.

14 B. Any person holding an appointed office at the  
15 time of the municipal election shall continue in that office  
16 until the person's successor has been appointed and is  
17 qualified."

18 **SECTION 52.** Section 3-12-1 NMSA 1978 (being Laws 1965,  
19 Chapter 300, Section 14-11-1, as amended) is amended to read:

20 "3-12-1. VACANCY ON GOVERNING BODY.--Any vacancy on the  
21 governing body of a mayor-council municipality shall be  
22 filled by appointment of a qualified elector by the mayor of  
23 the municipality, with the advice and consent of the  
24 governing body. Any qualified elector appointed to fill a  
25 vacancy on the governing body shall serve until the next



1 regular local election, at which time a qualified elector  
2 shall be elected to fill the remaining unexpired term, if  
3 any.

4 **SECTION 53.** Section 3-13-1 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-12-1, as amended) is amended to read:

6 "3-13-1. CLERK--DUTIES.--

7 A. The clerk of the municipality shall:

8 (1) keep in custody all minutes, ordinances  
9 and resolutions approved by the governing body;

10 (2) attend all meetings of the governing body;

11 (3) record all proceedings, ordinances and  
12 resolutions of the governing body; and

13 (4) upon request, furnish copies of municipal  
14 records. The clerk may charge a reasonable fee for the cost  
15 of furnishing copies of municipal records.

16 B. The mayor with the consent of the governing body  
17 may designate other municipal employees to be deputy  
18 municipal clerks who shall have the right and duty to perform  
19 all of the duties of the municipal clerk."

20 **SECTION 54.** Section 3-14-2 NMSA 1978 (being Laws 1965,  
21 Chapter 300, Section 14-13-2, as amended) is amended to read:

22 "3-14-2. COMMISSION-MANAGER--SPECIAL ELECTION FOR  
23 ADOPTION.--

24 A. Upon petition signed by qualified electors, not  
25 less in number than fifteen percent of the votes cast for the

1 office of mayor at the last regular municipal election, filed  
2 with the municipal clerk and verified by the municipal clerk  
3 to contain a sufficient number of legal signatures, the  
4 governing body shall, within ten days of verification, adopt  
5 an election resolution calling for the holding of a special  
6 election on the question of organizing the municipality under  
7 the commission-manager form of government, or the governing  
8 body may submit to the qualified electors of the municipality  
9 the question of organizing the municipality under the  
10 commission-manager form of government. The election shall be  
11 held in June or July in odd-numbered years or July or August  
12 in even-numbered years in accordance with the provisions of  
13 the Local Election Act.

14 B. The question to be placed shall read  
15 substantially as follows:

16 "For the commission-manager form of government and  
17 providing for the election of five commissioners \_\_\_\_; and

18 Against the commission-manager form of government  
19 and providing for the election of five commissioners \_\_\_\_".

20 **SECTION 55.** Section 3-14-8 NMSA 1978 (being Laws 1965,  
21 Chapter 300, Section 14-13-8, as amended) is amended to read:

22 "3-14-8. COMMISSIONERS--SPECIAL ELECTION--TERMS.--

23 A. Within ten days after the adoption of the  
24 commission-manager form of government, the governing body  
25 shall adopt an election resolution calling for the holding of

1 an election for the purpose of electing five commissioners at  
2 the first regular or local or general election following  
3 adoption of the resolution. The election shall be conducted  
4 in the same manner as are regular local elections pursuant to  
5 the terms of the Local Election Act. The commissioners so  
6 elected shall determine their terms of office by lot, so that  
7 three commissioners shall serve until the next regular local  
8 election and two commissioners shall serve until the  
9 succeeding regular local election.

10 B. Their respective successors shall hold office  
11 for staggered periods of four years and until their  
12 successors are elected and take office as provided in the  
13 Local Election Act."

14 **SECTION 56.** Section 3-14-9 NMSA 1978 (being Laws 1965,  
15 Chapter 300, Section 14-13-9, as amended) is amended to read:

16 "3-14-9. VACANCIES IN COMMISSION.--If a vacancy occurs  
17 in the commission, the remaining elected and appointed  
18 commissioners shall, by a majority vote, appoint a qualified  
19 elector to fill the vacancy until the next regular local  
20 election, at which time a qualified elector shall be elected  
21 to fill the remaining unexpired term, if any."

22 **SECTION 57.** Section 3-14-16 NMSA 1978 (being Laws 1965,  
23 Chapter 300, Section 14-13-16) is amended to read:

24 "3-14-16. COMMISSION-MANAGER--RECALL--ELECTION--BALLOT--  
25 EFFECT--FILLING VACANCIES.--

1           A. In any municipality whose charter provides for  
2 recall elections and in any commission-manager municipality,  
3 any elective officer is subject to a recall election for  
4 malfeasance or misfeasance in office or a violation of the  
5 oath of office based upon acts or failures to act occurring  
6 during the current term of the official sought to be  
7 recalled.

8           B. The factual allegations that support the grounds  
9 for recall shall be presented in a complaint to the district  
10 court for the county in which the recall is proposed to be  
11 conducted. The district court shall hold a hearing to  
12 determine if probable cause exists for the grounds for  
13 recall. The proponents of the recall effort and the officer  
14 sought to be recalled shall be given an opportunity to  
15 present evidence at the hearing. In making its  
16 determination, the district court shall only consider  
17 evidence of acts or failures to act occurring during the  
18 current term of the official sought to be recalled.

19           C. If the district court determines that probable  
20 cause for the recall exists, the recall petition may be  
21 circulated. The recall petition shall cite the grounds of  
22 malfeasance or misfeasance in office or a violation of the  
23 oath of office by the official concerned. The cited grounds  
24 shall be based upon acts or failures to act occurring during  
25 the current term of the official sought to be recalled. The

1 grounds for recall in the petition shall be as found by the  
2 district court in its finding of probable cause. The recall  
3 petition shall be signed by the qualified electors in a  
4 number more than twenty percent of the average number of  
5 voters who voted at the previous four regular municipal  
6 elections or more than twenty percent of the number of voters  
7 who voted at the previous regular municipal election,  
8 whichever is the greater.

9 D. Upon verification by the municipal clerk of the  
10 signatures on the petition, the commission shall call a  
11 special election unless the regular municipal election occurs  
12 within sixty days, in which case the qualified electors shall  
13 vote on the recall at the regular election. In either case,  
14 there shall be a special ballot containing the name of the  
15 officer, the title of the office and the dates of the  
16 beginning and termination of the officer's official term.  
17 Below the name of the officer shall be two phrases, "For the  
18 recall" and "Against the recall", one below the other with a  
19 space after each for placing a cross where desired. If a  
20 majority of the votes cast favors recall and the number of  
21 votes cast favoring a recall are equal to or more than the  
22 number the officer received when the officer was a candidate  
23 for office, the officer who is the subject of recall is  
24 recalled from the office and the office in question is  
25 declared vacant.

1 E. If an officer is recalled, the officer shall not  
2 be eligible for reelection until the term for which the  
3 officer was originally elected has expired.

4 F. If the recall election results in a failure to  
5 secure the votes necessary to recall, the officer in question  
6 shall not be subject again to recall until six months have  
7 elapsed from the date the previous recall election was held.

8 G. A vacancy created by a recall election shall be  
9 filled in the same manner as other vacancies on the  
10 commission are filled. If all commissioners are recalled at  
11 the same election, the municipal clerk or, if there is no  
12 municipal clerk, the district court shall, within three days,  
13 call an election as provided in Section 3-14-8 NMSA 1978 for  
14 the election of five commissioners."

15 **SECTION 58.** Section 3-14-19 NMSA 1978 (being Laws 1965,  
16 Chapter 300, Section 14-13-19, as amended) is amended to  
17 read:

18 "3-14-19. ABANDONMENT OF COMMISSION--MANAGER  
19 GOVERNMENT.--

20 A. Within ten days of the verification of a  
21 petition submitted to the municipal clerk and signed by  
22 thirty percent of the qualified electors of the municipality,  
23 the commission shall adopt an election resolution calling for  
24 the holding of a special election to vote on the question of  
25 abandoning the commission-manager form of government. The

1 election shall be held in June or July in odd-numbered years  
2 or July or August in even-numbered years in accordance with  
3 the provisions of the Local Election Act.

4 B. If a majority of the votes cast at the special  
5 election favors abandonment of the commission-manager form of  
6 government, the form of government reverts to that form of  
7 government existing immediately preceding the adoption of the  
8 commission-manager form of government after the election and  
9 taking office of the new officers and the commission shall  
10 adopt an election resolution calling for the holding of an  
11 election to elect new officers, which shall be held at the  
12 first regular local or general election following adoption of  
13 the resolution.

14 C. The election shall be held in the same manner as  
15 regular local elections are held as provided in the Local  
16 Election Act. The mayor and one-half of the members of the  
17 governing body shall hold office until the next regular local  
18 election and the remaining one-half of the members of the  
19 governing body shall hold office until the succeeding regular  
20 local election. The terms of the members of the governing  
21 body shall be determined by lot after their election.

22 D. No election shall be held upon the question of  
23 abandoning the commission-manager form of government within  
24 two years after an election has been held adopting the  
25 commission-manager form of government or confirming its

1 continued existence."

2       **SECTION 59.** Section 3-15-10 NMSA 1978 (being Laws 1965,  
3 Chapter 300, Section 14-14-8) is amended to read:

4       "3-15-10. QUALIFICATIONS OF VOTERS--BALLOTS--CONDUCT OF  
5 ELECTION--EFFECT OF ADOPTION.--All qualified electors  
6 residing within the municipality shall be qualified to vote  
7 at the special election held under the Municipal Charter Act,  
8 and the vote shall be by separate ballots, one of which shall  
9 be:

10        "In favor of adoption of charter "; and the other:

11        "Against adoption of charter .

12 The special election shall be conducted in accordance with  
13 the Local Election Act and if a majority of all the votes  
14 cast shall favor the adoption of the charter, the charter  
15 shall take effect immediately insofar as necessary to  
16 authorize the election of officers, but shall not take effect  
17 otherwise until such date as may be specified in the charter,  
18 which date shall not be less than sixty days after the  
19 special election. After the date fixed by the charter, the  
20 municipality shall be deemed reorganized under the provisions  
21 of the charter, and the powers and duties of all officers  
22 elected or appointed under the former laws shall cease."

23       **SECTION 60.** Section 3-15-11 NMSA 1978 (being Laws 1965,  
24 Chapter 300, Section 14-14-9) is amended to read:

25       "3-15-11. FIRST ELECTION OF OFFICERS--TIME--LAW



1 GOVERNING.--In case the charter is adopted pursuant to  
2 Section 3-15-10 NMSA 1978, it shall be the duty of the  
3 presiding officer of the governing body of the municipality  
4 to issue a proclamation calling a special election for the  
5 election of such elective officers as may be provided for in  
6 the charter. The election shall be at least ten days before  
7 the date specified in the charter for it to go into effect,  
8 and the election shall be held in accordance with the  
9 provisions of the Local Election Act and the charter."

10 **SECTION 61.** Section 3-21-19 NMSA 1978 (being Laws 1965,  
11 Chapter 206, Section 5) is amended to read:

12 "3-21-19. ZONING COMMISSION.--A zoning commission  
13 consisting of five members shall be elected by the registered  
14 electors residing within the district in accordance with the  
15 provisions of the Local Election Act. Members of the  
16 commission shall be residents of the district, and each shall  
17 be elected for a term of two years. Any vacancy on the  
18 commission shall be filled by the remaining members  
19 appointing a new member to fill the unexpired term. Members  
20 of the commission shall serve without compensation."

21 **SECTION 62.** Section 3-21-20 NMSA 1978 (being Laws 1965,  
22 Chapter 206, Section 6) is amended to read:

23 "3-21-20. ELECTION OF MEMBERS TO THE COMMISSION.--  
24 Election of members to the commission shall be conducted  
25 pursuant to the Local Election Act."

1           **SECTION 63.** Section 3-23-2 NMSA 1978 (being Laws 1965,  
2 Chapter 300, Section 14-22-2, as amended) is amended to read:

3           "3-23-2. ELECTION ON QUESTION OF ACQUIRING UTILITY.--

4           A. No municipality shall acquire a municipal  
5 utility from funds acquired from the issuance of revenue  
6 bonds until the question of acquiring the utility is  
7 submitted, at a regular local election or special election,  
8 to a vote of the qualified electors of the municipality, and  
9 a majority of the votes cast on the question favors the  
10 acquisition of the utility. No special election shall be set  
11 for a date ninety days prior to the day of a regular local  
12 election. The acquisition by a municipality, which owns  
13 municipal electric facilities on July 1, 1979, of a  
14 generating facility or any interest in a jointly owned  
15 generating facility from funds acquired from the issuance of  
16 revenue bonds shall not be subject to the election  
17 requirement of this section.

18           B. Each question shall be listed separately on the  
19 ballot. The ballot shall:

20                   (1) contain a general description of the  
21 property to be acquired; and

22                   (2) allow each voter to indicate whether the  
23 voter favors or opposes the acquisition.

24           C. The election shall be called and conducted as  
25 provided in the Local Election Act.

1 D. If a majority of the votes cast on the question  
2 favors the acquisition of the utility, the governing body may  
3 acquire the utility.

4 E. If, pursuant to Article 9, Section 12 of the  
5 constitution of New Mexico and Sections 3-30-1 through 3-30-9  
6 NMSA 1978, the qualified electors of the municipality and  
7 nonresident municipal electors have voted in favor of  
8 creating a debt for the acquisition of a municipal utility  
9 and the municipality has incurred the debt, the municipality  
10 need not hold the election required in this section and it  
11 shall be presumed that the acquisition of a municipal utility  
12 has been approved, or, if the municipality has owned and  
13 operated a municipal utility for a period of more than one  
14 year, it shall be presumed that the acquisition of the  
15 municipal utility has been approved."

16 **SECTION 64.** Section 3-23-5.1 NMSA 1978 (being Laws 2001,  
17 Chapter 179, Section 1) is amended to read:

18 "3-23-5.1. MUNICIPAL UTILITY PERMANENT FUND.--

19 A. The governing body of a municipality may by  
20 ordinance establish a municipal utility permanent fund for  
21 each utility owned and operated by the municipality.

22 B. The municipal utility permanent fund shall be a  
23 fund in the municipal treasury into which may be deposited  
24 money from the sale of municipal utility assets or any  
25 portion of the unappropriated utility fund cash surplus that

1 is in excess of fifty percent of the prior fiscal year's  
2 municipal utility budget. Money in the fund may be invested  
3 by the municipal board of finance as provided in Sections  
4 6-10-10, 6-10-36 and 6-10-44 NMSA 1978.

5 C. Earnings from investment of a municipal utility  
6 permanent fund may be budgeted and appropriated by the  
7 governing body of the municipality for expenditure for any  
8 purpose related to the operation, maintenance and improvement  
9 of the municipal utility or deposited in the municipal  
10 utility permanent fund.

11 D. Money in the municipal utility permanent fund  
12 may be appropriated or expended only pursuant to approval of  
13 the voters of the municipality. The municipality may adopt a  
14 resolution calling for an election on the question of the  
15 expenditure of a specified amount of the municipal utility  
16 permanent fund for a specified purpose. The election shall  
17 be held within sixty days after the adoption of the  
18 resolution by the governing body. The election shall be  
19 called, conducted, counted and canvassed pursuant to the  
20 provisions of the Local Election Act. If a majority of the  
21 voters of the municipality voting on the question votes to  
22 approve the expenditure, that amount of money shall be  
23 available for appropriation from the municipal utility  
24 permanent fund for expenditure by the municipality for the  
25 specified purpose. If a majority of the voters of the

1 municipality voting on the question votes against the  
2 expenditure, no money in the municipal utility permanent fund  
3 may be appropriated or expended for that purpose. Following  
4 an election at which the question was not approved, that  
5 question shall not again be submitted to the voters of the  
6 municipality for at least one year from the date of that  
7 election."

8 **SECTION 65.** Section 3-30-6 NMSA 1978 (being Laws 1965,  
9 Chapter 300, Section 14-29-6, as amended) is amended to read:

10 "3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--  
11 SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

12 A. Before bonds are issued, the governing body of  
13 the municipality shall submit to a vote of the registered  
14 qualified electors of the municipality and the nonresident  
15 municipal electors the question of issuing the bonds. The  
16 election may be held at the same time as the regular local  
17 election or at any special election held pursuant to Article  
18 9, Section 12 of the constitution of New Mexico.

19 B. The governing body of the municipality shall  
20 give notice of the time and place of holding the election and  
21 the purpose for which the bonds are to be issued. The  
22 election shall be conducted pursuant to the provisions of the  
23 Local Election Act.

24 C. The question shall state the purpose for which  
25 the bonds are to be issued and the amount of the issue. If

1 bonds are to be issued for more than one purpose, a separate  
2 question shall be submitted to the voter for each purpose to  
3 be voted upon. The ballots shall contain words indicating  
4 the purpose of the bond issue and a place for a vote  
5 "For . . . (designate type) bonds" and "Against . . .  
6 (designate type) bonds" for each bond issue. The ballots  
7 shall be deposited in a separate ballot box unless voting  
8 machines are used."

9 **SECTION 66.** Section 3-30-7 NMSA 1978 (being Laws 1965,  
10 Chapter 300, Section 14-29-7, as amended) is amended to read:

11 "3-30-7. CANVASS OF BOND ELECTION--CERTIFICATION OF  
12 RESULTS--EFFECT.--

13 A. The vote upon each question proposing to issue  
14 negotiable bonds shall be canvassed as provided in the Local  
15 Election Act, and the municipal clerk shall file the  
16 certificate of canvass in the official minute book of the  
17 municipality.

18 B. If a majority of those voting on the question  
19 favors the creation of the debt, the governing body of the  
20 municipality may proceed to issue the negotiable bonds."

21 **SECTION 67.** Section 3-31-4 NMSA 1978 (being Laws 1965,  
22 Chapter 300, Section 14-30-4, as amended) is amended to read:

23 "3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--  
24 THREE-FOURTHS MAJORITY REQUIRED--RESOLUTION AUTHORIZING  
25 REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW MEXICO FINANCE

1 AUTHORITY.--

2 A. At a regular or special meeting called for the  
3 purpose of issuing revenue bonds as authorized in Section  
4 3-31-1 NMSA 1978, the governing body may adopt an ordinance  
5 that:

6 (1) declares the necessity for issuing revenue  
7 bonds;

8 (2) authorizes the issuance of revenue bonds  
9 by an affirmative vote of three-fourths of all the members of  
10 the governing body; and

11 (3) designates the source of the pledged  
12 revenues.

13 B. If a majority of the governing body, but less  
14 than three-fourths of all the members, votes in favor of  
15 adopting the ordinance authorizing the issuance of revenue  
16 bonds, the ordinance is adopted but shall not become  
17 effective until the question of issuing the revenue bonds is  
18 submitted to a vote of the qualified electors for their  
19 approval at a special or regular local election. If an  
20 election is necessary, the election shall be conducted in the  
21 manner provided in the Local Election Act.

22 C. In addition and as an alternative to adopting an  
23 ordinance as required by the provisions of Subsections A and  
24 B of this section, at a regular or special meeting called for  
25 the purpose of issuing revenue bonds as authorized in Section

1 3-31-1 NMSA 1978, the governing body may authorize the  
2 issuance and sale, from time to time, of revenue bonds in  
3 amounts not to exceed one million dollars (\$1,000,000) at any  
4 one time to the New Mexico finance authority by adoption of a  
5 resolution that:

6 (1) declares the necessity for issuing and  
7 selling revenue bonds to the New Mexico finance authority;

8 (2) authorizes the issuance and sale of  
9 revenue bonds to the New Mexico finance authority by an  
10 affirmative vote of a majority of all the members of the  
11 governing body; and

12 (3) designates the source of the pledged  
13 revenues.

14 At the option of the governing body, revenue bonds in an  
15 amount in excess of one million dollars (\$1,000,000) may be  
16 authorized by an ordinance adopted in accordance with  
17 Subsections A and B of this section and issued and sold to  
18 the New Mexico finance authority.

19 D. No ordinance or resolution may be adopted under  
20 the provisions of this section that uses as pledged revenues  
21 the municipal gross receipts tax authorized by Section  
22 7-19D-9 NMSA 1978 for a purpose that would be inconsistent  
23 with the purpose for which that municipal gross receipts tax  
24 revenue was dedicated. Any revenue in excess of the amount  
25 necessary to meet all principal and interest payments and



1 other requirements incident to repayment of the bonds shall  
2 be used for the purposes to which the revenue was dedicated."

3 **SECTION 68.** Section 3-41-2 NMSA 1978 (being Laws 1965,  
4 Chapter 300, Section 14-42-2, as amended) is amended to read:

5 "3-41-2. FLOOD CONTROL--TAX LEVY--LIMITATIONS--  
6 ELECTION--RESULT--BOND ISSUE MAY SUPPLEMENT--LEVY.--

7 A. A municipality may levy a tax upon all property  
8 subject to property taxation within the municipality for such  
9 length of time as is necessary to accomplish the purpose  
10 authorized in Sections 3-41-1 and 3-41-3 NMSA 1978. The rate  
11 of the tax authorized by this subsection shall not exceed  
12 five dollars (\$5.00), or any lower maximum amount required by  
13 operation of the rate limitation provisions of Section  
14 7-37-7.1 NMSA 1978 upon a tax levied under this section, on  
15 each one thousand dollars (\$1,000) of net taxable value, as  
16 that term is defined in the Property Tax Code.

17 B. Before levying the tax, the municipality shall  
18 submit to the qualified electors of the municipality the  
19 question of levying the tax. The question may be submitted  
20 at any regular or special local election called for that  
21 purpose. Notice of the election shall be given as provided  
22 in the Local Election Act.

23 C. The municipality shall print the words "For tax  
24 levy for flood protection purposes" and "Against tax levy for  
25 flood protection purposes" or words of like import. The vote

1 upon the question shall be separately canvassed as other  
2 municipal elections are canvassed.

3 D. If a majority of the votes cast favors the levy  
4 of the tax, the governing body shall levy and certify the  
5 levy as any other tax is levied for municipal purposes.

6 E. Nothing in this section shall be construed as  
7 prohibiting the issuance of negotiable bonds as authorized in  
8 Section 3-30-5 NMSA 1978 to pay the cost of preventing flood  
9 damage.

10 F. If a county has levied a tax for flood control  
11 purposes as authorized in Sections 4-50-1 through 4-50-9 NMSA  
12 1978 or any other law, the municipality is not prohibited  
13 from levying a tax as authorized in this section."

14 **SECTION 69.** Section 3-54-1 NMSA 1978 (being Laws 1983,  
15 Chapter 115, Section 1, as amended) is amended to read:

16 "3-54-1. AUTHORITY TO SELL OR LEASE MUNICIPAL UTILITY  
17 FACILITIES OR REAL PROPERTY--NOTICE--REFERENDUM.--

18 A. A municipality may lease or sell and exchange  
19 any municipal utility facilities or real property having a  
20 value of twenty-five thousand dollars (\$25,000) or less by  
21 public or private sale or lease any municipal facility or  
22 real property of any value normally leased in the regular  
23 operations of such facility or real property, and such sale  
24 or lease shall not be subject to referendum.

25 B. A municipality may lease or sell and exchange

1 any municipal utility facilities or real property having an  
2 appraised value in excess of twenty-five thousand dollars  
3 (\$25,000) by public or private sale or lease, subject to the  
4 referendum provisions set forth in this section. The value  
5 of municipal utility facilities or real property to be leased  
6 or sold and exchanged shall be determined by the appraised  
7 value of the municipal utility facilities or real property  
8 and not by the value of the lease. An appraisal shall be  
9 made by a qualified appraiser and submitted in writing to the  
10 governing body. If the sale price is less than the appraised  
11 value, the governing body shall cause a detailed written  
12 explanation of that difference to be prepared, and the  
13 written explanation shall be made available to any interested  
14 member of the public upon demand.

15 C. If a public sale is held, the bid of the highest  
16 responsible bidder shall be accepted unless the terms of the  
17 bid do not meet the published terms and conditions of the  
18 proposed sale, in which event the highest bid that does meet  
19 the published terms and conditions shall be accepted;  
20 provided, however, a municipality may reject all bids. Terms  
21 and conditions for a proposed public sale or lease shall be  
22 published at least twice, not less than seven days apart,  
23 with the last publication no less than fourteen days prior to  
24 the bid opening, and in accordance with the provisions of  
25 Subsection J of Section 3-1-2 NMSA 1978.

1           D. Any sale or lease of municipal utility  
2 facilities or real property entered into pursuant to  
3 Subsection B of this section shall be by ordinance of the  
4 municipality. Such an ordinance shall be effective forty-  
5 five days after its adoption, unless a referendum election is  
6 held pursuant to this section. The ordinance shall be  
7 published prior to adoption pursuant to the provisions of  
8 Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3  
9 NMSA 1978 and shall be published after adoption at least once  
10 within one week after adoption pursuant to the provisions of  
11 Subsection J of Section 3-1-2 NMSA 1978. Such publications  
12 shall concisely set forth at least:

- 13                   (1) the terms of the sale or lease;
- 14                   (2) the appraised value of the municipal  
15 utility facilities or real property;
- 16                   (3) the time and manner of payments on the  
17 lease or sale;
- 18                   (4) the amount of the lease or sale;
- 19                   (5) the identities of the purchasers or  
20 lessees; and
- 21                   (6) the purpose for the municipality making  
22 the lease or sale.

23           E. In order to call for a referendum election on a  
24 sale or lease ordinance, a petition shall be filed with the  
25 municipal clerk:

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(1) no later than thirty days after the adoption of the sale or lease ordinance;

(2) containing the names, addresses and signatures of at least fifteen percent of the qualified electors of the municipality; and

(3) containing the following heading on each page of the petition reprinted as follows:

"PETITION FOR A REFERENDUM

We, the undersigned registered voters of . . . . .  
. . . . . (insert name of  
municipality) petition the governing body of . . . . .  
. . . . . (insert name of municipality)  
to conduct a referendum election on ordinance number . . . .  
. . . . Ordinance number . . . . . would cause a . .  
. . . . . (insert "sale" or "lease") of  
municipal . . . . . (insert  
"real property" or "utility facilities").

Date Name (printed) Address Signature".

F. Section 3-1-5 NMSA 1978 shall apply to all petitions filed calling for a referendum election on a sale or lease ordinance.

G. If the municipal clerk certifies to the municipal governing body that the petition does contain the minimum number of valid names, addresses and signatures required to call a referendum election on the sale or lease

1 ordinance, the municipal governing body shall adopt an  
2 election resolution within fourteen days after the date the  
3 clerk makes such certification, calling for a referendum  
4 election on the sale or lease ordinance. The election  
5 resolution shall be adopted and published pursuant to the  
6 provisions of the Local Election Act and shall also concisely  
7 set forth:

- 8 (1) the terms of the sale or lease;
- 9 (2) the appraised value of the municipal  
10 utility facilities or real property;
- 11 (3) the time and manner of payments on the  
12 lease or sale;
- 13 (4) the amount of the lease or sale;
- 14 (5) the identities of all purchasers or  
15 lessees; and
- 16 (6) the purpose for the municipality making  
17 the lease or sale.

18 H. The referendum election on the sale or lease  
19 ordinance shall be held not later than ninety days after the  
20 election resolution is adopted. Such election shall be held  
21 at a special or regular local election and shall be conducted  
22 pursuant to the provisions of the Local Election Act. Any  
23 qualified elector of the municipality may vote in such a  
24 referendum election.

25 I. If a majority of the votes cast is to approve

1 the sale or lease ordinance, the sale or lease ordinance  
2 shall be effective after the election results have been  
3 canvassed and certified. If a majority of the votes cast is  
4 to disapprove the sale or lease ordinance, the ordinance  
5 shall not be effective."

6 **SECTION 70.** Section 4-48A-16 NMSA 1978 (being Laws 1978,  
7 Chapter 29, Section 16, as amended) is amended to read:

8 "4-48A-16. SPECIAL TAX IMPOSED FOR SPECIAL HOSPITAL  
9 DISTRICT.--

10 A. In each special hospital district, the board of  
11 trustees may adopt a resolution calling for an election for  
12 the purpose of authorizing the imposition of an ad valorem  
13 tax on all taxable property within the special hospital  
14 district. The election shall be held pursuant to the Local  
15 Election Act. The revenue from such tax shall be used to pay  
16 for current operations and maintenance of hospitals,  
17 including hospital facilities owned and operated by the  
18 special hospital district or hospitals operated and  
19 maintained by the special hospital district pursuant to an  
20 agreement with a political subdivision as provided in  
21 Subsection B of Section 4-48A-11 NMSA 1978, and to pay the  
22 operational costs of the special hospital district.

23 B. In the case of a special hospital district  
24 located wholly within one county, if authorized by a majority  
25 of the qualified electors of the special hospital district

1 voting on the question, the board of county commissioners of  
2 the county in which the special hospital district is located  
3 shall levy such tax at the same time and in the same manner  
4 as levies for ad valorem taxes for school districts are made  
5 and in the amount certified by the board of trustees as  
6 necessary to meet its approved annual budget, but in no event  
7 shall the tax levied exceed the rate limitation approved by  
8 the voters or the rate limitations provided in Subsection D  
9 of this section.

10 C. In the case of a special hospital district that  
11 is composed of all or a portion of two or more counties, if a  
12 majority of the qualified electors in the special hospital  
13 district of each county voting on the question authorizes a  
14 tax levy, the boards of county commissioners of the counties  
15 that agreed to form the special hospital district shall levy  
16 such tax in the manner provided in Subsection B of this  
17 section.

18 D. The tax authorized in this section shall not  
19 exceed four dollars twenty-five cents (\$4.25), or any lower  
20 maximum amount required by operation of the rate limitation  
21 provisions of Section 7-37-7.1 NMSA 1978 upon any tax imposed  
22 under this section, on each one thousand dollars (\$1,000) of  
23 net taxable value as that term is defined in the Property Tax  
24 Code, of all taxable property of the county within the  
25 hospital district for a period of time greater than four



1 years. An election upon the question of continuing the levy  
2 may be called by the board of trustees pursuant to the Local  
3 Election Act."

4 **SECTION 71.** Section 4-48A-17 NMSA 1978 (being Laws 1978,  
5 Chapter 29, Section 17, as amended) is amended to read:

6 "4-48A-17. ELECTION PROCEDURES.--All elections of the  
7 special hospital district, unless otherwise provided in the  
8 Special Hospital District Act, shall be called, conducted and  
9 canvassed pursuant to the Local Election Act."

10 **SECTION 72.** Section 4-49-8 NMSA 1978 (being Laws 1891,  
11 Chapter 83, Section 4, as amended) is amended to read:

12 "4-49-8. ELECTION ON BOND QUESTION--PETITION--NOTICE--  
13 ELECTION WITHOUT PETITION.--

14 A. Whenever a petition signed by not less than two  
15 hundred qualified electors of any county in this state is  
16 presented to the board of county commissioners asking that a  
17 vote be taken on the question or proposition of building,  
18 remodeling or making additions to necessary public buildings  
19 or necessary public projects, setting forth in general terms  
20 the object of the petition and the amount of bonds asked to  
21 be voted for, the board of county commissioners of the county  
22 to which the petition is presented shall, within ten days  
23 after the presentation, call an election to be held within  
24 sixty days thereafter in the county. Except as provided in  
25 Chapter 4, Article 49 NMSA 1978, such elections shall be held

1 and conducted pursuant to the provisions of the Local  
2 Election Act.

3 B. After the defeat of any proposition once voted  
4 for, a second special election upon any question or  
5 proposition under the provisions of Chapter 4, Article 49  
6 NMSA 1978 shall not be held for a term of two years unless a  
7 petition requesting another election, containing the names of  
8 qualified electors of the county equal to ten percent of the  
9 votes cast for governor in the last preceding election and  
10 otherwise conforming to the requirements of this section, is  
11 presented to the board of county commissioners; provided,  
12 however, that in no event shall more than two elections upon  
13 any proposition or question under Chapter 4, Article 49 NMSA  
14 1978 be held in any term of two years. A bond election as  
15 provided in this section may also be called by the board of  
16 county commissioners, without any petition, after the board  
17 has adopted a resolution calling such an election, which  
18 resolution shall set forth the object of the election and the  
19 amount of bonds to be issued."

20 **SECTION 73.** Section 5-10-4 NMSA 1978 (being Laws 1993,  
21 Chapter 297, Section 4, as amended) is amended to read:

22 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON  
23 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

24 A. No local or regional government shall provide  
25 public support for economic development projects as permitted

1 pursuant to Article 9, Section 14 of the constitution of  
2 New Mexico except as provided in the Local Economic  
3 Development Act or as otherwise permitted by law.

4 B. The total amount of public money expended and  
5 the value of credit pledged in the fiscal year in which that  
6 money is expended by a local government for economic  
7 development projects pursuant to Article 9, Section 14 of the  
8 constitution of New Mexico and the Local Economic Development  
9 Act shall not exceed ten percent of the annual general fund  
10 expenditures of the local government in that fiscal year.

11 The limits of this subsection shall not apply to:

12 (1) the value of any land or building  
13 contributed to any project pursuant to a project  
14 participation agreement;

15 (2) revenue generated through the imposition  
16 of the municipal infrastructure gross receipts tax pursuant  
17 to the Municipal Local Option Gross Receipts Taxes Act for  
18 furthering or implementing economic development plans and  
19 projects as defined in the Local Economic Development Act or  
20 projects as defined in the Statewide Economic Development  
21 Finance Act; provided that no more than the greater of fifty  
22 thousand dollars (\$50,000) or ten percent of the revenue  
23 collected shall be used for promotion and administration of  
24 or professional services contracts related to the  
25 implementation of any such economic development plan adopted

1 by the governing body;

2 (3) revenue generated through the imposition  
3 of a county infrastructure gross receipts tax pursuant to the  
4 County Local Option Gross Receipts Taxes Act for furthering  
5 or implementing economic development plans and projects as  
6 defined in the Local Economic Development Act or projects as  
7 defined in the Statewide Economic Development Finance Act;  
8 provided that no more than the greater of fifty thousand  
9 dollars (\$50,000) or ten percent of the revenue collected  
10 shall be used for promotion and administration of or  
11 professional services contracts related to the implementation  
12 of any such economic development plan adopted by the  
13 governing body;

14 (4) the proceeds of a revenue bond issue to  
15 which municipal infrastructure gross receipts tax revenue is  
16 pledged;

17 (5) the proceeds of a revenue bond issue to  
18 which county infrastructure gross receipts tax revenue is  
19 pledged; or

20 (6) funds donated by private entities to be  
21 used for defraying the cost of a project.

22 C. A regional or local government that generates  
23 revenue for economic development projects to which the limits  
24 of Subsection B of this section do not apply shall create an  
25 economic development fund into which such revenues shall be

1 deposited. The economic development fund and income from the  
2 economic development fund shall be deposited as provided by  
3 law. Money in the economic development fund may be expended  
4 only as provided in the Local Economic Development Act or the  
5 Statewide Economic Development Finance Act.

6 D. In order to expend money from an economic  
7 development fund for arts and cultural district purposes,  
8 cultural facilities or retail businesses, the governing body  
9 of a municipality or county that has imposed a municipal or  
10 county local option infrastructure gross receipts tax for  
11 furthering or implementing economic development plans and  
12 projects, as defined in the Local Economic Development Act,  
13 or projects, as defined in the Statewide Economic Development  
14 Finance Act, by referendum of the majority of the voters  
15 voting on the question approving the ordinance imposing the  
16 municipal or county infrastructure gross receipts tax before  
17 July 1, 2013 shall be required to adopt a resolution. The  
18 resolution shall call for an election to approve arts and  
19 cultural districts as a qualifying purpose and cultural  
20 facilities or retail businesses as a qualifying entity before  
21 any revenue generated by the municipal or county local option  
22 gross receipts tax for furthering or implementing economic  
23 development plans and projects, as defined in the Local  
24 Economic Development Act, or projects, as defined in the  
25 Statewide Economic Development Finance Act, can be expended

1 from the economic development fund for arts and cultural  
2 district purposes, cultural facilities or retail businesses.

3 E. The governing body shall adopt a resolution  
4 calling for an election within seventy-five days of the date  
5 the ordinance is adopted on the question of approving arts  
6 and cultural districts as a qualifying purpose and cultural  
7 facilities or retail businesses as a qualifying entity  
8 eligible to utilize revenue generated by the Municipal Local  
9 Option Gross Receipts Taxes Act or the County Local Option  
10 Gross Receipts Taxes Act for furthering or implementing  
11 economic development plans and projects as defined in the  
12 Local Economic Development Act or projects as defined in the  
13 Statewide Economic Development Finance Act.

14 F. The question shall be submitted to the voters of  
15 the municipality or county as a separate question at a  
16 regular local or county election or at a special election  
17 called for that purpose by the governing body. A special  
18 local election shall be called, conducted and canvassed as  
19 provided in the Local Election Act. A special county  
20 election shall be called, conducted and canvassed in  
21 substantially the same manner as provided by law for general  
22 elections.

23 G. If a majority of the voters voting on the  
24 question approves the ordinance adding arts and cultural  
25 districts and cultural facilities or retail businesses as an

1 approved use of the local option municipal or county economic  
2 development infrastructure gross receipts tax fund, the  
3 ordinance shall become effective on July 1 or January 1,  
4 whichever date occurs first after the expiration of three  
5 months from the date of the adopted ordinance. The ordinance  
6 shall include the effective date."

7 **SECTION 74.** Section 6-6-19 NMSA 1978 (being Laws 1989,  
8 Chapter 276, Section 3, as amended) is amended to read:

9 "6-6-19. LOCAL GOVERNMENT PERMANENT FUND.--

10 A. The local governing body of a county or  
11 municipality may by ordinance establish a local government  
12 permanent fund and a local government income fund.

13 B. The local government permanent fund shall  
14 constitute a fund in the treasury of the county or  
15 municipality into which may be deposited at the end of a  
16 fiscal year an amount of the unappropriated general fund  
17 surplus. The amount that may be deposited into the local  
18 government permanent fund is any portion of the  
19 unappropriated general fund surplus that is in excess of  
20 fifty percent of the prior fiscal year's budget of the county  
21 or municipality. Money in the permanent fund may be  
22 appropriated or expended only pursuant to approval of the  
23 voters of the county or municipality as provided in  
24 Subsection E of this section.

25 C. Money in the local government permanent fund may

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1 be invested by the local board of finance for the county or  
2 municipality in the types of investments specified in Section  
3 6-10-10 NMSA 1978 and as specified in Sections 6-10-36 and  
4 6-10-44 NMSA 1978, except as provided in Paragraph (2) of  
5 Subsection D of this section. Earnings from the investment  
6 of the permanent fund shall be deposited in the local  
7 government income fund in the treasury of the county or  
8 municipality. Money in the income fund may be budgeted and  
9 appropriated by the local governing body for expenditure for  
10 any purpose of the county or municipality or may be deposited  
11 in the permanent fund.

12 D. Investment authority for a local government  
13 permanent fund shall be as follows:

14 (1) if the fund is less than forty million  
15 dollars (\$40,000,000), it shall be invested as other funds of  
16 the local government; and

17 (2) if the fund is forty million dollars  
18 (\$40,000,000) or over, it may be invested as funds of class A  
19 counties are invested and, if the fund is managed by an  
20 investment advisor that is registered with the federal  
21 securities and exchange commission and that currently manages  
22 assets with a value of at least five hundred million dollars  
23 (\$500,000,000), the fund may also be invested in the  
24 following:

25 (a) corporate debt securities, provided



1 that: 1) the total amount invested in securities issued by  
2 the same corporation or related corporate affiliates shall  
3 not exceed five percent of the market value of the permanent  
4 fund; 2) the securities shall be denominated in United States  
5 currency; 3) the securities shall be rated AA- or higher by a  
6 nationally recognized statistical rating organization; 4) the  
7 final maturity of the securities may not exceed five years;  
8 and 5) the total amount invested pursuant to this  
9 subparagraph and Subparagraph (b) of this paragraph in the  
10 aggregate shall not exceed thirty percent of the market value  
11 of the permanent fund;

12 (b) commercial paper, provided that: 1)  
13 the total amount invested in securities issued by the same  
14 corporation or related corporate affiliates shall not exceed  
15 five percent of the market value of the permanent fund; 2)  
16 the securities shall be denominated in United States  
17 currency; 3) the securities shall be rated in the highest  
18 rating category by a nationally recognized statistical rating  
19 organization; 4) the final maturity of the securities may not  
20 exceed two hundred seventy days; and 5) the total amount  
21 invested pursuant to this subparagraph and Subparagraph (a)  
22 of this paragraph in the aggregate shall not exceed thirty  
23 percent of the market value of the permanent fund; and

24 (c) asset-backed securities, mortgage-  
25 backed securities, collateralized mortgage obligations or

1 commercial mortgage-backed securities, provided that: 1) the  
2 total amount invested pursuant to this subparagraph shall not  
3 exceed five percent of the market value of the permanent  
4 fund; 2) the securities shall be denominated in United States  
5 currency; 3) the securities shall be rated AAA by a  
6 nationally recognized statistical rating organization; and 4)  
7 the final stated maturity of the securities may not exceed  
8 ten years.

9 E. The governing body of a county or municipality  
10 may adopt a resolution calling for an election on the  
11 question of expenditure of any amount of the local government  
12 permanent fund for a specified county or municipal purpose.  
13 The election shall be held within sixty days after the action  
14 of the governing body. The election shall be called,  
15 conducted, counted and canvassed substantially in the manner  
16 provided by law for general elections within the county or  
17 special municipal elections under the Local Election Act. If  
18 a majority of the registered voters of the county or  
19 municipality voting on the question votes for the expenditure  
20 of a specified amount of the local government permanent fund  
21 for a specified county or municipal purpose, then that amount  
22 of money shall be available for appropriation and expenditure  
23 by the county or municipality for that purpose. If a  
24 majority of the registered voters of the county or  
25 municipality voting on the question votes against the

1 expenditure of a specified amount of the local government  
2 permanent fund for a specified county or municipal purpose,  
3 then money in the local government permanent fund shall not  
4 be expended or appropriated for that purpose. Following an  
5 election at which the question was not approved, the question  
6 shall not again be submitted to the voters of that county or  
7 municipality within one year of the date of that election."

8 **SECTION 75.** Section 6-15-26 NMSA 1978 (being Laws 1971,  
9 Chapter 132, Section 3, as amended) is amended to read:

10 "6-15-26. BOND ELECTIONS.--

11 A. Each proposition to issue bonds shall be  
12 submitted by a single set of ballots to all voters of the  
13 municipality, school district, county, junior college  
14 district or branch community college district, but the Bond  
15 Election Act does not prevent the submission of more than one  
16 proposition on the same ballot.

17 B. Except as expressly provided in the Bond  
18 Election Act, any bond election shall be called, conducted  
19 and canvassed pursuant to applicable statutes governing  
20 elections for the bonds; provided, however, absentee ballot  
21 provisions in the Election Code governing regular elections  
22 of the board shall apply. A bond election called by a  
23 municipality shall be called, conducted and canvassed  
24 pursuant to the applicable provisions of the Local Election  
25 Act, and the absentee ballot provisions of the Local Election

1 Act shall apply."

2 SECTION 76. Section 7-19D-9 NMSA 1978 (being Laws 1978,  
3 Chapter 151, Section 1, as amended) is amended to read:

4 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO  
5 IMPOSE RATE.--

6 A. The majority of the members of the governing  
7 body of any municipality may impose by ordinance an excise  
8 tax not to exceed a rate of one and one-half percent of the  
9 gross receipts of any person engaging in business in the  
10 municipality for the privilege of engaging in business in the  
11 municipality. A tax imposed pursuant to this section shall  
12 be imposed by the enactment of one or more ordinances, each  
13 imposing any number of municipal gross receipts tax rate  
14 increments, but the total municipal gross receipts tax rate  
15 imposed by all ordinances shall not exceed an aggregate rate  
16 of one and one-half percent of the gross receipts of a person  
17 engaging in business. Municipalities may impose increments  
18 of one-eighth of one percent.

19 B. The tax imposed pursuant to Subsection A of this  
20 section may be referred to as the "municipal gross receipts  
21 tax".

22 C. The governing body of a municipality may, at the  
23 time of enacting an ordinance imposing the tax authorized in  
24 Subsection A of this section, dedicate the revenue for a  
25 specific purpose or area of municipal government services,

1 including police protection, fire protection, public  
2 transportation or street repair and maintenance. If the  
3 governing body proposes to dedicate such revenue, the  
4 ordinance and, if any election is held, the ballot shall  
5 clearly state the purpose to which the revenue will be  
6 dedicated, and any revenue so dedicated shall be used by the  
7 municipality for that purpose unless a subsequent ordinance  
8 is adopted to change the purpose to which dedicated or to  
9 place the revenue in the general fund of the municipality.

10 D. An election shall be called on the questions of  
11 disapproval or approval of any ordinance enacted pursuant to  
12 Subsection A of this section or any ordinance amending such  
13 ordinance:

14 (1) if the governing body chooses to provide  
15 in the ordinance that it shall not be effective until the  
16 ordinance is approved by the majority of the registered  
17 voters voting on the question at an election to be held  
18 pursuant to the provisions of the Local Election Act; or

19 (2) if the ordinance does not contain a  
20 mandatory election provision as provided in Paragraph (1) of  
21 this subsection, upon the filing of a petition requesting  
22 such an election if the petition is filed:

23 (a) pursuant to the requirements of a  
24 referendum provision contained in a municipal home-rule  
25 charter and signed by the number of registered voters in the

1 municipality equal to the number of registered voters  
2 required in its charter to seek a referendum; or

3 (b) in all other municipalities, with the  
4 municipal clerk within thirty days after the adoption of such  
5 ordinance and the petition has been signed by a number of  
6 registered voters in the municipality equal to at least five  
7 percent of the number of the voters in the municipality who  
8 were registered to vote in the most recent regular municipal  
9 election.

10 E. The signatures on the petition filed in  
11 accordance with Subsection D of this section shall be  
12 verified by the municipal clerk. If the petition is verified  
13 by the municipal clerk as containing the required number of  
14 signatures of registered voters, the governing body shall  
15 adopt an election resolution calling for the holding of a  
16 special election on the question of approving or disapproving  
17 the ordinance unless the ordinance is repealed before the  
18 adoption of the election resolution. An election held  
19 pursuant to Subparagraph (a) or (b) of Paragraph (2) of  
20 Subsection D of this section shall be called, conducted and  
21 canvassed as provided in the Local Election Act, and the  
22 election shall be held within seventy-five days after the  
23 date the petition is verified by the municipal clerk or it  
24 may be held in conjunction with a regular local election if  
25 such election occurs within seventy-five days after the date

1 of verification by the municipal clerk.

2 F. If at an election called pursuant to Subsection  
3 D of this section a majority of the registered voters voting  
4 on the question approves the ordinance imposing the tax, the  
5 ordinance shall become effective in accordance with the  
6 provisions of the Municipal Local Option Gross Receipts Taxes  
7 Act. If at such an election a majority of the registered  
8 voters voting on the question disapproves the ordinance, the  
9 ordinance imposing the tax shall be deemed repealed and the  
10 question of imposing any increment of the municipal gross  
11 receipts tax authorized in this section shall not be  
12 considered again by the governing body for a period of one  
13 year from the date of the election.

14 G. Any municipality that has lawfully imposed by  
15 the requirements of the Special Municipal Gross Receipts Tax  
16 Act a rate of at least one-fourth of one percent shall be  
17 deemed to have imposed one-fourth of one percent municipal  
18 gross receipts tax pursuant to this section. Any rate of tax  
19 deemed to be imposed pursuant to this subsection shall  
20 continue to be dedicated to the payment of outstanding bonds  
21 issued by the municipality that pledged the tax revenues by  
22 ordinance until such time as the bonds are fully paid. A  
23 municipality may by ordinance change the purpose for any rate  
24 of tax deemed to be imposed at any time the revenues are not  
25 committed to payment of bonds.

1           H. Any law that imposes or authorizes the  
2 imposition of a municipal gross receipts tax or that affects  
3 the municipal gross receipts tax, or any law supplemental  
4 thereto or otherwise appertaining thereto, shall not be  
5 repealed or amended or otherwise directly or indirectly  
6 modified in such a manner as to impair adversely any  
7 outstanding revenue bonds that may be secured by a pledge of  
8 such municipal gross receipts tax unless such outstanding  
9 revenue bonds have been discharged in full or provision has  
10 been fully made therefor."

11           **SECTION 77.** Section 7-19D-11 NMSA 1978 (being Laws  
12 1991, Chapter 9, Section 3, as amended) is amended to read:

13           "7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS  
14 TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE  
15 REQUIREMENTS--ELECTION.--

16           A. A majority of the members of the governing body  
17 of a municipality may enact an ordinance imposing an excise  
18 tax on any person engaging in business in the municipality  
19 for the privilege of engaging in business. The rate of the  
20 tax shall not exceed one-fourth of one percent of the gross  
21 receipts of the person engaging in business and may be  
22 imposed in one-sixteenth of one percent increments by  
23 separate ordinances. Any ordinance enacting any increment of  
24 the first one-eighth of one percent of the tax is not subject  
25 to a referendum of any kind, notwithstanding any requirement



1 of any charter municipality, except that an increment that is  
2 imposed after July 1, 1998 for economic development purposes  
3 set forth in Paragraph (5) of Subsection C of this section  
4 shall be subject to a referendum as provided in Subsection D  
5 of this section.

6 B. The tax imposed pursuant to Subsection A of this  
7 section may be referred to as the "municipal infrastructure  
8 gross receipts tax".

9 C. The governing body of a municipality, at the  
10 time of enacting any ordinance imposing the rate of the tax  
11 authorized in Subsection A of this section, may dedicate the  
12 revenue for:

13 (1) payment of special obligation bonds issued  
14 pursuant to a revenue bond act;

15 (2) repair, replacement, construction or  
16 acquisition of infrastructure improvements, including  
17 sanitary sewer lines, storm sewers and other drainage  
18 improvements, water, water rights, water lines and utilities,  
19 streets, alleys, rights of way, easements, international  
20 ports of entry and land within the municipality or within the  
21 extraterritorial zone of the municipality;

22 (3) municipal general purposes;

23 (4) acquiring, constructing, extending,  
24 bettering, repairing or otherwise improving or operating or  
25 maintaining public transit systems or regional transit

1 systems or authorities; and

2 (5) furthering or implementing economic  
3 development plans and projects as defined in the Local  
4 Economic Development Act or projects as defined in the  
5 Statewide Economic Development Finance Act, and use of not  
6 more than the greater of fifty thousand dollars (\$50,000) or  
7 ten percent of the revenue collected for promotion and  
8 administration of or professional services contracts related  
9 to implementation of an economic development plan adopted by  
10 the governing body pursuant to the Local Economic Development  
11 Act and in accordance with law.

12 D. An ordinance imposing any increment of the  
13 municipal infrastructure gross receipts tax in excess of the  
14 first one-eighth of one percent or any increment imposed  
15 after July 1, 1998 for economic development purposes set  
16 forth in Paragraph (5) of Subsection C of this section shall  
17 not go into effect until after an election is held and a  
18 majority of the voters of the municipality voting in the  
19 election votes in favor of imposing the tax. The governing  
20 body shall adopt a resolution calling for an election within  
21 seventy-five days of the date the ordinance is adopted on the  
22 question of imposing the tax. The question shall be  
23 submitted to the voters of the municipality as a separate  
24 question at a regular local election or at a special election  
25 called for that purpose by the governing body. An election

1 shall be called, conducted and canvassed as provided in the  
2 Local Election Act. If a majority of the voters voting on  
3 the question approves the ordinance imposing the municipal  
4 infrastructure gross receipts tax, then the ordinance shall  
5 become effective in accordance with the provisions of the  
6 Municipal Local Option Gross Receipts Taxes Act. If the  
7 question of imposing the municipal infrastructure gross  
8 receipts tax fails, the governing body shall not again  
9 propose the imposition of any increment of the tax in excess  
10 of the first one-eighth of one percent for a period of one  
11 year from the date of the election."

12 **SECTION 78.** Section 7-19D-15 NMSA 1978 (being Laws  
13 2006, Chapter 15, Section 14) is amended to read:

14 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS  
15 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

16 A. A majority of the members of the governing body  
17 of a municipality that desires to become a member of a  
18 regional spaceport district pursuant to the Regional  
19 Spaceport District Act shall impose by ordinance an excise  
20 tax at a rate not to exceed one-half percent of the gross  
21 receipts of a person engaging in business in the municipality  
22 for the privilege of engaging in business. A tax imposed  
23 pursuant to this section may be imposed by one or more  
24 ordinances, each imposing any number of tax rate increments,  
25 but an increment shall not be less than one-sixteenth percent

1 of the gross receipts of a person engaging in business in the  
2 municipality, and the aggregate of all rates shall not exceed  
3 one-half percent of the gross receipts of a person engaging  
4 in business in the municipality. The tax may be referred to  
5 as the "municipal regional spaceport gross receipts tax".

6 B. A governing body, at the time of enacting an  
7 ordinance imposing a tax authorized in Subsection A of this  
8 section, shall dedicate a minimum of seventy-five percent of  
9 the revenue to a regional spaceport district for the  
10 financing, planning, designing, engineering and construction  
11 of a regional spaceport pursuant to the Regional Spaceport  
12 District Act and may dedicate no more than twenty-five  
13 percent of the revenue for spaceport-related projects as  
14 approved by resolution of the governing body of the  
15 municipality.

16 C. An ordinance imposing a municipal regional  
17 spaceport gross receipts tax shall not go into effect until  
18 after an election is held and a majority of the voters of the  
19 municipality voting in the election votes in favor of  
20 imposing the tax. The governing body shall adopt a  
21 resolution calling for an election within seventy-five days  
22 of the date the ordinance is adopted on the question of  
23 imposing the tax. The question shall be submitted to the  
24 voters of the municipality as a separate question at a  
25 regular local election or at a special election called for

1 that purpose by the governing body. An election shall be  
2 called, conducted and canvassed as provided in the Local  
3 Election Act. If a majority of the voters voting on the  
4 question approves the ordinance imposing the municipal  
5 regional spaceport gross receipts tax, the ordinance shall  
6 become effective in accordance with the provisions of the  
7 Municipal Local Option Gross Receipts Taxes Act. If the  
8 question of imposing the municipal regional spaceport gross  
9 receipts tax fails, the governing body shall not again  
10 propose the imposition of an increment of the tax for a  
11 period of one year from the date of the election.

12 D. The governing body of a municipality imposing  
13 the municipal regional spaceport gross receipts tax shall  
14 transfer a minimum of seventy-five percent of all proceeds  
15 from the tax to the regional spaceport district of which it  
16 is a member for regional spaceport purposes in accordance  
17 with the provisions of the Regional Spaceport District Act.  
18 The governing body of a municipality imposing the municipal  
19 regional spaceport gross receipts tax may retain no more than  
20 twenty-five percent of the municipal regional spaceport gross  
21 receipts tax for spaceport-related projects as approved by  
22 resolution of the governing body."

23 **SECTION 79.** Section 7-19D-17 NMSA 1978 (being Laws  
24 2012, Chapter 58, Section 1) is amended to read:

25 "7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--

1 AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

2 A. A majority of the members of the governing body  
3 of a municipality may enact an ordinance imposing an excise  
4 tax on any person engaging in business in the municipality  
5 for the privilege of engaging in business. The rate of the  
6 tax shall not exceed one-fourth percent of the gross receipts  
7 of the person engaging in business. An ordinance enacting  
8 the tax authorized by this section is subject to a positive  
9 referendum.

10 B. The tax imposed pursuant to this section may be  
11 referred to as the "federal water project gross receipts  
12 tax".

13 C. The governing body of a municipality, at the  
14 time of enacting an ordinance imposing the rate of the tax  
15 authorized in this section, shall dedicate the revenue for  
16 the repayment of loan obligations to the federal government  
17 for the construction, expansion, operation and maintenance of  
18 a water delivery system and for the expansion, operation and  
19 maintenance of that water delivery system after the loan  
20 obligation to the federal government is retired or repaid.  
21 The revenue from the federal water project gross receipts tax  
22 shall not be dedicated to repay revenue bonds or any other  
23 form of bonds.

24 D. An ordinance imposing the federal water project  
25 gross receipts tax shall not go into effect until an election

1 is held and a majority of the voters of the municipality  
2 voting in the election votes in favor of imposing the tax.  
3 The governing body shall adopt a resolution calling for an  
4 election within seventy-five days of the date the ordinance  
5 is adopted on the question of imposing the tax. The question  
6 shall be submitted to the voters of the municipality as a  
7 separate question at a regular local election or at a special  
8 election called for that purpose by the governing body. An  
9 election shall be called, conducted and canvassed as provided  
10 in the Local Election Act. If a majority of the voters  
11 voting on the question approves the ordinance imposing the  
12 federal water project gross receipts tax, then the ordinance  
13 shall become effective on January 1 or July 1 in accordance  
14 with the provisions of the Municipal Local Option Gross  
15 Receipts Taxes Act. If the question of imposing the federal  
16 water project gross receipts tax fails, the governing body  
17 shall not again propose the imposition of the tax for a  
18 period of one year from the date of the election.

19 E. A municipality that imposed a federal water  
20 project gross receipts tax pursuant to this section shall not  
21 also impose a municipal capital outlay gross receipts tax.

22 F. As used in this section, "municipality" means an  
23 incorporated municipality that has a population pursuant to  
24 the most recent federal decennial census of greater than  
25 twenty thousand but less than twenty-five thousand and is

1 located in a class B county."

2 SECTION 80. Section 7-24A-11 NMSA 1978 (being Laws  
3 1978, Chapter 182, Section 11, as amended) is amended to  
4 read:

5 "7-24A-11. MUNICIPAL GASOLINE TAX--PROCEDURE FOR  
6 ADOPTION OF ORDINANCE--ELECTION.--

7 A. The ordinance imposing a municipal gasoline tax  
8 shall not go into effect until after an election is held and  
9 a simple majority of the qualified electors of the  
10 municipality voting on the question votes in favor of  
11 imposing the municipal gasoline tax. The governing body of  
12 the municipality shall provide for an election on the  
13 question of imposing the municipal gasoline tax within sixty  
14 days after the day the ordinance is adopted. Such question  
15 may be submitted to the electors and voted upon as a separate  
16 question at any regular or special election or at any special  
17 election called for that purpose by the governing body. The  
18 election upon the question shall be called, held, conducted  
19 and canvassed in substantially the same manner as provided by  
20 law for special elections as provided in the Local Election  
21 Act. If the question of imposing a municipal gasoline tax  
22 fails, the governing body shall not again propose a municipal  
23 gasoline tax ordinance for a period of one year after the  
24 election.

25 B. After passage of a municipal gasoline tax



1 ordinance, the governing body of the municipality shall  
2 submit a certified copy of the ordinance to the taxation and  
3 revenue department."

4 **SECTION 81.** Section 21-13-8 NMSA 1978 (being Laws 1963,  
5 Chapter 17, Section 7, as amended) is amended to read:

6 "21-13-8. COMMUNITY COLLEGE BOARD.--

7 A. Community college board members shall be  
8 qualified electors and residents of the community college  
9 district.

10 B. Community college board members shall be elected  
11 for staggered terms of six years. Elections shall be held  
12 pursuant to the Local Election Act.

13 C. All vacancies caused in any other manner than by  
14 the expiration of the term of office shall be filled by  
15 appointment by the remaining members. An individual  
16 appointed by the remaining members of the board to fill a  
17 vacancy in office shall serve until the next community  
18 college board election, at which time candidates shall file  
19 for and be elected to fill the vacant position to serve the  
20 remainder of the unexpired term.

21 D. A community college board shall select from its  
22 members a chair and secretary who shall serve in these  
23 offices until the next regular community college board  
24 election. After each community college board election, the  
25 members shall proceed to reorganize."

1           **SECTION 82.** Section 21-16-5.1 NMSA 1978 (being Laws  
2 1994, Chapter 83, Section 3, as amended) is amended to read:

3           "21-16-5.1. BOARD MEMBERS--ELECTED FROM DISTRICTS--  
4 ELECTIONS.--

5           A. A district board shall be composed of five or  
6 seven members elected for four-year terms who shall reside in  
7 and be elected from single-member districts as provided in  
8 this section. If the board is a seven-member board, board  
9 members shall be elected for all seven positions on the  
10 board, with the board members elected to positions 1, 3, 5  
11 and 7 to be elected for initial terms of two years and the  
12 board members elected to positions 2, 4 and 6 to be elected  
13 for initial terms of four years. If the board is a five-  
14 member board, board members elected to positions 1, 3 and 5  
15 shall be elected for initial terms of two years and board  
16 members elected to positions 2 and 4 shall be elected for  
17 initial terms of four years. After the initial election for  
18 a district board, each board member shall be elected for a  
19 term of four years.

20           B. All election proceedings for technical and  
21 vocational institute district elections shall be conducted  
22 pursuant to the provisions of the Local Election Act.

23           C. Once following each federal decennial census,  
24 the board shall redistrict the technical and vocational  
25 institute district into election districts to ensure that the

1 districts remain as equal in population as is practicable and  
2 shall notify the county clerk of the new boundaries upon  
3 completion of the redistricting process. The new districts  
4 shall go into effect at the first regular board election  
5 thereafter. Candidates for the new single-member districts  
6 that are scheduled to be voted on at the election shall  
7 reside in and be elected from the appropriate new single-  
8 member district. Incumbent board members whose districts  
9 before redistricting were not scheduled to be voted on at the  
10 election need not reside in the new single-member districts  
11 corresponding to their position numbers and may serve out  
12 their terms. At the second regular board election held after  
13 the redistricting, all candidates for the new single-member  
14 districts that are scheduled to be voted on shall reside in  
15 and be elected from the appropriate single-member district.

16 D. All election districts covered by this section  
17 shall be contiguous, compact and as equal in population as is  
18 practicable.

19 E. A vacancy occurring on the board shall be filled  
20 in the same manner as provided for school board vacancies in  
21 Section 22-5-9 NMSA 1978; provided, however, that a vacancy  
22 that occurs in an election district where a nonresident board  
23 member had been serving shall be filled by a resident of that  
24 district."

25 SECTION 83. Section 21-16-14 NMSA 1978 (being Laws

1 1963, Chapter 108, Section 11, as amended) is amended to  
2 read:

3 "21-16-14. ADDITION OF SCHOOL DISTRICTS OR PORTIONS OF  
4 SCHOOL DISTRICTS TO EXISTING TECHNICAL AND VOCATIONAL  
5 INSTITUTE DISTRICTS.--

6 A. A technical and vocational institute district  
7 may be expanded by either the procedure in Subsections B, C  
8 and D of this section or the procedure in Subsections E and F  
9 of this section.

10 B. The qualified voters of a school district,  
11 portion of a school district, group of school districts  
12 within a county containing a technical and vocational  
13 institute district or in an adjoining county, not included in  
14 the technical and vocational institute district as originally  
15 formed, may petition the public education department to be  
16 added to the technical and vocational institute district.  
17 The department shall examine the petition, and if it finds  
18 that the petition is signed by a number of qualified voters  
19 residing within the pertinent school district or portion of a  
20 school district equal to ten percent of the votes cast for  
21 governor in such school district or portion of such school  
22 district in the last preceding general election, the  
23 department shall cause a survey to be made of the petitioning  
24 district or districts to determine the desirability of the  
25 proposed expansion of the technical and vocational institute

1 district.

2 C. In conducting the survey, the public education  
3 department, in conjunction with the higher education  
4 department, shall ascertain the attitude of the technical and  
5 vocational institute board and collect other information it  
6 deems necessary. If, on the basis of the survey, the public  
7 education department finds that the proposed addition of the  
8 petitioning area will promote an improved education service  
9 in the area, it shall approve the petition. The secretary of  
10 public education shall proceed to issue a proclamation and  
11 call an election pursuant to the provisions of the Local  
12 Election Act within the petitioning area and in the  
13 established technical and vocational institute district on  
14 the question of the inclusion of the petitioning area in the  
15 institute district.

16 D. If a majority of the votes cast in the  
17 petitioning area and a majority of the votes cast within the  
18 established institute district are in favor of the addition  
19 of the area, the public education department shall notify the  
20 local school board of each affected school district and the  
21 technical and vocational institute board of the results of  
22 the election and shall declare the extension of the  
23 boundaries of the institute district to include the  
24 petitioning area in which the proposed addition referendum  
25 carried by a majority vote.

1           E. If a technical and vocational institute district  
2 includes less than all of a school district, the institute  
3 board, by resolution of a majority of the members of the  
4 board, may call an election within the institute district and  
5 in the portion of the school district that is not included in  
6 the institute district on the question of the addition of the  
7 excluded portion of the school district to the established  
8 institute district. Such election shall be conducted  
9 pursuant to the provisions of the Local Election Act.

10           F. If a majority of the votes cast in the institute  
11 district and the portion of the school district that is  
12 outside the institute district are in favor of the addition  
13 of the excluded portion of the school district to the  
14 institute district, the board of the institute district shall  
15 declare the institute district to be expanded to include all  
16 of such school district.

17           G. Each area added to an existing technical and  
18 vocational institute district shall automatically be subject  
19 to any special levy on taxable property approved for the  
20 institute district for the maintenance of facilities and  
21 services and for support of bond issues."

22           **SECTION 84.** Section 21-16-20 NMSA 1978 (being Laws 1964  
23 (1st S.S.), Chapter 12, Section 5) is amended to read:

24           "21-16-20. SUBMISSION AT ELECTION--NOTICE--  
25 CERTIFICATION.--If a question is submitted pursuant to

1 Section 21-16-16 NMSA 1978 at an election, the submitting  
2 board shall notify the county clerk pursuant to the Local  
3 Election Act. The submitting board shall furnish to the  
4 county clerk of each county in which an affected school  
5 district is situate a certificate specifying the question to  
6 be submitted."

7 **SECTION 85.** Section 21-16A-6 NMSA 1978 (being Laws  
8 2000, Chapter 105, Section 6) is amended to read:

9 "21-16A-6. LEARNING CENTER TAX LEVY AUTHORIZED--  
10 ELECTION.--

11 A. A board may adopt a resolution authorizing, for  
12 learning center operational purposes, the imposition of a  
13 property tax upon the taxable value of property in the  
14 district. The total tax imposition that may be authorized  
15 under the Learning Center Act shall not exceed a rate of five  
16 dollars (\$5.00) on each one thousand dollars (\$1,000) of  
17 taxable value of property in each district. The tax  
18 authorized pursuant to this section may not be imposed for a  
19 period of more than six years.

20 B. The tax authorized in Subsection A of this  
21 section shall not be imposed in a district unless the  
22 question of authorizing the imposition of the tax is  
23 submitted to the voters of the district at an election held  
24 pursuant to the Local Election Act.

25 C. A resolution adopted pursuant to Subsection A of HLELC/HB 174  
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1 this section shall specify:

2 (1) the rate of the proposed tax;

3 (2) the date of the election at which the  
4 question of imposition of the tax will be submitted to the  
5 voters of the district;

6 (3) the period of time the tax is authorized  
7 to be imposed; and

8 (4) the proposed use of the revenues from the  
9 proposed tax.

10 D. The election required by this section shall be  
11 called, conducted and canvassed as provided in the Local  
12 Election Act.

13 E. If a majority of the voters voting on the  
14 question votes for a learning center tax levy pursuant to a  
15 resolution adopted under the Learning Center Act, the tax  
16 shall be imposed. The tax rate shall be certified by the  
17 department of finance and administration and imposed,  
18 administered and collected in accordance with the provisions  
19 of the Oil and Gas Ad Valorem Production Tax Act, the Oil and  
20 Gas Production Equipment Ad Valorem Tax Act, the Copper  
21 Production Ad Valorem Tax Act and the Property Tax Code.

22 F. If a majority of the voters voting on the  
23 question votes against a learning center tax levy pursuant to  
24 a resolution adopted under the Learning Center Act, the tax  
25 shall not be imposed. The board shall not again adopt a



1 resolution authorizing the imposition of a tax levy pursuant  
2 to the Learning Center Act for at least two years after the  
3 date of the resolution that the voters rejected.

4 G. The board may discontinue by resolution the  
5 imposition of any tax authorized pursuant to the Learning  
6 Center Act. The discontinuance resolution shall be mailed to  
7 the department of finance and administration no later than  
8 June 15 of the year in which a tax rate pursuant to that act  
9 is not to be certified."

10 **SECTION 86.** Section 22-5-8 NMSA 1978 (being Laws 1967,  
11 Chapter 16, Section 31, as amended) is amended to read:

12 "22-5-8. TERM OF OFFICE.--

13 A. The full term of office of a member of a school  
14 board shall be four years succeeding the member's election to  
15 office at a regular local election held pursuant to the Local  
16 Election Act.

17 B. Any member of a school board whose term of  
18 office has expired shall continue in that office until a  
19 successor is elected and qualified."

20 **SECTION 87.** Section 22-7-1 NMSA 1978 (being Laws 1977,  
21 Chapter 308, Section 1) is amended to read:

22 "22-7-1. SHORT TITLE.-- Chapter 22, Article 7 NMSA 1978  
23 may be cited as the "Local School Board Member Recall Act"."

24 **SECTION 88.** Section 22-7-13 NMSA 1978 (being Laws 1977,  
25 Chapter 308, Section 13, as amended) is amended to read:

1 "22-7-13. SPECIAL RECALL ELECTION.--

2 A. The date of the special recall election shall be  
3 set no later than one hundred twenty days after the date of  
4 the determination by the county clerk, but in no event shall  
5 the election be held within the period of time prohibited for  
6 local government elections pursuant to Section 1-12-71 NMSA  
7 1978.

8 B. The question to be submitted to the voters at  
9 the special recall election shall be whether the named member  
10 shall be recalled.

11 C. A special recall election may be held in  
12 conjunction with a regular or local special election.

13 D. Except as otherwise provided in the Local School  
14 Board Member Recall Act, special recall elections in a school  
15 district shall be conducted pursuant to the provisions of the  
16 Local Election Act.

17 E. The ballot shall be in compliance with the  
18 federal Voting Rights Act of 1965, as amended, and shall  
19 present the voter the choice of voting "for the removal of  
20 the named member" or "against the removal of the named  
21 member".

22 **SECTION 89.** Section 22-18-2 NMSA 1978 (being Laws 1967,  
23 Chapter 16, Section 229, as amended) is amended to read:

24 "22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--  
25 CALLING FOR BOND ELECTIONS.--

1           A. Before any general obligation bonds are issued,  
2 a local school board of a school district shall submit to a  
3 vote of the qualified electors of the school district the  
4 question of creating a debt by issuing the bonds, and a  
5 majority of those persons voting on the question shall vote  
6 for issuing the general obligation bonds.

7           B. The election on the question of creating a debt  
8 by issuing general obligation bonds shall be held pursuant to  
9 the provisions of the Local Election Act. The question shall  
10 be submitted to a vote at a district election upon the  
11 initiative of a local school board or upon a petition being  
12 filed with a local school board signed by qualified electors  
13 of the school district. The number of signatures required on  
14 the petition shall be at least ten percent of the number of  
15 votes cast for governor in the school district in the last  
16 preceding general election. For the purpose of determining  
17 the number of votes cast for governor in the school district  
18 at the last preceding general election, any portion of a  
19 voting division within the school district shall be construed  
20 to be wholly within the school district. A local school  
21 board shall call for a bond election at the next regular  
22 local or special election within ninety days following the  
23 date a properly signed petition is filed with it; provided  
24 that the timing of the election does not conflict with the  
25 provisions of Section 1-12-71 NMSA 1978."

1           **SECTION 90.** Section 22-18-4 NMSA 1978 (being Laws 1967,  
2 Chapter 16, Section 231, as amended) is amended to read:

3           "22-18-4. BOND ELECTIONS--CONDUCT.--

4           A. A person is required to be a registered  
5 qualified elector to vote in a bond election in a school  
6 district.

7           B. Bond elections in a school district shall be  
8 conducted pursuant to the Local Election Act."

9           **SECTION 91.** Section 22-18-8 NMSA 1978 (being Laws 1967,  
10 Chapter 16, Section 235) is amended to read:

11           "22-18-8. RESTRICTION ON BOND ELECTIONS.--In the event  
12 a majority of those persons voting on a question submitted to  
13 the voters in a bond election votes against creating a debt  
14 by issuing general obligation bonds, no bond election shall  
15 be held on the same question for a period of two years from  
16 the date of the bond election."

17           **SECTION 92.** Section 22-25-5 NMSA 1978 (being Laws 1975  
18 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

19           "22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

20           A. An election on the question of imposing a tax  
21 under the Public School Capital Improvements Act shall be  
22 held as prescribed in the Local Election Act.

23           B. The proclamation required to be published as  
24 notice of the election under Section 1-22-11 NMSA 1978 shall  
25 include as the question to be submitted to the voters whether

1 a property tax at a rate not to exceed the rate specified in  
2 the authorizing resolution should be imposed for the  
3 specified number of property tax years not exceeding six  
4 years upon the net taxable value of all property allocated to  
5 the school district for the capital improvements specified in  
6 the authorizing resolution.

7 C. The ballot shall include the information  
8 specified in Subsection B of this section and shall present  
9 the voter the choice of voting "for the public school capital  
10 improvements tax" or "against the public school capital  
11 improvements tax".

12 **SECTION 93.** Section 22-26-5 NMSA 1978 (being Laws 1983,  
13 Chapter 163, Section 5, as amended) is amended to read:

14 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

15 A. An election on the question of imposing a tax  
16 under the Public School Buildings Act shall be held as  
17 prescribed in the Local Election Act.

18 B. The resolution required to be published as  
19 notice of the election under Section 1-22-11 NMSA 1978 shall  
20 include as the question to be submitted to the voters whether  
21 a property tax at a rate not to exceed the rate specified in  
22 the authorizing resolution should be imposed for the  
23 specified number of property tax years not exceeding six  
24 years upon the net taxable value of all property allocated to  
25 the school district for capital improvements.

1 C. The ballot shall include the information  
2 specified in Subsection B of this section and shall present  
3 the voter the choice of voting "for the public school  
4 buildings tax" or "against the public school buildings tax"."

5 **SECTION 94.** Section 22-26A-10 NMSA 1978 (being Laws  
6 2007, Chapter 173, Section 10, as amended) is amended to  
7 read:

8 "22-26A-10. CONDUCT OF ELECTION--NOTICE--BALLOT.--

9 A. An election on the question of imposing a tax  
10 under Sections 22-26A-8 through 22-26A-12 NMSA 1978 shall be  
11 held as prescribed in the Local Election Act.

12 B. The resolution required to be published as  
13 notice of the election under Section 1-22-11 NMSA 1978 shall  
14 include as the question to be submitted to the voters whether  
15 a property tax at a rate not to exceed the rate specified in  
16 the authorizing resolution should be imposed for the  
17 specified number of property tax years not exceeding thirty  
18 years upon the net taxable value of all property allocated to  
19 the school district for payments due under lease purchase  
20 arrangements.

21 C. The ballot shall include the information  
22 specified in Subsection B of this section and shall present  
23 the voter the choice of voting "for the lease purchase tax"  
24 or "against the lease purchase tax"."

25 **SECTION 95.** Section 22-26A-11 NMSA 1978 (being Laws

1 2007, Chapter 173, Section 11) is amended to read:

2 "22-26A-11. ELECTION RESULTS--CERTIFICATION.--The  
3 certification of the results of an election held on the  
4 question of imposition of a lease purchase tax shall be made  
5 in accordance with the Local Election Act, and a copy of the  
6 certificate of results shall be mailed immediately to the  
7 secretary."

8 **SECTION 96.** Section 60-5A-1 NMSA 1978 (being Laws 1981,  
9 Chapter 39, Section 15, as amended) is amended to read:

10 "60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality  
11 containing over five thousand persons according to the latest  
12 United States census, whether the county in which that  
13 municipality is situated has adopted the local option  
14 provisions of the Liquor Control Act or any former act or  
15 not, or any county in the state may adopt local option in the  
16 county or municipality upon the following terms and  
17 conditions:

18 A. at any time after the effective date of the  
19 Liquor Control Act, the registered qualified electors of a  
20 proposed local option district may petition the governing  
21 body by filing one or more petitions in the appropriate  
22 office to hold an election for the purpose of determining  
23 whether the county or municipality shall adopt the local  
24 option provisions of the Liquor Control Act. If the  
25 aggregate of the signatures of such electors on all the

1 petitions equals or exceeds five percent of the number of  
2 registered voters of the district, the governing body shall  
3 call an election within seventy-five days of the verification  
4 of the petition. The date of the filing of the petition  
5 shall be the date of the filing of the last petition that  
6 brings the number of signatures up to the required five  
7 percent; provided, however, that the governing body shall  
8 refuse to recognize the petition if more than three months  
9 have elapsed between the date of the first signature and the  
10 filing of the last petition necessary to bring the number of  
11 signatures on the petition up to five percent;

12 B. the election shall be called, conducted, counted  
13 and canvassed substantially in the manner provided by law for  
14 general elections within the county or special elections  
15 within the municipality, except as otherwise provided in this  
16 section;

17 C. the votes at the election shall be counted,  
18 returned and canvassed as provided for in the case of general  
19 elections within the county or special elections within the  
20 municipality;

21 D. except as otherwise provided in this section,  
22 contests, recounts and rechecks shall be permitted as  
23 provided for in the case of candidates for county office in  
24 general elections or as provided for in the case of special  
25 elections within the municipality. Applications for



1 contests, recounts or rechecks may be filed by any person who  
2 voted in the election, and service shall be made upon the  
3 county clerk or municipal clerk as the case may be;

4 E. if a majority of all the votes cast at the  
5 election is cast in favor of the sale, service or public  
6 consumption of alcoholic beverages in the county or  
7 municipality, the chair of the governing body shall declare  
8 by order entered upon the records of the county or  
9 municipality that the county or municipality has adopted the  
10 local option provisions of the Liquor Control Act and shall  
11 notify the department of the results;

12 F. no election held pursuant to this section shall  
13 be held within forty-two days of a primary or general  
14 election. If within sixty days from the verification of a  
15 petition as provided in Subsection A of this section a  
16 primary or general election is held, the governing body may  
17 call an election for a day not less than sixty days after the  
18 primary or general election;

19 G. if an election is held under the provisions of  
20 the Liquor Control Act in a county that contains within its  
21 limits a municipality of more than five thousand persons  
22 according to the latest United States census, it is not  
23 necessary for the registered qualified electors in the  
24 municipality to file a separate petition asking for a  
25 separate or different vote on the question of adopting the

1 local option provisions of the Liquor Control Act by the  
2 municipality. The election in the county shall be conducted  
3 so as to separate the votes in the municipality from those in  
4 the remaining parts of the county. If a majority of the  
5 voters in the county, including the voters in the  
6 municipality, votes against the sale, service or public  
7 consumption of alcoholic beverages in the county, the county  
8 shall not adopt the local option provisions of the Liquor  
9 Control Act; but if a majority of the votes in the  
10 municipality is in favor of the sale, service or public  
11 consumption of alcoholic beverages, the municipality shall  
12 have adopted the local option provisions of the Liquor  
13 Control Act. Nothing contained in this subsection shall  
14 prevent any municipality from having a separate election  
15 under the terms of this section;

16 H. a county or municipality composing a local  
17 option district under the provisions of the Liquor Control  
18 Act or a former act may vote to discontinue the sale, service  
19 or public consumption of alcoholic beverages in the local  
20 option district; the discontinuance shall become effective on  
21 the ninetieth day after the local option election is held;  
22 and

23 I. nothing in this section shall invalidate any  
24 local option election held pursuant to any former act prior  
25 to July 1, 1981."

1           **SECTION 97.** Section 60-7A-1 NMSA 1978 (being Laws 1981,  
2 Chapter 39, Section 47, as amended) is amended to read:

3           "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--  
4 CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE  
5 LICENSED PREMISES--ELECTIONS.--

6           A. Provided that nothing in this section shall  
7 prohibit the consumption at any time of alcoholic beverages  
8 in guest rooms of hotels, alcoholic beverages shall be sold,  
9 served and consumed on licensed premises only during the  
10 following hours and days:

11                   (1) on Mondays from 7:00 a.m. until midnight;

12                   (2) on Tuesdays through Saturdays from after  
13 midnight of the previous day until 2:00 a.m., then from 7:00  
14 a.m. until midnight, except as provided in Subsections D and  
15 F of this section; and

16                   (3) on Sundays only after midnight of the  
17 previous day until 2:00 a.m., except as provided in  
18 Subsections C and E of this section and Section 60-7A-2 NMSA  
19 1978.

20           B. Alcoholic beverages shall be sold by a dispenser  
21 or a retailer in unbroken packages, for consumption off the  
22 licensed premises and not for resale, on Mondays through  
23 Saturdays from 7:00 a.m. until midnight, except as provided  
24 in Subsections D and F of this section.

25           C. A dispenser, restaurant licensee or club may,

1 upon payment of an additional fee of one hundred dollars  
2 (\$100), obtain a permit to sell, serve or permit the  
3 consumption of alcoholic beverages by the drink on the  
4 licensed premises on Sundays, subject to approval obtained  
5 pursuant to the process set forth in Subsection E of this  
6 section. Alcoholic beverages may be sold, served and  
7 consumed from 11:00 a.m. until midnight as set forth in the  
8 licensee's Sunday sales permit, except as otherwise provided  
9 for a restaurant licensee in Section 60-6A-4 NMSA 1978. The  
10 Sunday sales permit shall expire on June 30 of each year and  
11 may be renewed from year to year upon application for renewal  
12 and payment of the required fee. The permit fee shall not be  
13 prorated. Sales made pursuant to this subsection or  
14 Subsection G of this section shall be called "Sunday sales".

15 D. Retailers, dispensers, canopy licensees that  
16 were replaced by dispenser's licensees pursuant to Section  
17 60-6B-16 NMSA 1978, restaurant licensees, club licensees and  
18 governmental licensees or their lessees shall not sell,  
19 serve, deliver or allow the consumption of alcoholic  
20 beverages on the licensed premises from 2:00 a.m. on  
21 Christmas day until 7:00 a.m. on the day after Christmas,  
22 except as permitted pursuant to Subsection F of this section.

23 E. Sunday sales pursuant to the provisions of  
24 Subsection C of this section are permitted in a local option  
25 district that voted to permit them. If in that election a

1 majority of the voters in a local option district voted "no"  
2 on the question "Shall Sunday sales of alcoholic beverages by  
3 the drink for consumption on the licensed premises of  
4 licensees be allowed in this local option district?", Sunday  
5 sales are unlawful in that local option district upon  
6 certification of the election returns unless the provisions  
7 of Subsection J of this section apply. The question shall  
8 not again be placed on the ballot in that local option  
9 district until:

10 (1) at least one year has passed; and

11 (2) a petition is filed with the local  
12 governing body bearing the signatures of registered qualified  
13 electors of the local option district equal in number to ten  
14 percent of the number of votes cast and counted in the local  
15 option district for governor in the last preceding general  
16 election in which a governor was elected. The signatures on  
17 the petition shall be verified by the clerk of the county in  
18 which the local option district is situated.

19 F. On and after July 1, 2002, dispensers, canopy  
20 licensees that were replaced by dispenser's licensees  
21 pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees,  
22 club licensees and governmental licensees or lessees of these  
23 licensees; provided that the licensees have current, valid  
24 food service establishment permits, may sell, serve or allow  
25 the consumption of alcoholic beverages by the drink on

1 licensed premises from noon until 10:00 p.m. on Christmas  
2 day, except in a local option district in which, pursuant to  
3 petition and election under this subsection, a majority of  
4 the voters voting on the question votes against continuing  
5 such sales or consumption on Christmas day. An election  
6 shall be held on the question of whether to continue to allow  
7 the sale, service or consumption of alcoholic beverages by  
8 the drink on licensed premises from noon until 10:00 p.m. on  
9 Christmas day in a local option district, if a petition  
10 requesting the governing body of that district to call the  
11 election is signed by at least ten percent of the registered  
12 voters of the district and is filed with the clerk of the  
13 governing body of the district. Upon verification by the  
14 clerk that the petition contains the required number of  
15 signatures of registered voters, the governing body shall  
16 adopt a resolution calling an election on the question of  
17 allowing the sale, service or consumption of alcoholic  
18 beverages by the drink on licensed premises from noon until  
19 10:00 p.m. on Christmas day. The election may be held in  
20 conjunction with a regular election of the governing body or  
21 a regular local or special election held pursuant to the  
22 Local Election Act. The election shall be called, conducted,  
23 counted and canvassed in substantially the same manner as  
24 provided for general elections in the county under the  
25 Election Code or for special elections in a municipality

1 under the Local Election Act. If a majority of the voters  
2 voting on the question votes against continuing the sale,  
3 service or consumption of alcoholic beverages by the drink on  
4 licensed premises from noon until 10:00 p.m. on Christmas  
5 day, then such sales and consumption shall be prohibited. If  
6 a majority of the voters voting on the question votes to  
7 allow continued sale, service and consumption of alcoholic  
8 beverages by the drink on licensed premises from noon until  
9 10:00 p.m. on Christmas day, then such sales and consumption  
10 shall be allowed to continue. The question then shall not be  
11 submitted again to the voters within two years of the date of  
12 the last election on the question.

13 G. Notwithstanding the provisions of Subsection E  
14 of this section, any Indian nation, tribe or pueblo whose  
15 lands are wholly situated within the state that has, by  
16 statute, ordinance or resolution, elected to permit the sale,  
17 possession or consumption of alcoholic beverages on lands  
18 within the territorial boundaries of the Indian nation, tribe  
19 or pueblo may, by statute, ordinance or resolution of the  
20 governing body of the Indian nation, tribe or pueblo, permit  
21 Sunday sales by the drink on the licensed premises of  
22 licensees on lands within the territorial boundaries of the  
23 Indian nation, tribe or pueblo; provided that a certified  
24 copy of such enactment is filed with the office of the  
25 director and with the secretary of state.

1           H. Subject to the provisions of Subsection I of  
2 this section, a dispenser or retailer, upon payment of an  
3 additional fee of one hundred dollars (\$100), may obtain a  
4 permit to sell alcoholic beverages in unbroken packages for  
5 consumption off the licensed premises on Sundays from noon  
6 until midnight, and in those years when December 31 falls on  
7 a Sunday, from noon on December 31 until 2:00 a.m. of the  
8 following day. The permit shall expire on June 30 of each  
9 year and may be renewed from year to year upon application  
10 for renewal and payment of the required fee. The permit fee  
11 shall not be prorated. Sales made pursuant to the provisions  
12 of this subsection shall be called "Sunday package sales".

13           I. If a petition requesting the governing body of a  
14 local option district to call an election on the question of  
15 continuing to allow sales of alcoholic beverages in unbroken  
16 packages for consumption off the licensed premises on Sundays  
17 is filed with the clerk of the governing body and that  
18 petition is signed by at least ten percent of the number of  
19 registered voters of the local option district and the clerk  
20 of the governing body verifies the petition signatures, the  
21 governing body shall adopt a resolution calling an election  
22 on the question. The election shall be held within sixty  
23 days of the date that the petition is verified, or it may be  
24 held in conjunction with a regular election of the governing  
25 body, if the regular election occurs within sixty days of the



1 petition verification. The election shall be called,  
2 conducted, counted and canvassed substantially in the manner  
3 provided by law for general elections within a county or for  
4 special elections within a municipality pursuant to the Local  
5 Election Act. If a majority of the voters of the local  
6 option district voting in the election votes to allow the  
7 sale of alcoholic beverages in unbroken packages for  
8 consumption off the licensed premises, then those sales shall  
9 continue to be allowed. If a majority of the voters of the  
10 local option district voting in the election votes not to  
11 allow the Sunday package sales, then those Sunday package  
12 sales shall be prohibited commencing the first Sunday after  
13 the results of the election are certified. Following the  
14 election, the question of allowing the Sunday package sales  
15 shall not be submitted again to the voters within two years  
16 of the date of the last election on the question.

17 J. Sunday sales of alcoholic beverages shall be  
18 permitted at resorts and at horse racetracks statewide  
19 pursuant to the provisions of Section 60-7A-2 NMSA 1978."

20 **SECTION 98.** Section 62-6-5 NMSA 1978 (being Laws 1941,  
21 Chapter 84, Section 17A, as amended) is amended to read:

22 "62-6-5. LOCAL OPTION.--Notwithstanding any of the  
23 provisions in Section 62-6-4 NMSA 1978, any municipality  
24 desiring to avail itself of all the benefits of the Public  
25 Utility Act and of the regulatory services of the commission

1 may elect to come within the provisions of that act and to  
2 have the utilities owned and operated by it, either directly  
3 or through a municipally owned corporation, regulated and  
4 supervised under the provisions of that act. When a  
5 municipality so elects, in the manner provided in this  
6 section, it shall be subject to all the provisions of the  
7 Public Utility Act. The election shall be held as follows:

8           A. at any time after the effective date of the  
9 Public Utility Act, the legal voters of any municipality may  
10 petition in writing the governing body of the municipality by  
11 filing a petition in the office of the municipal clerk to  
12 hold an election for the purpose of determining whether the  
13 municipality shall be subject to the provisions of that act.  
14 If the aggregate of the names signed to the petition equals  
15 or exceeds twenty-five percent of the number of legal votes  
16 cast in the municipality for governor at the last preceding  
17 general election, the governing body of the municipality  
18 shall call an election to be held within sixty days of the  
19 filing of the petition in accordance with the provisions of  
20 the Local Election Act. Provided, however, that if a local  
21 election is to be held within six months of the filing of the  
22 petition, the election provided for in this section shall be  
23 held at the same time as that election;

24           B. the election shall be held in the same manner as  
25 and with the same registration books as for other municipal

1 elections. The ballots to be submitted to the voters at the  
2 election shall present the following questions:

3 "For regulation of municipally owned  
4 utilities by the public  
5 regulation commission. . . . . \_\_\_\_\_

6 Against regulation of municipally owned  
7 utilities by the public  
8 regulation commission. . . . . \_\_\_\_\_".

9 The votes at the election shall be counted, returned and  
10 canvassed as provided for in the Local Election Act. If the  
11 majority of all the votes are in favor of regulation of  
12 municipally owned utilities, the governing body of the  
13 municipality shall declare, by order entered upon the records  
14 of the municipality, that it is subject to all the provisions  
15 of the Public Utility Act. If the majority of all the votes  
16 are against such regulation, the result of the election shall  
17 be declared and entered in the same manner; and

18 C. no elections for the same purpose shall be held  
19 within two years of each other."

20 **SECTION 99.** Section 72-16-1 NMSA 1978 (being Laws 1963,  
21 Chapter 311, Section 1) is amended to read:

22 "72-16-1. SHORT TITLE.-- Chapter 72, Article 16 NMSA  
23 1978 may be cited as the "Arroyo Flood Control Act"."

24 **SECTION 100.** Section 72-16-4 NMSA 1978 (being Laws  
25 1963, Chapter 311, Section 4) is amended to read:

1 "72-16-4. DEFINITIONS.--Except where the context  
2 otherwise requires, as used in the Arroyo Flood Control Act:

3 A. "act" means the Arroyo Flood Control Act;

4 B. "acquisition" or "acquire" means the opening,  
5 laying out, establishment, purchase, construction, securing,  
6 installation, reconstruction, lease, gift, grant from the  
7 federal government or any public body or person, endowment,  
8 bequest, devise, condemnation, transfer, assignment, option  
9 to purchase, other contract or other acquirement, or any  
10 combination of those, of facilities, other property or any  
11 project, or an interest in them, authorized by the Arroyo  
12 Flood Control Act;

13 C. "authority" means the Albuquerque metropolitan  
14 arroyo flood control authority;

15 D. "board" means the board of directors of the  
16 Albuquerque metropolitan arroyo flood control authority;

17 E. "chair" means the chair of the board and  
18 president of the authority;

19 F. "condemnation" or "condemn" means the  
20 acquisition by the exercise of the power of eminent domain of  
21 property for any facilities, other property or project, or an  
22 interest in them, authorized by the Arroyo Flood Control Act.  
23 The authority may exercise in the state the power of eminent  
24 domain, either within or without the authority, and in the  
25 manner provided by law for the condemnation of private

1 property for public use, may take any property necessary to  
2 carry out any of the objects or purposes of the Arroyo Flood  
3 Control Act. In the event the construction of any facility  
4 or project authorized by that act, or any part of the act  
5 makes necessary the removal and relocation of any public  
6 utilities, whether on private or public right of way, the  
7 authority shall reimburse the owner of the public utility  
8 facility for the expense of removal and relocation, including  
9 the cost of any necessary land or rights in land;

10 G. "cost" or "cost of the project", or words of  
11 similar import, means any part designated by the board of the  
12 cost of any facilities, project or interest being acquired  
13 and of any property, rights, easements, privileges,  
14 agreements and franchises deemed by the authority to be  
15 necessary or useful and convenient or in connection  
16 therewith, which cost, at the option of the board, may  
17 include any part of the incidental costs pertaining to the  
18 project, including without limiting the generality of the  
19 foregoing, preliminary expenses advanced by any municipality  
20 from funds available for use in the making of surveys,  
21 preliminary plans, estimates of cost and other preliminaries;  
22 for the costs of appraising and printing and employing  
23 engineers, architects, fiscal agents, attorneys at law,  
24 clerical help or other agents or employees; for the costs of  
25 capitalizing interest or any discount on securities, of

1 inspection, of any administrative, operating and other  
2 expenses of the authority prior to the levy and collection of  
3 taxes and of reserves for working capital, operation,  
4 maintenance or replacement expenses or for payment or  
5 security of principal of or interest on any securities; for  
6 the costs of making, publishing, posting, mailing and  
7 otherwise giving any notice in connection with the project,  
8 the taking of options, the issuance of securities, the filing  
9 or recordation of instruments and the levy and collection of  
10 taxes and installments; for the costs of reimbursements by  
11 the authority to any public body, the federal government or  
12 any person of any money expended for or in connection with  
13 any facility or project; and for all other expenses necessary  
14 or desirable and appertaining to any project, as estimated or  
15 otherwise ascertained by the board;

16 H. "director" means a member of the board;

17 I. "disposal" or "dispose" means the sale,  
18 destruction, razing, loan, lease, gift, grant, transfer,  
19 assignment, mortgage, option to sell, other contract or other  
20 disposition, or any combination thereof, of facilities, other  
21 property or any project, or an interest in them, authorized  
22 by the Arroyo Flood Control Act;

23 J. "engineer" means any engineer in the permanent  
24 employ of the authority or any independent competent engineer  
25 or firm of engineers employed by the authority in connection

1 with any facility, property project or power authorized by  
2 the Arroyo Flood Control Act;

3 K. "equipment" or "equip" means the furnishing of  
4 all necessary or desirable, related or appurtenant  
5 facilities, or any combination of them, appertaining to any  
6 facilities, property or project or interest in them,  
7 authorized by the Arroyo Flood Control Act;

8 L. "facility" means any of the water facilities,  
9 sewer facilities or other property appertaining to the flood  
10 control system of the authority;

11 M. "federal government" means the United States or  
12 any agency, instrumentality or corporation of the United  
13 States;

14 N. "federal securities" means the bills,  
15 certificates of indebtedness, notes or bonds that are direct  
16 obligations of, or the principal and interest of which  
17 obligations are unconditionally guaranteed by, the United  
18 States;

19 O. "governing body" means the city council, city  
20 commission, board of commissioners, board of trustees, board  
21 of directors or other legislative body of the public body  
22 proceeding under the Arroyo Flood Control Act, in which body  
23 the legislative powers of the public body are vested;

24 P. "hereby", "herein", "hereinabove",  
25 "hereinafter", "hereinbefore", "hereof", "hereto" and

1 "hereunder" refer to the Arroyo Flood Control Act and not  
2 solely to the particular portion of the act in which such  
3 word is used;

4 Q. "improvement" or "improve" means the extension,  
5 widening, lengthening, betterment, alteration,  
6 reconstruction, repair or other improvement, or any  
7 combination, of facilities, other property or project or any  
8 interest in them, authorized by the Arroyo Flood Control Act;

9 R. "mailed notice" or "notice by mail" means the  
10 giving by the engineer, secretary or any deputy, as  
11 determined by the board, of any designated written or printed  
12 notice addressed to the last known owner of each tract of  
13 real property in question or other designated person at the  
14 owner's last known address, by deposit, at least ten days  
15 prior to the designated hearing or other time or event, in  
16 the United States mails, postage prepaid, as first-class  
17 mail. In the absence of fraud, the failure to mail a notice  
18 shall not invalidate any proceedings under the Arroyo Flood  
19 Control Act. The names and addresses of the property owners  
20 shall be obtained from the records of the county assessor or  
21 from such other source as the secretary or the engineer deems  
22 reliable. Any list of names and addresses may be revised  
23 from time to time, but the list need not be revised more  
24 frequently than at twelve-month intervals. Any mailing of  
25 notice required shall be verified by the affidavit or



1 certificate of the engineer, secretary, deputy or other  
2 person mailing the notice, which verification shall be  
3 retained in the records of the authority at least until all  
4 taxes and securities appertaining to taxes have been paid in  
5 full or any claim is barred by a statute of limitations;

6 S. "may" is permissive;

7 T. "municipality" means the city of Albuquerque or  
8 any other incorporated city, town or village in the state,  
9 whether incorporated or governed under a general act, special  
10 legislative act or special charter of any type. "Municipal"  
11 pertains thereto;

12 U. "person" means any human being, association,  
13 partnership, firm or corporation, excluding a public body and  
14 excluding the federal government;

15 V. "president" means the president of the authority  
16 and the chair of the board;

17 W. "project" means any structure, facility,  
18 undertaking or system that the authority is authorized to  
19 acquire, improve, equip, maintain or operate. A project may  
20 consist of all kinds of personal and real property. A  
21 project shall appertain to the flood control system that the  
22 authority is authorized and directed to provide within and  
23 without the authority's boundaries;

24 X. "property" means real property and personal  
25 property;

1           Y. "publication" or "publish" means publication in  
2 at least the one newspaper designated as the authority's  
3 official newspaper and published in the authority in the  
4 English language at least once a week and of general  
5 circulation in the authority. Except as otherwise  
6 specifically provided or necessarily implied, "publication"  
7 or "publish" also means publication for at least once a week  
8 for three consecutive weeks by three weekly insertions, the  
9 first publication being at least fifteen days prior to the  
10 designated time or event, unless otherwise stated. It is not  
11 necessary that publication be made on the same day of the  
12 week in each of the three calendar weeks, but not less than  
13 fourteen days shall intervene between the first publication  
14 and the last publication, and publication shall be complete  
15 on the day of the last publication. Any publication required  
16 shall be verified by the affidavit of the publisher and filed  
17 with the secretary;

18           Z. "public body" means the state or any agency,  
19 instrumentality or corporation of the state, or any  
20 municipality, school district or other type district or any  
21 other political subdivision of the state, excluding the  
22 authority and excluding the federal government;

23           AA. "qualified elector" means a person qualified  
24 and registered to vote in general elections in the state who  
25 is a resident of the authority at the time of any election

1 held under the provisions of the Arroyo Flood Control Act or  
2 at any other time in reference to which the term "qualified  
3 elector" is used;

4 BB. "real property" means:

5 (1) land, including land under water;

6 (2) buildings, structures, fixtures and  
7 improvements on land;

8 (3) any property appurtenant to or used in  
9 connection with land; and

10 (4) every estate, interest, privilege,  
11 easement, franchise and right in land, legal or equitable,  
12 including without limiting the generality of the foregoing,  
13 rights of way, terms for years and liens, charges or  
14 encumbrances by way of judgment, mortgage or otherwise, and  
15 the indebtedness secured by the liens;

16 CC. "secretary" means the secretary of the  
17 authority;

18 DD. "secretary of state" means the secretary of the  
19 state of New Mexico;

20 EE. "securities" means any notes, warrants, bonds,  
21 temporary bonds or interim debentures or other obligations of  
22 the authority or any public body appertaining to any project,  
23 or interest in a project authorized by the Arroyo Flood  
24 Control Act;

25 FF. "sewer facilities" means any one or more of the HLELC/HB 174  
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1 various devices used in the collection, channeling,  
2 impounding or disposition of storm, flood or surface drainage  
3 waters, including all inlets, collection, drainage or  
4 disposal lines, canals, intercepting sewers, outfall sewers,  
5 all pumping, power and other equipment and appurtenances; all  
6 extensions, improvements, remodeling, additions and  
7 alterations; and any rights or interest in such sewer  
8 facilities;

9 GG. "sewer improvement" or "improve any sewer"  
10 means the acquisition, reacquisition, improvement,  
11 reimprovement or repair of any storm sewer, or combination  
12 storm and sanitary sewer, including collecting and  
13 intercepting sewer lines or mains, submains, trunks,  
14 laterals, outlets, ditches, ventilation stations, pumping  
15 facilities, ejector stations and all other appurtenances and  
16 machinery necessary, useful or convenient for the collection,  
17 transportation and disposal of storm water;

18 HH. "shall" is mandatory;

19 II. "state" means the state of New Mexico or any  
20 agency, instrumentality or corporation of the state of New  
21 Mexico;

22 JJ. "street" means any street, avenue, boulevard,  
23 alley, highway or other public right of way used for any  
24 vehicular traffic;

25 KK. "taxes" means general (ad valorem) taxes

1 pertaining to any project authorized by the Arroyo Flood  
2 Control Act; and

3 LL. "treasurer" means the treasurer of the  
4 authority."

5 **SECTION 101.** Section 72-16-8 NMSA 1978 (being Laws  
6 1963, Chapter 311, Section 8) is amended to read:

7 "72-16-8. BOARD OF DIRECTORS.--The governing body of  
8 the authority hereby created is a board of directors  
9 consisting of five qualified electors of the authority. All  
10 powers, rights, privileges and duties vested in or imposed  
11 upon the authority are exercised and performed by and through  
12 the board of directors; provided that the exercise of any  
13 executive, administrative and ministerial powers may be, by  
14 the board, delegated and redelegated to officers and  
15 employees of the authority. Except for the first directors  
16 appointed as provided for in Section 72-16-9 NMSA 1978, and  
17 except for any director chosen to fill an unexpired term, the  
18 term of each director runs for six years. Each director,  
19 subject to such exceptions, shall serve a six-year term, and  
20 each director shall serve until a successor has been duly  
21 chosen and qualified."

22 **SECTION 102.** Section 72-16-10 NMSA 1978 (being Laws  
23 1963, Chapter 311, Section 10, as amended) is amended to  
24 read:

25 "72-16-10. ELECTION OF DIRECTORS.--

1           A. Elections shall be held pursuant to the  
2 provisions of the Local Election Act. Directors shall be  
3 elected from single-member districts in which they reside.  
4 The board shall ensure that the districts remain contiguous,  
5 compact and as equal in population as is practicable,  
6 assessing the existing districts following each federal  
7 decennial census to accomplish that objective. A  
8 redistricting shall be effective at the following regular  
9 board election. Incumbent board members whose residences are  
10 redistricted out of their districts may serve out their term  
11 of office.

12           B. The qualified electors of the authority shall  
13 elect similarly one or two qualified electors as directors to  
14 serve six-year terms as directors and as successors to the  
15 directors whose terms end following each election. Nothing  
16 may be construed as preventing qualified electors of the  
17 authority from single-member districts from being elected or  
18 reelected as directors to succeed themselves."

19           **SECTION 103.** Section 72-16-11 NMSA 1978 (being Laws  
20 1963, Chapter 311, Section 11, as amended) is amended to  
21 read:

22           "72-16-11. NOMINATION OF DIRECTORS.--Written  
23 nominations of any candidate as director may be filed in  
24 accordance with the provisions of the Local Election Act.  
25 Each nomination of any candidate shall be signed by not less

1 than fifty qualified electors who reside within the district  
2 for which the candidate has been nominated, shall designate  
3 the name of the candidate nominated and shall recite that the  
4 subscribers are qualified electors of the district for which  
5 the candidate is nominated and that the candidate designated  
6 is a qualified elector of the authority and resides within  
7 the district for which the candidate is nominated. No  
8 qualified elector may nominate more than one candidate for  
9 any vacancy."

10 **SECTION 104.** Section 72-16-13 NMSA 1978 (being Laws  
11 1963, Chapter 311, Section 13) is amended to read:

12 "72-16-13. ORGANIZATIONAL MEETINGS.--Except for the  
13 first board, each board shall meet on the first business day  
14 following the first day of the month that the term of office  
15 begins for members elected in the immediately preceding  
16 election at the office of the board within the authority.  
17 Each member of the board, before entering upon the member's  
18 official duties, shall take and subscribe on oath to support  
19 the constitution of the United States and the constitution  
20 and laws of New Mexico and to discharge faithfully and  
21 impartially the duties of office to the best of the member's  
22 ability, which oath shall be filed in the office of the  
23 secretary of state. Each director shall, before entering  
24 upon the director's official duties, give a bond to the  
25 authority in the sum of ten thousand dollars (\$10,000) with

1 good and sufficient surety, conditioned for the faithful  
2 performance of all of the duties of office, without fraud,  
3 deceit or oppression, and the accounting for all money and  
4 property coming into the director's hands and the prompt and  
5 faithful payment of all money and the delivering of all  
6 property coming into the director's custody or control  
7 belonging to the authority to the director's successors in  
8 office. Premiums on all bonds provided for in this section  
9 shall be paid by the authority, and all such bonds shall be  
10 kept on file in the office of the secretary of state."

11 **SECTION 105.** Section 72-16-22 NMSA 1978 (being Laws  
12 1963, Chapter 311, Section 22, as amended) is amended to  
13 read:

14 "72-16-22. ADDITIONAL POWERS OF THE AUTHORITY.--The  
15 authority may exercise the following duties, privileges,  
16 immunities, rights, liabilities and disabilities appertaining  
17 to a public body politic and corporate and constituting a  
18 quasi-municipal corporation and political subdivision of the  
19 state established as an instrumentality exercising public and  
20 essential governmental and proprietary functions to provide  
21 for the public health, safety and general welfare:

22 A. perpetual existence and succession;

23 B. adopt, have and use a corporate seal and alter  
24 the same at pleasure;

25 C. sue and be sued and be a party to suits, actions



1 and proceedings;

2 D. commence, maintain, intervene in, defend,  
3 compromise, terminate by settlement or otherwise, and  
4 otherwise participate in, and assume the cost and expense of,  
5 any and all actions and proceedings now or hereafter begun  
6 and appertaining to the authority, its board, its officers,  
7 agents or employees, or any of the authority's duties,  
8 privileges, immunities, rights, liabilities and disabilities,  
9 or the authority's flood control system, other property of  
10 the authority or any project;

11 E. enter into contracts and agreements, including  
12 but not limited to contracts with the federal government, the  
13 state and any other public body;

14 F. borrow money and issue securities evidencing any  
15 loan to or amount due by the authority, provide for and  
16 secure the payment of any securities and the rights of the  
17 holders thereof, and purchase, hold and dispose of  
18 securities, as hereinafter provided;

19 G. refund any loan or obligation of the authority  
20 and issue refunding securities to evidence such loan or  
21 obligation without any election;

22 H. purchase, trade, exchange, encumber and  
23 otherwise acquire, maintain and dispose of property and  
24 interests therein;

25 I. levy and cause to be collected general (ad

1 valorem) taxes on all property subject to property taxation  
2 within the authority; provided that the total tax levy,  
3 excluding any levy for the payment of any debt of the  
4 authority authorized pursuant to the Arroyo Flood Control  
5 Act, for any fiscal year shall not exceed an aggregate total  
6 of fifty cents (\$.50), or any lower amount required by  
7 operation of the rate limitation provisions of Section  
8 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand  
9 dollars (\$1,000) of net taxable value, as that term is  
10 defined in the Property Tax Code, by certifying, on or before  
11 the fifteenth day of July in each year in which the board  
12 determines to levy a tax, to the board of county  
13 commissioners of Bernalillo county, or by such other date as  
14 the laws of the state may prescribe to such other body having  
15 authority to levy taxes within each county wherein the  
16 authority has any territory, the rate so fixed, with  
17 directions that, at the time and in the manner required by  
18 law for levying taxes for other purposes, such body having  
19 authority to levy taxes shall levy the tax upon the net  
20 taxable value of all property subject to property taxation  
21 within the authority, in addition to such other taxes as may  
22 be levied by such body, as provided in Sections 72-16-23  
23 through 72-16-27 NMSA 1978. No taxes may be levied and  
24 collected for any purpose, or any contract made, until a bond  
25 issue has been submitted to and approved by the qualified

1 electors as hereinafter provided;

2 J. hire and retain officers, agents, employees,  
3 engineers, attorneys and any other persons, permanent or  
4 temporary, necessary or desirable to effect the purposes  
5 hereof, defray any expenses incurred thereby in connection  
6 with the authority, and acquire office space, equipment,  
7 services, supplies, fire and extended coverage insurance, use  
8 and occupancy insurance, workers' compensation insurance,  
9 property damage insurance, public liability insurance for the  
10 authority and its officers, agents and employees, and other  
11 types of insurance, as the board may determine; provided,  
12 however, that no provision herein authorizing the acquisition  
13 of insurance shall be construed as waiving any immunity of  
14 the authority or any director, officer or agent thereof and  
15 otherwise existing under the laws of the state;

16 K. condemn property for public use;

17 L. acquire, improve, equip, hold, operate, maintain  
18 and dispose of a flood control system, storm sewer  
19 facilities, project and appurtenant works, or any interest  
20 therein, wholly within the authority, or partially within and  
21 partially without the authority, and wholly within, wholly  
22 without or partially within and partially without any public  
23 body all or any part of the area of which is situated within  
24 the authority;

25 M. pay or otherwise defray the cost of any project;

1           N. pay or otherwise defray and contract so to pay  
2 or defray, for any term not exceeding fifty years, without an  
3 election, except as hereinafter otherwise provided, the  
4 principal of, any interest on, and any other charges  
5 appertaining to, any securities or other obligations of the  
6 federal government or any public body or person incurred in  
7 connection with any such property so acquired by the  
8 authority;

9           O. establish and maintain facilities within or  
10 without the authority, across or along any public street,  
11 highway, bridge, viaduct or other public right of way, or in,  
12 upon, under or over any vacant public lands, which public  
13 lands are now, or may become, the property of the state, or  
14 across any stream of water or water course, without first  
15 obtaining a franchise from the municipality, county or other  
16 public body having jurisdiction over the same; provided that  
17 the authority shall cooperate with any public body having  
18 such jurisdiction, shall promptly restore any such street,  
19 highway, bridge, viaduct or other public right of way to its  
20 former state of usefulness as nearly as may be and shall not  
21 use the same in such manner as to impair completely or  
22 unnecessarily the usefulness thereof;

23           P. deposit any money of the authority, subject to  
24 the limitations in Article 8, Section 4 of the constitution  
25 of New Mexico, in any banking institution within or without

1 the state and secured in such manner and subject to such  
2 terms and conditions as the board may determine, with or  
3 without the payment of any interest on any such deposit;

4 Q. invest any surplus money in the authority  
5 treasury, including such money in any sinking or reserve fund  
6 established for the purpose of retiring any securities of the  
7 authority, not required for the immediate necessities of the  
8 authority, in its own securities or in federal securities, by  
9 direct purchase of any issue of such securities, or part  
10 thereof, at the original sale of the same, or by the  
11 subsequent purchase of such securities;

12 R. sell any such securities thus purchased and  
13 held, from time to time;

14 S. reinvest the proceeds of any such sale in other  
15 securities of the authority or in federal securities, as  
16 provided in Subsection Q of this section;

17 T. sell in season from time to time such securities  
18 thus purchased and held, so that the proceeds may be applied  
19 to the purposes for which the money with which such  
20 securities were originally purchased was placed in the  
21 treasury of the authority;

22 U. accept contributions or loans from the federal  
23 government for the purpose of financing the planning,  
24 acquisition, improvement, equipment, maintenance and  
25 operation of any enterprise in which the authority is

1 authorized to engage, and enter into contracts and cooperate  
2 with, and accept cooperation and participation from, the  
3 federal government for these purposes;

4 V. enter, without any election, into joint  
5 operating or service contracts and agreements, acquisition,  
6 improvement, equipment or disposal contracts or other  
7 arrangements, for any term not exceeding fifty years, with  
8 the federal government, any public body or any person  
9 concerning storm sewer facilities, or any project, whether  
10 acquired by the authority or by the federal government, any  
11 public body or any person, and accept grants and  
12 contributions from the federal government, any public body or  
13 any person in connection therewith;

14 W. enter into and perform, without any election,  
15 when determined by the board to be in the public interest and  
16 necessary for the protection of the public health, contracts  
17 and agreements, for any term not exceeding fifty years, with  
18 the federal government, any public body or any person for the  
19 provision and operation by the authority of storm sewer  
20 facilities;

21 X. enter into and perform, without any election,  
22 contracts and agreements with the federal government, any  
23 public body or any person for or concerning the planning,  
24 construction, lease or other acquisition, improvement,  
25 equipment, operation, maintenance, disposal, and the

1 financing of any project, including but not necessarily  
2 limited to any contract or agreement for any term not  
3 exceeding fifty years;

4 Y. enter upon any land, make surveys, borings,  
5 soundings and examinations for the purposes of the authority,  
6 and locate the necessary works of any project and roadways  
7 and other rights of way appertaining to any project herein  
8 authorized; acquire all property necessary or convenient for  
9 the acquisition, improvement or equipment of such works;

10 Z. cooperate with and act in conjunction with the  
11 state, or any of its engineers, officers, boards, commissions  
12 or departments, or with the federal government or any of its  
13 engineers, officers, boards, commissions or departments, or  
14 with any other public body or any person in the acquisition,  
15 improvement or equipment of any project for the controlling  
16 of flood or storm waters of the authority, or for the  
17 protection of life or property therein, or for any other  
18 works, acts or purposes provided for herein, and adopt and  
19 carry out any definite plan or system of work for any such  
20 purpose;

21 AA. cooperate with the federal government or any  
22 public body by an agreement therewith by which the authority  
23 may:

24 (1) acquire and provide, without cost to the  
25 operating entity, the land, easements and rights of way

1 necessary for the acquisition, improvement or equipment of  
2 the flood control system or any project;

3 (2) hold and save harmless the cooperating  
4 entity free from any claim for damages arising from the  
5 acquisition, improvement, equipment, maintenance and  
6 operation of the flood control system or any project;

7 (3) maintain and operate any project in  
8 accordance with regulations prescribed by the cooperating  
9 entity; and

10 (4) establish and enforce flood channel limits  
11 and regulations, if any, satisfactory to the cooperating  
12 entity;

13 BB. carry on technical and other investigations of  
14 all kinds, make measurements, collect data and make analyses,  
15 studies and inspections pertaining to control of floods,  
16 sewer facilities, and any project, both within and without  
17 the authority, and for this purpose the authority has the  
18 right of access through its authorized representative to all  
19 lands and premises within the state;

20 CC. have the right to provide from revenues or  
21 other available funds an adequate fund for the improvement  
22 and equipment of the authority's flood control system or of  
23 any parts of the works and properties of the authority;

24 DD. prescribe and enforce reasonable rules and  
25 regulations for the prevention of further encroachment upon



1 existing defined waterways, by their enlargement or other  
2 modification, for additional waterway facilities to prevent  
3 flooding;

4 EE. require any person desiring to make a  
5 connection to any storm water drain or flood control facility  
6 of the authority or to cause storm waters to be emptied into  
7 any ditch, drain, canal, floodway or other appurtenant  
8 structure of the authority firstly to make application to the  
9 board to make the connection, to require the connection to be  
10 made in such manner as the board may direct;

11 FF. refuse, if reasonably justified by the  
12 circumstances, permission to make any connection designated  
13 in Subsection DD or Subsection EE of this section;

14 GG. make and keep records in connection with any  
15 project or otherwise concerning the authority;

16 HH. arbitrate any differences arising in connection  
17 with any project or otherwise concerning the authority;

18 II. have the management, control and supervision of  
19 all the business and affairs appertaining to any project  
20 herein authorized, or otherwise concerning the authority, and  
21 of the acquisition, improvement, equipment, operation and  
22 maintenance of any such project;

23 JJ. prescribe the duties of officers, agents,  
24 employees and other persons and fix their compensation;  
25 provided that the compensation of employees and officers

1 shall be established at prevailing rates of pay for  
2 equivalent work;

3 KK. enter into contracts of indemnity and guaranty,  
4 in such form as may be approved by the board, relating to or  
5 connected with the performance of any contract or agreement  
6 which the authority is empowered to enter into under the  
7 provisions hereof or of any other law of the state;

8 LL. provide, by any contract for any term not  
9 exceeding fifty years, or otherwise, without an election:

10 (1) for the joint use of personnel, equipment  
11 and facilities of the authority and any public body,  
12 including without limitation public buildings constructed by  
13 or under the supervision of the board of the authority or the  
14 governing body of the public body concerned, upon such terms  
15 and agreements and within such areas within the authority as  
16 may be determined, for the promotion and protection of  
17 health, comfort, safety, life, welfare and property of the  
18 inhabitants of the authority and any such public body; and

19 (2) for the joint employment of clerks,  
20 stenographers and other employees appertaining to any  
21 project, now existing or hereafter established in the  
22 authority, upon such terms and conditions as may be  
23 determined for the equitable apportionment of the expenses  
24 therefrom resulting;

25 MM. obtain financial statements, appraisals,

1 economic feasibility reports and valuations of any type  
2 appertaining to any project or any property pertaining  
3 thereto;

4 NN. adopt any resolution authorizing a project or  
5 the issuance of securities, or both, or otherwise  
6 appertaining thereto, or otherwise concerning the authority;

7 OO. make and execute a mortgage, deed of trust,  
8 indenture or other trust instrument appertaining to a project  
9 or to any securities herein authorized, or to both, except as  
10 provided in Subsection PP of this section and in Section  
11 72-16-54 NMSA 1978;

12 PP. make all contracts, execute all instruments and  
13 do all things necessary or convenient in the exercise of the  
14 powers granted herein, or in the performance of the  
15 authority's covenants or duties, or in order to secure the  
16 payment of its securities; provided that no encumbrance,  
17 mortgage or other pledge of property, excluding any money, of  
18 the authority is created thereby; and provided further that  
19 no property, excluding money, of the authority is liable to  
20 be forfeited or taken in payment of such securities;

21 QQ. have and exercise all rights and powers  
22 necessary or incidental to or implied from the specific  
23 powers granted herein, which specific powers shall not be  
24 considered as a limitation upon any power necessary or  
25 appropriate to carry out the purposes and intent hereof; and

1 RR. exercise all or any part or combination of the  
2 powers herein granted."

3 SECTION 106. Section 72-16-28 NMSA 1978 (being Laws  
4 1963, Chapter 311, Section 28, as amended) is amended to  
5 read:

6 "72-16-28. ELECTIONS.--Each biennial election of  
7 directors, each election proposition to issue bonds and all  
8 other elections shall be conducted in accordance with the  
9 Local Election Act."

10 SECTION 107. Section 72-16-89 NMSA 1978 (being Laws  
11 1963, Chapter 311, Section 89) is amended to read:

12 "72-16-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF  
13 BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation  
14 or other provision herein, whenever a majority of the  
15 qualified electors of the authority voting on a proposal to  
16 issue bonds has authorized the authority to issue bonds for  
17 any purpose herein authorized, the authority is authorized to  
18 borrow money without any other election in anticipation of  
19 taxes, the proceeds of the bonds or any other revenues of the  
20 authority, or any combination thereof, and to issue interim  
21 debentures to evidence the amount so borrowed. Interim  
22 debentures may mature at such time not exceeding a period of  
23 time equal to the estimated time needed to effect the purpose  
24 for which the bonds are so authorized to be issued, plus two  
25 years, as the board may determine. Except as otherwise

1 provided in this section and in Sections 72-16-90 and  
2 72-16-91 NMSA 1978, interim debentures shall be issued as  
3 provided herein for securities in Sections 72-16-47 through  
4 72-16-80 NMSA 1978. Taxes, other revenues of the authority,  
5 including without limiting the generality of the foregoing,  
6 proceeds of bonds to be thereafter issued or reissued or  
7 bonds issued for the purpose of securing the payment of  
8 interim debentures may be pledged for the purpose of securing  
9 the payment of the interim debentures. Any bonds pledged as  
10 collateral security for the payment of any interim debentures  
11 shall mature at such time as the board may determine, but in  
12 no event exceeding forty years from the date of either any of  
13 such bonds or any of such interim debentures, whichever date  
14 is the earlier. Any such bonds pledged as collateral  
15 security shall not be issued in an aggregate principal amount  
16 exceeding the aggregate principal amount of the interim  
17 debenture secured by a pledge of such bonds, nor shall they  
18 bear interest at any time that with any interest accruing at  
19 the same time on the interim debenture so secured exceeds six  
20 percent per year."

21 **SECTION 108.** Section 72-17-1 NMSA 1978 (being Laws  
22 1967, Chapter 156, Section 1) is amended to read:

23 "72-17-1. SHORT TITLE.-- Chapter 72, Article 17 NMSA  
24 1978 may be cited as the "Las Cruces Arroyo Flood Control  
25 Act"."

1           **SECTION 109.** Section 72-17-4 NMSA 1978 (being Laws  
2 1967, Chapter 156, Section 4) is amended to read:

3           "72-17-4. DEFINITIONS.--Except where the context  
4 otherwise requires, as used in the Las Cruces Arroyo Flood  
5 Control Act:

6           A. "act" means the Las Cruces Arroyo Flood Control  
7 Act;

8           B. "acquisition" or "acquire" means the opening,  
9 laying out, establishment, purchase, construction, securing,  
10 installation, reconstruction, lease, gift, grant from the  
11 federal government or any public body or person, endowment,  
12 bequest, devise, condemnation, transfer, assignment, option  
13 to purchase, other contract or other acquirement, or any  
14 combination thereof, of facilities, other property or any  
15 project or an interest in any facilities, other property or  
16 project authorized;

17           C. "authority" means the Las Cruces metropolitan  
18 arroyo flood control authority hereby created;

19           D. "board" means the board of directors of the Las  
20 Cruces metropolitan arroyo flood control authority;

21           E. "chair" means the chair of the board and  
22 president of the authority;

23           F. "condemnation" or "condemn" means the  
24 acquisition by the exercise of the power of eminent domain of  
25 property for any facilities, other property or project or an

1 interest in any facilities, other property or project  
2 authorized. The authority may exercise in the state the  
3 power of eminent domain, either within or without the  
4 authority and in the manner provided by law for the  
5 condemnation of private property for public use, and may take  
6 any property necessary to carry out any of the objects or  
7 purposes of the act. In the event the construction of any  
8 facility or project herein authorized, or any part makes  
9 necessary the removal and relocation of any public utilities,  
10 whether on private or public right of way, the authority  
11 shall reimburse the owner of the public utility facility for  
12 the expense of removal and relocation, including the cost of  
13 any necessary land or rights in land;

14 G. "cost" or "cost of the project" or words of  
15 similar import, means all or any part designated by the board  
16 of the cost of any facilities or project, or interest in the  
17 facilities or project, being acquired, and all or any  
18 property, rights, easements, privileges, agreements and  
19 franchises deemed by the authority to be necessary or useful  
20 and convenient or in connection with the facilities or  
21 project, which cost, at the option of the board, may include  
22 all or any part of the incidental costs pertaining to the  
23 project, including, without limiting the generality of the  
24 foregoing, preliminary expenses advanced by any municipality  
25 from funds available for use in the making of surveys,

1 preliminary plans, estimates of cost and other preliminaries;  
2 for the costs of appraising and printing and employing  
3 engineers, architects, fiscal agents, attorneys at law,  
4 clerical help and other agents or employees; for the costs of  
5 capitalizing interest or any discount on securities, of  
6 inspection, of any administrative, operating and other  
7 expenses of the authority prior to the levy and collection of  
8 taxes and of reserves for working capital, operation,  
9 maintenance or replacement expenses or for payment or  
10 security of principal of or interest on any securities; for  
11 the costs of making, publishing, posting, mailing and  
12 otherwise giving any notice in connection with the project,  
13 the taking of options, the issuance of securities, the filing  
14 or recordation of instruments and the levy and collection of  
15 taxes and installments; for the costs of reimbursements by  
16 the authority to any public body, the federal government or  
17 any person of any money expended for or in connection with  
18 any facility or project; and for all other expenses necessary  
19 or desirable and appertaining to any project, as estimated or  
20 otherwise ascertained by the board;

21 H. "director" means a member of the board;

22 I. "disposal" or "dispose" means the sale,  
23 destruction, razing, loan, lease, gift, grant, transfer,  
24 assignment, mortgage, option to sell, other contract or other  
25 disposition, or any combination thereof, of facilities, other



1 property or any project or an interest in the facilities,  
2 property or project, herein authorized;

3 J. "engineer" means any engineer in the permanent  
4 employ of the authority or any independent competent engineer  
5 or firm of engineers employed by the authority in connection  
6 with any facility, property, project or power herein  
7 authorized;

8 K. "equipment" or "equip" means the furnishing of  
9 all necessary or desirable, related or appurtenant  
10 facilities, or any combination thereof, appertaining to any  
11 facilities, property or project or interest in the  
12 facilities, property or project, herein authorized;

13 L. "facility" means any of the water facilities,  
14 sewer facilities or other property appertaining to the flood  
15 control system of the authority;

16 M. "federal government" means the United States or  
17 any agency, instrumentality or corporation of the United  
18 States;

19 N. "federal securities" means the bills,  
20 certificates of indebtedness, notes or bonds that are direct  
21 obligations of, or the principal and interest of which  
22 obligations are unconditionally guaranteed by, the United  
23 States;

24 O. "governing body" means the city council, city  
25 commission, board of commissioners, board of trustees, board

1 of directors or other legislative body of the public body  
2 proceeding under the Las Cruces Arroyo Flood Control Act, in  
3 which body the legislative powers of the public body are  
4 vested;

5 P. "hereby", "herein", "hereinabove",  
6 "hereinafter", "hereinbefore", "hereof", "hereto" and  
7 "hereunder" refer to the Las Cruces Arroyo Flood Control Act  
8 and not solely to the particular portion in which the word is  
9 used;

10 Q. "improvement" or "improve" means the extension,  
11 widening, lengthening, betterment, alteration,  
12 reconstruction, repair or other improvement, or any  
13 combination thereof, of facilities, other property or project  
14 or any interest in the facilities, property or project,  
15 herein authorized;

16 R. "mailed notice" or "notice by mail" means the  
17 giving by the engineer, secretary or any deputy of the  
18 engineer or secretary, as determined by the board, of any  
19 designated written or printed notice addressed to the last  
20 known owner of each tract of real property in question or  
21 other designated person at the person's last known address,  
22 by deposit, at least ten days prior to the designated hearing  
23 or other time or event, in the United States mails, postage  
24 prepaid, as first-class mail. In the absence of fraud, the  
25 failure to mail a notice shall not invalidate any proceedings

1 hereunder. The names and addresses of the property owners  
2 shall be obtained from the records of the county assessor or  
3 from such other source as the secretary or the engineer deems  
4 reliable. Any list of names and addresses may be revised  
5 from time to time, but the list need not be revised more  
6 frequently than at twelve-month intervals. Any mailing of a  
7 notice herein required shall be verified by the affidavit or  
8 certificate of the engineer, secretary, the deputy or other  
9 person mailing the notice, which verification shall be  
10 retained in the records of the authority at least until all  
11 taxes and securities appertaining to them have been paid in  
12 full or any claim is barred by a statute of limitations;

13 S. "may" is permissive;

14 T. "municipality" means the city of Las Cruces or  
15 any other incorporated city, town or village in the state,  
16 whether incorporated or governed under a general act, special  
17 legislative act or special charter of any type. "Municipal"  
18 pertains thereto;

19 U. "person" means any human being, association,  
20 partnership, firm or corporation, excluding a public body and  
21 excluding the federal government;

22 V. "president" means the president of the authority  
23 and the chair of the board;

24 W. "project" means any structure, facility,  
25 undertaking or system that the authority is authorized to

1 acquire, improve, equip, maintain or operate. A project may  
2 consist of all kinds of personal and real property. A  
3 project shall appertain to the flood control system that the  
4 authority is authorized and directed to provide within and  
5 without the authority's boundaries;

6 X. "property" means real property and personal  
7 property;

8 Y. "publication" or "publish" means publication in  
9 at least the one newspaper designated as the authority's  
10 official newspaper and published in the authority in the  
11 English language at least once a week and of general  
12 circulation in the authority. Except as otherwise  
13 specifically provided or necessarily implied, "publication"  
14 or "publish" also means publication for at least once a week  
15 for three consecutive weeks by three weekly insertions, the  
16 first publication being at least fifteen days prior to the  
17 designated time or event, unless otherwise stated. It is not  
18 necessary that publication be made on the same day of the  
19 week in each of the three calendar weeks, but not less than  
20 fourteen days shall intervene between the first publication  
21 and the last publication, and publication shall be complete  
22 on the day of the last publication. Any publication required  
23 shall be verified by the affidavit of the publisher and filed  
24 with the secretary;

25 Z. "public body" means the state or any agency,

1 instrumentality or corporation of the state or any  
2 municipality, school district or other type district or any  
3 other political subdivision of the state, excluding the  
4 authority and excluding the federal government;

5 AA. "qualified elector" means a person qualified  
6 and registered to vote in general elections in the state, who  
7 is a resident of the authority at the time of any election  
8 held under the provisions of the Las Cruces Arroyo Flood  
9 Control Act or at any other time in reference to which the  
10 term "qualified elector" is used;

11 BB. "real property" means:

12 (1) land, including land under water;

13 (2) buildings, structures, fixtures and  
14 improvements on land;

15 (3) any property appurtenant to or used in  
16 connection with land; and

17 (4) every estate, interest, privilege,  
18 easement, franchise and right in land, legal or equitable,  
19 including without limiting the generality of the foregoing,  
20 rights of way, terms for years and liens, charges or  
21 encumbrances by way of judgment, mortgage or otherwise, and  
22 the indebtedness secured by liens;

23 CC. "secretary" means the secretary of the  
24 authority;

25 DD. "secretary of state" means the secretary of the HLELC/HB 174  
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1 state of New Mexico;

2 EE. "securities" means any notes, warrants, bonds,  
3 temporary bonds or interim debentures or other obligations of  
4 the authority or any public body appertaining to any project  
5 or interest in any project, herein authorized;

6 FF. "sewer facilities" means any one or more of the  
7 various devices used in the collection, channeling,  
8 impounding or disposition of storm, flood or surface drainage  
9 waters, including all inlets, collection, drainage or  
10 disposal lines, canals, intercepting sewers, outfall sewers,  
11 all pumping, power and other equipment and appurtenances, all  
12 extensions, improvements, remodeling, additions and  
13 alterations thereof, and any and all rights or interest in  
14 the sewer facilities;

15 GG. "sewer improvement" or "improve any sewer"  
16 means the acquisition, reacquisition, improvement,  
17 reimprovement or repair of any storm sewer or combination  
18 storm and sanitary sewer, including collecting and  
19 intercepting sewer lines or mains, submains, trunks,  
20 laterals, outlets, ditches, ventilation stations, pumping  
21 facilities, ejector stations and all other appurtenances and  
22 machinery necessary, useful or convenient for the collection,  
23 transportation and disposal of storm water;

24 HH. "shall" is mandatory;

25 II. "state" means the state of New Mexico or any

1 agency, instrumentality or corporation of the state of New  
2 Mexico;

3 JJ. "street" means any street, avenue, boulevard,  
4 alley, highway or other public right of way used for any  
5 vehicular traffic;

6 KK. "taxes" means general (ad valorem) taxes  
7 pertaining to any project herein authorized; and

8 LL. "treasurer" means the treasurer of the  
9 authority."

10 **SECTION 110.** Section 72-17-8 NMSA 1978 (being Laws  
11 1967, Chapter 156, Section 8) is amended to read:

12 "72-17-8. BOARD OF DIRECTORS.--The governing body of  
13 the authority hereby created is a board of directors  
14 consisting of five qualified electors of the authority. All  
15 powers, rights, privileges and duties vested in or imposed  
16 upon the authority are exercised and performed by and through  
17 the board of directors; provided that the exercise of any  
18 executive, administrative and ministerial powers may be, by  
19 the board, delegated and redelegated to officers and  
20 employees of the authority. Except for the first directors  
21 appointed as provided and except for any director chosen to  
22 fill an unexpired term, the term of each director runs for  
23 six years. Each director, subject to such exceptions, shall  
24 serve a six-year term, and each director shall serve until a  
25 successor has been duly chosen and qualified."

1           **SECTION 111.** Section 72-17-10 NMSA 1978 (being Laws  
2 1967, Chapter 156, Section 10) is amended to read:

3           "72-17-10. ELECTION OF DIRECTORS.--At the time that a  
4 proposal to incur debt is first submitted to the qualified  
5 electors, the qualified electors of the authority shall elect  
6 five qualified directors, two to serve a term ending January  
7 1, 1969, two to serve a term ending January 1, 1971 and one  
8 to serve a term ending January 1, 1973. At the first  
9 election, the five candidates receiving the highest number of  
10 votes shall be elected as directors. The terms of the  
11 directors shall be determined by lot at their organizational  
12 meeting. At each election thereafter, the qualified electors  
13 of the authority shall elect similarly one or two qualified  
14 electors as directors to serve six-year terms as directors  
15 and as successors to the directors whose terms end following  
16 each election. Nothing in this section may be construed as  
17 preventing qualified electors of the authority from being  
18 elected or reelected as directors to succeed themselves."

19           **SECTION 112.** Section 72-17-11 NMSA 1978 (being Laws  
20 1967, Chapter 156, Section 11) is amended to read:

21           "72-17-11. NOMINATION OF DIRECTORS.--Written  
22 nominations of any candidate as director may be filed with  
23 the proper filing officer in accordance with the provisions  
24 of the Local Election Act. Each nomination of any candidate  
25 shall be signed by not less than fifty qualified electors



1 regardless of whether or not nominated; shall designate the  
2 name of the candidates; and shall recite that the subscribers  
3 are qualified electors and that the candidates designated are  
4 qualified electors of the authority. No written nomination  
5 may designate more qualified electors as candidates than  
6 there are vacancies. No qualified elector may nominate more  
7 than one candidate for any vacancy."

8 **SECTION 113.** Section 72-17-13 NMSA 1978 (being Laws  
9 1967, Chapter 156, Section 13) is amended to read:

10 "72-17-13. ORGANIZATIONAL MEETINGS.--Except for the  
11 first board, each board shall meet on the first business day  
12 next following the first day of the month that the term of  
13 office begins for members elected in the immediately  
14 preceding election at the office of the board within the  
15 authority. Each member of the board, before entering upon  
16 the member's official duties, shall take and subscribe an  
17 oath that the member will support the constitution of the  
18 United States and the constitution and laws of New Mexico and  
19 that the member will faithfully and impartially discharge the  
20 duties of office to the best of the member's ability, which  
21 oath shall be filed in the office of the secretary of state.  
22 Each director shall, before entering upon the director's  
23 official duties, give a bond to the authority in the sum of  
24 ten thousand dollars (\$10,000) with good and sufficient  
25 surety, conditioned for the faithful performance of each of

1 the duties of office, without fraud, deceit or oppression,  
2 and the accounting for all money and property coming into the  
3 director's hands, and the prompt and faithful payment of all  
4 money and the delivering of all property coming into the  
5 director's custody or control belonging to the authority of  
6 the director's successors in office. Premiums on all bonds  
7 provided for in this section shall be paid by the authority,  
8 and all such bonds shall be kept on file in the office of the  
9 secretary of state."

10 SECTION 114. Section 72-17-22 NMSA 1978 (being Laws  
11 1967, Chapter 156, Section 22, as amended) is amended to  
12 read:

13 "72-17-22. ADDITIONAL POWERS OF AUTHORITY.--The  
14 authority may exercise the following powers:

15 A. duties, privileges, immunities, rights,  
16 liabilities and disabilities appertaining to a public body  
17 politic and corporate and constituting a quasi-municipal  
18 corporation and political subdivision of the state  
19 established as an instrumentality exercising public and  
20 essential governmental and proprietary functions to provide  
21 for the public health, safety and general welfare;

22 B. perpetual existence and succession;

23 C. adopt, have and use a corporate seal and alter  
24 the same at pleasure;

25 D. sue and be sued and be a party to suits, actions

1 and proceedings;

2 E. commence, maintain, intervene in, defend,  
3 compromise, terminate by settlement or otherwise and  
4 otherwise participate in and assume the cost and expense of  
5 any actions and proceedings now or hereafter begun and  
6 appertaining to the authority, its board, its officers,  
7 agents or employees or any of the authority's duties,  
8 privileges, immunities, rights, liabilities and disabilities  
9 or the authority's flood control system, other property of  
10 the authority or any project;

11 F. enter into contracts and agreements, including  
12 but not limited to contracts with the federal government, the  
13 state and any other public body;

14 G. borrow money and issue securities evidencing any  
15 loan to or amount due by the authority, provide for and  
16 secure the payment of any securities and the rights of the  
17 holders thereof and purchase, hold and dispose of securities  
18 as hereinafter provided;

19 H. refund any loan or obligation of the authority  
20 and issue refunding securities to evidence such loan or  
21 obligation without any election;

22 I. purchase, trade, exchange, encumber and  
23 otherwise acquire, maintain and dispose of property and  
24 interests therein;

25 J. levy and cause to be collected general (ad

1 valorem) taxes on all property subject to property taxation  
2 within the authority; provided that the total tax levy,  
3 excluding any levy for the payment of any debt of the  
4 authority authorized by the qualified electors of the  
5 authority, for any fiscal year shall not exceed an aggregate  
6 total of fifty cents (\$.50), or any lower maximum amount  
7 required by operation of the rate limitation provisions of  
8 Section 7-37-7.1 NMSA 1978 upon this tax levy, on each one  
9 thousand dollars (\$1,000) of net taxable value, as that term  
10 is defined in the Property Tax Code, by certifying, on or  
11 before July 15 of each year in which the board determines to  
12 levy a tax, to the board of county commissioners of Dona Ana  
13 county, or by such other date as the laws of the state may  
14 prescribe to such other body having authority to levy taxes  
15 within each county wherein the authority has any territory,  
16 the rate so fixed, with directions that, at the time and in  
17 the manner required by law for levying taxes for other  
18 purposes, such body having authority to levy taxes shall levy  
19 such tax upon the net taxable value of all property subject  
20 to property taxation within the authority, in addition to  
21 such other taxes as may be levied by such body as provided in  
22 Sections 72-17-23 through 72-17-27 NMSA 1978. No taxes may  
23 be levied and collected for any purpose and no contract may  
24 be made until a bond issue has been submitted to and approved  
25 by the qualified electors as hereinafter provided;

1           K. hire and retain officers, agents, employees,  
2 engineers, attorneys and any other persons, permanent or  
3 temporary, necessary or desirable to effect the purposes  
4 hereof, defray any expenses incurred thereby in connection  
5 with the authority and acquire office space, equipment,  
6 services, supplies, fire and extended coverage insurance, use  
7 and occupancy insurance, workers' compensation insurance,  
8 property damage insurance, public liability insurance for the  
9 authority and its officers, agents and employees and other  
10 types of insurance as the board may determine; provided,  
11 however, that no provision herein authorizing the acquisition  
12 of insurance shall be construed as waiving any immunity of  
13 the authority or any director, officer or agent thereof and  
14 otherwise existing under the laws of the state;

15           L. condemn property for public use;

16           M. acquire, improve, equip, hold, operate, maintain  
17 and dispose of a flood control system, sewer facilities,  
18 project and appurtenant works or any interest therein wholly  
19 within the authority, or partially within and partially  
20 without the authority, and wholly within, wholly without or  
21 partially within and partially without any public body all or  
22 any part of the area of which is situated within the  
23 authority;

24           N. pay or otherwise defray the cost of any project;

25           O. pay or otherwise defray and contract so to pay

1 or defray for any term not exceeding fifty years, without an  
2 election, except as hereinafter otherwise provided, the  
3 principal of, any interest on and any other charges  
4 appertaining to any securities or other obligations of the  
5 federal government, any public body or person incurred in  
6 connection with any such property so acquired by the  
7 authority;

8 P. establish and maintain facilities within or  
9 without the authority, across or along any public street,  
10 highway, bridge, viaduct or other public right of way or in,  
11 upon, under or over any vacant public lands, which public  
12 lands are now or may become the property of the state, or  
13 across any stream of water or water course, without first  
14 obtaining a franchise from the municipality, county or other  
15 public body having jurisdiction over the same; provided that  
16 the authority shall cooperate with any public body having  
17 such jurisdiction, shall promptly restore any such street,  
18 highway, bridge, viaduct or other public right of way to its  
19 former state of usefulness as nearly as may be and shall not  
20 use the same in such manner as to impair completely or  
21 unnecessarily the usefulness thereof;

22 Q. deposit any money of the authority, subject to  
23 the limitations in Article 8, Section 4 of the constitution  
24 of New Mexico, in any banking institution within or without  
25 the state and secured in such manner and subject to such

1 terms and conditions as the board may determine, with or  
2 without the payment of any interest on any such deposit;

3 R. invest any surplus money in the authority  
4 treasury, including such money in any sinking or reserve fund  
5 established for the purpose of retiring any securities of the  
6 authority, not required for the immediate necessities of the  
7 authority, in its own securities or in federal securities, by  
8 direct purchase of any issue of such securities, or part  
9 thereof, at the original sale of the same or by the  
10 subsequent purchase of such securities;

11 S. sell any such securities thus purchased and held  
12 from time to time;

13 T. reinvest the proceeds of any such sale in other  
14 securities of the authority or in federal securities, as  
15 provided in Subsection R of this section;

16 U. sell in season from time to time such securities  
17 thus purchased and held, so that the proceeds may be applied  
18 to the purpose for which the money with which such securities  
19 were originally purchased was placed in the treasury of the  
20 authority;

21 V. accept contributions or loans from the federal  
22 government for the purpose of financing the planning,  
23 acquisition, improvement, equipment, maintenance and  
24 operation of any enterprise in which the authority is  
25 authorized to engage and enter into contracts and cooperate

1 with, and accept cooperation and participation from, the  
2 federal government for these purposes;

3 W. enter, without any election, into joint  
4 operating or service contracts and agreements, acquisition,  
5 improvement, equipment or disposal contracts or other  
6 arrangements for any term not exceeding fifty years with the  
7 federal government, any public body or any person concerning  
8 sewer facilities, or any project, whether acquired by the  
9 authority or by the federal government, any public body or  
10 any person, and accept grants and contributions from the  
11 federal government, any public body or any person in  
12 connection herewith;

13 X. enter into and perform, without any election,  
14 when determined by the board to be in the public interest and  
15 necessary for the protection of the public health, contracts  
16 and agreements for any term not exceeding fifty years with  
17 the federal government, any public body or any person for the  
18 provision and operation by the authority of sewer facilities;

19 Y. enter into and perform, without any election,  
20 contracts and agreements with the federal government, any  
21 public body and any person for or concerning the planning,  
22 construction, lease or other acquisition, improvement,  
23 equipment, operation, maintenance, disposal and the financing  
24 of any project, including but not necessarily limited to any  
25 contract or agreement for any term not exceeding fifty years;



1           Z. enter upon any land, make surveys, borings,  
2 soundings and examinations for the purposes of the authority  
3 and locate the necessary works of any project and roadways  
4 and other rights of way appertaining to any project herein  
5 authorized and acquire all property necessary or convenient  
6 for the acquisition, improvement or equipment of such works;

7           AA. cooperate with and act in conjunction with the  
8 state or any of its engineers, officers, boards, commissions  
9 or departments or with the federal government or any of its  
10 engineers, officers, boards, commissions or departments or  
11 with any other public body or any person in the acquisition,  
12 improvement or equipment of any project for the controlling  
13 of flood or storm waters of the authority or for the  
14 protection of life or property therein or for any other  
15 works, acts or purposes provided for herein and adopt and  
16 carry out any definite plan or system of work for any such  
17 purpose;

18           BB. cooperate with the federal government or any  
19 public body by an agreement therewith by which the authority  
20 may:

21                 (1) acquire and provide, without cost to the  
22 operating entity, the land, easements and rights of way  
23 necessary for the acquisition, improvement or equipment of  
24 the flood control system or any project;

25                 (2) hold and save harmless the cooperating

1 entity free from any claim for damages arising from the  
2 acquisition, improvement, equipment, maintenance and  
3 operation of the flood control system or any project;

4 (3) maintain and operate any project in  
5 accordance with regulations prescribed by the cooperating  
6 entity; and

7 (4) establish and enforce flood channel limits  
8 and regulations, if any, satisfactory to the cooperating  
9 entity;

10 CC. carry on technical and other investigations of  
11 all kinds, make measurements, collect data and make analyses,  
12 studies and inspections pertaining to control of floods,  
13 sewer facilities and any project, both within and without the  
14 authority, and for this purpose the authority has the right  
15 of access through its authorized representative to all lands  
16 and premises within the state;

17 DD. have the right to provide from revenues or  
18 other available funds an adequate fund for the improvement  
19 and equipment of the authority's flood control system or of  
20 any parts of the works and properties of the authority;

21 EE. prescribe and enforce reasonable rules and  
22 regulations for the prevention of further encroachment upon  
23 existing defined waterways, by their enlargement or other  
24 modification, for additional waterway facilities to prevent  
25 flooding;

1 FF. require any person desiring to make a  
2 connection to any storm water drain or flood control facility  
3 of the authority or to cause storm waters to be emptied into  
4 any ditch, drain, canal, floodway or other appurtenant  
5 structure of the authority firstly to make application to the  
6 board to make the connection, to require the connection to be  
7 made in such manner as the board may direct;

8 GG. refuse, if reasonably justified by the  
9 circumstances, permission to make any connection designated  
10 in Subsection EE or Subsection FF of this section;

11 HH. make and keep records in connection with any  
12 project or otherwise concerning the authority;

13 II. arbitrate any differences arising in connection  
14 with any project and otherwise concerning the authority;

15 JJ. have the management, control and supervision of  
16 all the business and affairs appertaining to any project  
17 herein authorized, or otherwise concerning the authority, and  
18 of the acquisition, improvement, equipment, operation and  
19 maintenance of any such project;

20 KK. prescribe the duties of officers, agents,  
21 employees and other persons and fix their compensation;  
22 provided that the compensation of employees and officers  
23 shall be established at prevailing rates of pay for  
24 equivalent work;

25 LL. enter into contracts of indemnity and guaranty

1 in such form as may be approved by the board relating to or  
2 connected with the performance of any contract or agreement  
3 which the authority is empowered to enter into under the  
4 provisions hereof or of any other law of the state;

5 MM. provide, by any contract for any term not  
6 exceeding fifty years, or otherwise, without an election:

7 (1) for the joint use of personnel, equipment  
8 and facilities of the authority and any public body,  
9 including without limitation public buildings constructed by  
10 or under the supervision of the board of the authority or the  
11 governing body of the public body concerned, upon such terms  
12 and agreements and within such areas within the authority as  
13 may be determined, for the promotion and protection of  
14 health, comfort, safety, life, welfare and property of the  
15 inhabitants of the authority and any such public body; and

16 (2) for the joint employment of clerks,  
17 stenographers and other employees appertaining to any  
18 project, now existing or hereafter established in the  
19 authority, upon such terms and conditions as may be  
20 determined for the equitable apportionment of the expenses  
21 therefrom resulting;

22 NN. obtain financial statements, appraisals,  
23 economic feasibility reports and valuations of any type  
24 appertaining to any project or any property pertaining  
25 thereto;

1           OO. adopt any resolution authorizing a project or  
2 the issuance of securities, or both, or otherwise  
3 appertaining thereto, or otherwise concerning the authority;

4           PP. make and execute a mortgage, deed of trust,  
5 indenture or other trust instrument appertaining to a project  
6 or to any securities herein authorized, or to both, except as  
7 provided in Subsection QQ of this section and in Section  
8 72-17-54 NMSA 1978;

9           QQ. make all contracts, execute all instruments and  
10 do all things necessary or convenient in the exercise of the  
11 powers granted herein or in the performance of the  
12 authority's covenants or duties or in order to secure the  
13 payment of its securities; provided that no encumbrance,  
14 mortgage or other pledge of property, excluding any money, of  
15 the authority is created thereby; and provided further that  
16 no property, excluding money, of the district is liable to be  
17 forfeited or taken in payment of such securities;

18           RR. have and exercise all rights and powers  
19 necessary or incidental to or implied from the specific  
20 powers granted herein, which specific powers shall not be  
21 considered as a limitation upon any power necessary or  
22 appropriate to carry out the purposes and intent hereof; and

23           SS. exercise all or any part or combination of the  
24 powers herein granted."

25           **SECTION 115.** Section 72-17-28 NMSA 1978 (being Laws

1 1967, Chapter 156, Section 28) is amended to read:

2 "72-17-28. ELECTIONS.--Elections shall be held pursuant  
3 to the provisions of the Local Election Act."

4 **SECTION 116.** Section 72-17-44 NMSA 1978 (being Laws  
5 1967, Chapter 156, Section 44) is amended to read:

6 "72-17-44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--  
7 The authority is authorized to borrow money in anticipation  
8 of taxes or other revenues, or both, and to issue bonds to  
9 evidence the amount so borrowed. No bonded indebtedness or  
10 any other indebtedness not payable in full within one year,  
11 except for interim debentures as provided in Sections  
12 72-17-46 and 72-17-89 through 72-17-91 NMSA 1978, shall be  
13 created by the authority without first submitting a  
14 proposition of issuing such bonds to the qualified electors  
15 of the authority and being approved by a majority of such  
16 electors voting thereon at an election held for that purpose  
17 in accordance with Sections 72-17-28 through 72-17-34 NMSA  
18 1978 and all laws amendatory thereof and supplemental  
19 thereto. Bonds so authorized may be issued in one series or  
20 more and may mature at such time or times not exceeding forty  
21 years from their issuance as the board may determine. The  
22 total of all outstanding indebtedness at any one time shall  
23 not exceed twelve million five hundred thousand dollars  
24 (\$12,500,000) without prior approval of the state  
25 legislature."

1           **SECTION 117.** Section 72-17-89 NMSA 1978 (being Laws  
2 1967, Chapter 156, Section 89) is amended to read:

3           "72-17-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF  
4 BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation  
5 or other provision herein, whenever a majority of the  
6 qualified electors of the authority voting on a proposal to  
7 issue bonds has authorized the authority to issue bonds for  
8 any purpose herein authorized, the authority is authorized to  
9 borrow money without any other election in anticipation of  
10 taxes, the proceeds of such bonds or any other revenues of  
11 the authority, or any combination thereof, and to issue  
12 interim debentures to evidence the amount so borrowed.

13 Interim debentures may mature at such time or times not  
14 exceeding a period of time equal to the estimated time needed  
15 to effect the purpose for which the bonds are so authorized  
16 to be issued, plus two years, as the board may determine.

17 Except as otherwise provided in this section and in Sections  
18 72-17-90 and 72-17-91 NMSA 1978, interim debentures shall be  
19 issued as provided herein for securities in Sections 72-17-47  
20 through 72-17-80 NMSA 1978. Taxes, other revenues of the  
21 authority, including without limiting the generality of the  
22 foregoing, proceeds of bonds to be thereafter issued or  
23 reissued or bonds issued for the purpose of securing the  
24 payment of interim debentures may be pledged for the purpose  
25 of securing the payment of the interim debentures. Any bonds

1 pledged as collateral security for the payment of any interim  
2 debentures shall mature at such time or times as the board  
3 may determine, but in no event exceeding forty years from the  
4 date of either any of such bonds or any of such interim  
5 debentures, whichever date be the earlier. Any such bonds  
6 pledged as collateral security shall not be issued in an  
7 aggregate principal amount exceeding the aggregate principal  
8 amount of the interim debenture or interim debenture secured  
9 by a pledge of such bonds, nor shall they bear interest at  
10 any time that, with any interest accruing at the same time on  
11 the interim debenture or interim debentures so secured,  
12 exceeds six percent per year."

13 **SECTION 118.** Section 72-18-1 NMSA 1978 (being Laws  
14 1981, Chapter 377, Section 1) is amended to read:

15 "72-18-1. SHORT TITLE.--Chapter 72, Article 18 NMSA  
16 1978 may be cited as the "Flood Control District Act"."

17 **SECTION 119.** Section 72-18-13 NMSA 1978 (being Laws  
18 1981, Chapter 377, Section 13) is amended to read:

19 "72-18-13. ORGANIZATION OF BOARD--INITIAL TERMS OF  
20 DIRECTORS.--

21 A. After taking oath and filing bonds, the board  
22 shall choose one of its members as chair of the board and  
23 shall choose a secretary and a treasurer of the board and of  
24 the district. The secretary and treasurer may be one person.

25 B. The terms of the members of the initial board of



1 directors shall be determined by lot at their organizational  
2 meeting. Two members shall serve an initial term of two  
3 years following organization of the district, two members  
4 shall serve an initial term of four years following  
5 organization of the district and one member shall serve an  
6 initial term of six years following organization of the  
7 district."

8 **SECTION 120.** Section 72-18-14 NMSA 1978 (being Laws  
9 1981, Chapter 377, Section 14) is amended to read:

10 "72-18-14. ELECTION OF DIRECTORS.--Flood control  
11 district elections shall be held pursuant to the Local  
12 Election Act. At each local election after organization of  
13 the district, there shall be elected by the qualified  
14 registered electors of the district one or two members of the  
15 board to serve for a term of six years. Except for the  
16 initial board of directors and except for any director chosen  
17 to fill an unexpired term, the term of each director runs for  
18 six years. Each director shall serve until a successor has  
19 been duly chosen and qualified."

20 **SECTION 121.** Section 72-18-15 NMSA 1978 (being Laws  
21 1981, Chapter 377, Section 15) is amended to read:

22 "72-18-15. VACANCIES ON THE BOARD.--Any vacancy on the  
23 board shall be filled by appointment by a majority of the  
24 remaining members of the board. The appointee shall serve  
25 until the next local election pursuant to the Local Election

1 Act when the vacancy shall be filled by election. If the  
2 board fails to fill any vacancy within thirty days after it  
3 occurs, the court declaring the organization of the district  
4 shall fill the vacancy."

5 **SECTION 122.** Section 72-18-35 NMSA 1978 (being Laws  
6 1981, Chapter 377, Section 35) is amended to read:

7 "72-18-35. ELECTION.--Wherever in the Flood Control  
8 District Act an election of the qualified registered electors  
9 of a district is permitted or required, the election shall be  
10 held pursuant to the Local Election Act."

11 **SECTION 123.** Section 72-18-35.1 NMSA 1978 (being Laws  
12 1985, Chapter 177, Section 2) is amended to read:

13 "72-18-35.1. ELECTION OF DIRECTORS--ESTABLISHED  
14 DISTRICT.--In a district established pursuant to the Flood  
15 Control District Act, the election of directors shall be  
16 conducted in accordance with the provisions of the Local  
17 Election Act."

18 **SECTION 124.** Section 72-19-1 NMSA 1978 (being Laws  
19 1990, Chapter 14, Section 1) is amended to read:

20 "72-19-1. SHORT TITLE.--Chapter 72, Article 19 NMSA  
21 1978 may be cited as the "Southern Sandoval County Arroyo  
22 Flood Control Act".

23 **SECTION 125.** Section 72-19-4 NMSA 1978 (being Laws  
24 1990, Chapter 14, Section 4, as amended) is amended to read:

25 "72-19-4. DEFINITIONS.--Except where the context

1 otherwise requires, as used in the Southern Sandoval County  
2 Arroyo Flood Control Act:

3 A. "acquisition" or "acquire" means the opening,  
4 laying out, establishment, purchase, construction, securing,  
5 installation, reconstruction, lease, gift, grant from the  
6 federal government or any public body or person, endowment,  
7 bequest, devise, condemnation, transfer, assignment, option  
8 to purchase, other contract or other acquirement, or any  
9 combination thereof, of facilities, other property or any  
10 project or an interest in the facilities, other property or  
11 project authorized by the Southern Sandoval County Arroyo  
12 Flood Control Act;

13 B. "authority" means the southern Sandoval county  
14 arroyo flood control authority;

15 C. "board" means the board of directors of the  
16 authority;

17 D. "chair" means the chair of the board and  
18 president of the authority;

19 E. "condemnation" or "condemn" means the  
20 acquisition by the exercise of the power of eminent domain of  
21 property for any facilities, other property or project or an  
22 interest in the facilities, other property or project  
23 authorized by the Southern Sandoval County Arroyo Flood  
24 Control Act. The authority may exercise in the state the  
25 power of eminent domain, either within or without the

1 authority, and, in the manner provided by law for the  
2 condemnation of private property for public use, may take any  
3 property necessary to carry out any of the objects or  
4 purposes of that act. In the event the construction of any  
5 facility or project authorized by that act, or any part  
6 thereof, makes necessary the removal and relocation of any  
7 public utilities, whether on private or public right of way,  
8 the authority shall reimburse the owner of the public utility  
9 facility for the expense of removal and relocation, including  
10 the cost of any necessary land or rights in land;

11 F. "cost" or "cost of the project", or words of  
12 similar import, means all, or any part designated by the  
13 board, of the cost of any facilities or project or interest  
14 in the facilities or project being acquired and of all or any  
15 property, rights, easements, privileges, agreements and  
16 franchises deemed by the authority to be necessary or useful  
17 and convenient to or in connection with the facilities or  
18 project, which cost, at the option of the board, may include  
19 all or any part of the incidental costs pertaining to the  
20 project, including without limiting the generality of the  
21 foregoing, preliminary expenses advanced by any municipality  
22 or other public body from funds available for use [therefor]  
23 in the making of surveys, preliminary plans, estimates of  
24 cost or other preliminaries; for the costs of appraising and  
25 printing and employing engineers, architects, fiscal agents,

1 attorneys at law, clerical help and other agents or  
2 employees; for the costs of capitalizing interest or any  
3 discount on securities, of inspection, of any administrative,  
4 operating and other expenses of the authority prior to the  
5 levy and collection of taxes and of reserves for working  
6 capital, operation, maintenance or replacement expenses or  
7 for payment or security of principal of or interest on any  
8 securities; for the costs of making, publishing, posting,  
9 mailing and otherwise giving any notice in connection with  
10 the project, the taking of options, the issuance of  
11 securities, the filing or recordation of instruments, the  
12 levy and collection of taxes and installments of taxes; for  
13 the costs of reimbursements by the authority to any public  
14 body, the federal government or any person of any money  
15 expended for or in connection with any facility or project;  
16 and for all other expenses necessary or desirable and  
17 appertaining to any project, as estimated or otherwise  
18 ascertained by the board;

19 G. "director" means a member of the board;

20 H. "disposal" or "dispose" means the sale,  
21 destruction, razing, loan, lease, gift, grant, transfer,  
22 assignment, mortgage, option to sell, other contract or other  
23 disposition, or any combination thereof, of facilities, other  
24 property or any project, or an interest in the facilities,  
25 other property or project authorized by the Southern Sandoval

1 County Arroyo Flood Control Act;

2 I. "engineer" means any engineer in the permanent  
3 employ of the authority or any independent competent engineer  
4 or firm of engineers employed by the authority in connection  
5 with any facility, property, project or power authorized by  
6 the Southern Sandoval County Arroyo Flood Control Act;

7 J. "equipment" or "equip" means the furnishing of  
8 all necessary or desirable, related or appurtenant,  
9 facilities, or any combination thereof, appertaining to any  
10 facilities, property, project or interest authorized by the  
11 Southern Sandoval County Arroyo Flood Control Act;

12 K. "facility" means any of the water facilities,  
13 sewer facilities or other property appertaining to the flood  
14 control system of the authority;

15 L. "federal government" means the United States or  
16 any agency, instrumentality or corporation of the United  
17 States;

18 M. "federal securities" means the bills,  
19 certificates of indebtedness, notes or bonds that are direct  
20 obligations of, or the principal and interest of which  
21 obligations are unconditionally guaranteed by, the United  
22 States;

23 N. "governing body" means the city council, city  
24 commission, board of commissioners, board of trustees, board  
25 of directors or other legislative body of the public body

1 proceeding under the Southern Sandoval County Arroyo Flood  
2 Control Act, in which body the legislative powers of the  
3 public body are vested;

4 O. "improvement" or "improve" means the extension,  
5 widening, lengthening, betterment, alteration,  
6 reconstruction, repair or other improvement, or any  
7 combination thereof, of facilities, other property or project  
8 or any interest in the facilities, other property or project  
9 authorized by the Southern Sandoval County Arroyo Flood  
10 Control Act;

11 P. "mailed notice" or notice by "mail" means the  
12 giving by the engineer, secretary or any deputy, as  
13 determined by the board, of any designated written or printed  
14 notice addressed to the last known owner of each tract of  
15 real property in question or other designated person at the  
16 person's last known address, by deposit, at least ten days  
17 prior to the designated hearing or other time or event, in  
18 the United States mails, postage prepaid, as first-class  
19 mail. In the absence of fraud, the failure to mail the  
20 notice shall not invalidate any proceedings under the  
21 Southern Sandoval County Arroyo Flood Control Act. The names  
22 and addresses of those property owners shall be obtained from  
23 the records of the county assessor or from such other source  
24 as the secretary or the engineer deems reliable. Any list of  
25 names and addresses may be revised from time to time, but the

1 list need not be revised more frequently than at twelve-month  
2 intervals. Any mailing of any notice required shall be  
3 verified by the affidavit or certificate of the engineer,  
4 secretary, deputy or other person mailing the notice, which  
5 verification shall be retained in the records of the  
6 authority at least until all taxes and securities  
7 appertaining thereto have been paid in full or any claim is  
8 barred by a statute of limitations;

9 Q. "municipality" means any incorporated city, town  
10 or village in the state, whether incorporated or governed  
11 under a general act, special legislative act or special  
12 charter of any type. "Municipal" pertains to municipality;

13 R. "person" means any human being, association,  
14 partnership, firm or corporation, excluding a public body and  
15 excluding the federal government;

16 S. "president" means the president of the authority  
17 and the chair of the board;

18 T. "project" means any structure, facility,  
19 undertaking or system that the authority is authorized to  
20 acquire, improve, equip, maintain or operate. A project may  
21 consist of all kinds of personal and real property. A  
22 project shall appertain to the flood control system that the  
23 authority is authorized and directed to provide within and  
24 without the authority's boundaries;

25 U. "property" means real property and personal



1 property;

2 V. "publication" or "publish" means publication in  
3 at least the one newspaper designated as the authority's  
4 official newspaper and published in the authority in the  
5 English language at least once a week and of general  
6 circulation in the authority. Except as otherwise  
7 specifically provided or necessarily implied, "publication"  
8 or "publish" also means publication for at least once a week  
9 for three consecutive weeks by three weekly insertions, the  
10 first publication being at least fifteen days prior to the  
11 designated time or event, unless otherwise stated. It is not  
12 necessary that publication be made on the same day of the  
13 week in each of the three calendar weeks, but not less than  
14 fourteen days shall intervene between the first publication  
15 and the last publication, and publication shall be complete  
16 on the day of the last publication. Any publication required  
17 shall be verified by the affidavit of the publisher and filed  
18 with the secretary;

19 W. "public body" means the state or any agency,  
20 instrumentality or corporation of the state or any  
21 municipality, school district or other type district or any  
22 other political subdivision of the state, excluding the  
23 authority and excluding the federal government;

24 X. "qualified elector" means a person qualified and  
25 registered to vote in general elections in the state who is a

1 resident of the authority at the time of any election held  
2 under the provisions of the Southern Sandoval County Arroyo  
3 Flood Control Act or at any other time in reference to which  
4 the term "qualified elector" is used;

5 Y. "real property" means:

6 (1) land, including land under water;

7 (2) buildings, structures, fixtures and  
8 improvements on land;

9 (3) any property appurtenant to or used in  
10 connection with land; and

11 (4) every estate, interest, privilege,  
12 easement, franchise and right in land, legal or equitable,  
13 including without limiting the generality of the foregoing,  
14 rights of way, terms for years and liens, charges or  
15 encumbrances by way of judgment, mortgage or otherwise and  
16 the indebtedness secured by such liens;

17 Z. "secretary" means the secretary of the  
18 authority;

19 AA. "secretary of state" means the secretary of the  
20 state of New Mexico;

21 BB. "securities" means any notes, warrants, bonds,  
22 temporary bonds or interim debentures or other obligations of  
23 the authority or any public body appertaining to any project  
24 or interest in a project authorized by the Southern Sandoval  
25 County Arroyo Flood Control Act;

1           CC. "sewer facilities" means any one or more of the  
2 various devices used in the collection, channeling,  
3 impounding or disposition of storm, flood or surface drainage  
4 waters, including all inlets, collection, drainage or  
5 disposal lines, canals, intercepting sewers, outfall sewers,  
6 all pumping, power and other equipment and appurtenances, all  
7 extensions, improvements, remodeling, additions and  
8 alterations thereof and any rights or interest in such sewer  
9 facilities;

10           DD. "sewer improvement" or "improve any sewer"  
11 means the acquisition, reacquisition, improvement,  
12 reimprovement or repair of any storm sewer or combination  
13 storm and sanitary sewer, including collecting and  
14 intercepting sewer lines or mains, submains, trunks,  
15 laterals, outlets, ditches, ventilation stations, pumping  
16 facilities, ejector stations and all other appurtenances and  
17 machinery necessary, useful or convenient for the collection,  
18 transportation and disposal of storm water;

19           EE. "state" means the state of New Mexico or any  
20 agency, instrumentality or corporation of the state;

21           FF. "street" means any street, avenue, boulevard,  
22 alley, highway or other public right of way used for any  
23 vehicular traffic;

24           GG. "taxes" means general (ad valorem) taxes  
25 pertaining to any project authorized by the Southern Sandoval

1 County Arroyo Flood Control Act; and

2 HH. "treasurer" means the treasurer of the  
3 authority."

4 SECTION 126. Section 72-19-8 NMSA 1978 (being Laws  
5 1990, Chapter 14, Section 8, as amended) is amended to read:

6 "72-19-8. BOARD OF DIRECTORS.--The governing body of  
7 the authority is a board of directors consisting of five  
8 qualified electors of the authority. All powers, rights,  
9 privileges and duties vested in or imposed upon the authority  
10 are exercised and performed by and through the board of  
11 directors; provided that the exercise of any executive,  
12 administrative and ministerial powers may be, by the board,  
13 delegated and redelegated to officers and employees of the  
14 authority. Except for the first directors appointed as  
15 provided for in Section 72-19-9 NMSA 1978 or elected as  
16 provided for in Section 72-19-10 NMSA 1978 and except for any  
17 director chosen to fill an unexpired term, the term of each  
18 director runs for six years. Each director, subject to such  
19 exceptions, shall serve a six-year term, and each director  
20 shall serve until a successor has been duly chosen and  
21 qualified."

22 SECTION 127. Section 72-19-10 NMSA 1978 (being Laws  
23 1990, Chapter 14, Section 10, as amended) is amended to read:

24 "72-19-10. ELECTION OF DIRECTORS.--At the time that a  
25 proposal to incur debt is first submitted to the qualified

1 electors, the qualified electors of the authority shall elect  
2 five qualified directors, two to serve a term ending January  
3 1, 1993, two to serve a term ending January 1, 1995 and one  
4 to serve a term ending January 1, 1997. At the first  
5 election, the five candidates receiving the highest number of  
6 votes shall be elected as directors. The terms of the  
7 directors shall be determined by lot at their organizational  
8 meeting. At each local election thereafter, the qualified  
9 electors of the authority shall elect similarly one or two  
10 qualified electors as directors to serve six-year terms as  
11 directors. Elections shall be held pursuant to the  
12 provisions of the Local Election Act. Nothing in the  
13 Southern Sandoval County Arroyo Flood Control Act shall be  
14 construed as preventing qualified electors of the authority  
15 from being elected or reelected as directors to succeed  
16 themselves."

17 **SECTION 128.** Section 72-19-11 NMSA 1978 (being Laws  
18 1990, Chapter 14, Section 11, as amended) is amended to read:

19 "72-19-11. NOMINATION OF DIRECTORS.--Written  
20 nominations of any candidate as director may be filed with  
21 the proper filing officer in accordance with the provisions  
22 of the Local Election Act. Each nomination of any candidate  
23 shall be signed by not less than fifty qualified electors,  
24 regardless of whether or not nominated, shall designate the  
25 name of the candidates nominated and shall recite that the

1 subscribers are qualified electors and that the candidates  
2 designated are qualified electors of the authority. No  
3 written nomination may designate more qualified electors as  
4 candidates than there are vacancies. No qualified elector  
5 may nominate more than one candidate for any vacancy."

6 **SECTION 129.** Section 72-19-13 NMSA 1978 (being Laws  
7 1990, Chapter 14, Section 13) is amended to read:

8 "72-19-13. ORGANIZATIONAL MEETINGS.--Except for the  
9 first board, each board shall meet on the first business day  
10 next following the first day of the month that the term of  
11 office begins for members elected in the immediately  
12 preceding election at the office of the board within the  
13 authority. Each member of the board, before entering upon  
14 official duties, shall take and subscribe on oath that the  
15 member will support the constitution of the United States and  
16 the constitution and laws of New Mexico and will faithfully  
17 and impartially discharge the duties of office to the best of  
18 the member's ability, which oath shall be filed in the office  
19 of the secretary of state. Each director shall, before  
20 entering upon official duties, give a bond to the authority  
21 in the sum of ten thousand dollars (\$10,000) with good and  
22 sufficient surety, conditioned for the faithful performance  
23 of all of the duties of office, without fraud, deceit or  
24 oppression, and the accounting for all money and property  
25 coming into the director's hands, and the prompt and faithful

1 payment of all money and the delivering of all property  
2 coming into the director's custody or control belonging to  
3 the authority, to the director's successors in office.

4 Premiums on all bonds provided for in this section shall be  
5 paid by the authority, and all such bonds shall be kept on  
6 file in the office of the secretary of state."

7 **SECTION 130.** Section 72-19-28 NMSA 1978 (being Laws  
8 1990, Chapter 14, Section 28, as amended) is amended to read:

9 "72-19-28. ELECTIONS.--Each biennial election of  
10 directors and other election of the authority, including an  
11 election to seek approval for the issuance of bonds, shall be  
12 conducted pursuant to the Local Election Act."

13 **SECTION 131.** Section 72-20-4 NMSA 1978 (being Laws  
14 2007, Chapter 99, Section 4) is amended to read:

15 "72-20-4. DEFINITIONS.--Except where the context  
16 otherwise requires, as used in the Eastern Sandoval County  
17 Arroyo Flood Control Act:

18 A. "acquisition" or "acquire" means the opening,  
19 laying out, establishment, purchase, construction, securing,  
20 installation, reconstruction, lease, gift, grant from the  
21 federal government or any public body or person, endowment,  
22 bequest, devise, condemnation, transfer, assignment, option  
23 to purchase, other contract or other acquirement, or any  
24 combination thereof, of facilities, other property or any  
25 project or an interest therein authorized by the Eastern

1 Sandoval County Arroyo Flood Control Act;

2 B. "authority" means the eastern Sandoval county  
3 arroyo flood control authority;

4 C. "board" means the board of directors of the  
5 authority;

6 D. "chair" means the chair of the board and  
7 president of the authority;

8 E. "condemnation" or "condemn" means the  
9 acquisition by the exercise of the power of eminent domain of  
10 property for any facilities, other property or project or an  
11 interest therein authorized by the Eastern Sandoval County  
12 Arroyo Flood Control Act. The authority may exercise in the  
13 state the power of eminent domain, either within or without  
14 the authority and, in the manner provided by law for the  
15 condemnation of private property for public use, may take any  
16 property necessary to carry out any of the objects or  
17 purposes of the Eastern Sandoval County Arroyo Flood Control  
18 Act. In the event the construction of any facility or  
19 project authorized by the Eastern Sandoval County Arroyo  
20 Flood Control Act, or any part thereof, makes necessary the  
21 removal and relocation of any public utilities, whether on  
22 private or public right of way, the authority shall reimburse  
23 the owner of the public utility facility for the expense of  
24 removal and relocation, including the cost of any necessary  
25 land or rights in land;



1 F. "cost" or "cost of the project", or words of  
2 similar import, means all, or any part designated by the  
3 board, of the cost of any facilities, project or interest  
4 therein being acquired and of all or any property, rights,  
5 easements, privileges, agreements and franchises deemed by  
6 the authority to be necessary or useful and convenient  
7 therefor or in connection therewith, which cost, at the  
8 option of the board, may include all or any part of the  
9 incidental costs pertaining to the project, including without  
10 limiting the generality of the foregoing, preliminary  
11 expenses advanced by any municipality or other public body  
12 from funds available for use therefor in the making of  
13 surveys, preliminary plans, estimates of cost and other  
14 preliminaries; for the costs of appraising and printing and  
15 employing engineers, architects, fiscal agents, attorneys at  
16 law, clerical help and other agents or employees; for the  
17 costs of capitalizing interest or any discount on securities,  
18 of inspection, of any administrative, operating and other  
19 expenses of the authority prior to the levy and collection of  
20 taxes and of reserves for working capital, operation,  
21 maintenance or replacement expenses or for payment or  
22 security of principal of or interest on any securities; for  
23 the costs of making, publishing, posting, mailing and  
24 otherwise giving any notice in connection with the project,  
25 the taking of options, the issuance of securities, the filing

1 or recordation of instruments, the levy and collection of  
2 taxes and installments thereof; for the costs of  
3 reimbursements by the authority to any public body, the  
4 federal government or any person of any money theretofore  
5 expended for or in connection with any facility or project;  
6 and for all other expenses necessary or desirable and  
7 appertaining to any project, as estimated or otherwise  
8 ascertained by the board;

9 G. "director" means a member of the board;

10 H. "disposal" or "dispose" means the sale,  
11 destruction, razing, loan, lease, gift, grant, transfer,  
12 assignment, mortgage, option to sell, other contract or other  
13 disposition, or any combination thereof, of facilities, other  
14 property or any project or an interest therein authorized by  
15 the Eastern Sandoval County Arroyo Flood Control Act;

16 I. "engineer" means any engineer in the permanent  
17 employ of the authority or any independent competent engineer  
18 or firm of such engineers employed by the authority in  
19 connection with any facility, property, project or power  
20 authorized by the Eastern Sandoval County Arroyo Flood  
21 Control Act;

22 J. "equipment" or "equip" means the furnishing of  
23 all necessary or desirable, related or appurtenant,  
24 facilities, or any combination thereof, appertaining to any  
25 facilities, property or project or interest therein

1 authorized by the Eastern Sandoval County Arroyo Flood  
2 Control Act;

3 K. "facility" means any of the water facilities,  
4 sewer facilities or other property appertaining to the flood  
5 control system of the authority;

6 L. "federal government" means the United States or  
7 any agency, instrumentality or corporation thereof;

8 M. "federal securities" means the bills,  
9 certificates of indebtedness, notes or bonds that are direct  
10 obligations of, or the principal and interest of which  
11 obligations are unconditionally guaranteed by, the United  
12 States;

13 N. "governing body" means the city council, city  
14 commission, board of commissioners, board of trustees, board  
15 of directors or other legislative body of the public body  
16 proceeding under the Eastern Sandoval County Arroyo Flood  
17 Control Act, in which body the legislative powers of the  
18 public body are vested;

19 O. "improvement" or "improve" means the extension,  
20 widening, lengthening, betterment, alteration,  
21 reconstruction, repair or other improvement, or any  
22 combination thereof of facilities, other property or project  
23 or any interest therein authorized by the Eastern Sandoval  
24 County Arroyo Flood Control Act;

25 P. "mailed notice" or notice by "mail" means the

1 giving by the engineer, secretary or any deputy thereof, as  
2 determined by the board, of any designated written or printed  
3 notice addressed to the last known owner of each tract of  
4 real property in question or other designated person at the  
5 last known address, by deposit, at least ten days prior to  
6 the designated hearing or other time or event, in the United  
7 States mail, postage prepaid, as first-class mail. In the  
8 absence of fraud, the failure to mail any such notice shall  
9 not invalidate any proceedings under the Eastern Sandoval  
10 County Arroyo Flood Control Act. The names and addresses of  
11 those property owners shall be obtained from the records of  
12 the county assessor or from such other source as the  
13 secretary or the engineer deems reliable. Any list of such  
14 names and addresses may be revised from time to time, but  
15 such a list need not be revised more frequently than at  
16 twelve-month intervals. Any mailing of any notice required  
17 shall be verified by the affidavit or certificate of the  
18 engineer, secretary, deputy or other person mailing the  
19 notice, which verification shall be retained in the records  
20 of the authority at least until all taxes and securities  
21 appertaining thereto have been paid in full or any claim is  
22 barred by a statute of limitations;

23 Q. "municipality" means any incorporated city, town  
24 or village in the state, whether incorporated or governed  
25 under a general act, special legislative act or special

1 charter of any type. "Municipal" pertains to municipality;

2 R. "person" means any human being, association,  
3 partnership, firm or corporation, excluding a public body and  
4 excluding the federal government;

5 S. "president" means the president of the authority  
6 and the chair of the board;

7 T. "project" means any structure, facility,  
8 undertaking or system that the authority is authorized to  
9 acquire, improve, equip, maintain or operate. A project may  
10 consist of all kinds of personal and real property. A  
11 project shall appertain to the flood control system that the  
12 authority is authorized and directed to provide within and  
13 without the authority's boundaries;

14 U. "property" means real property and personal  
15 property;

16 V. "publication" or "publish" means publication in  
17 at least the one newspaper designated as the authority's  
18 official newspaper and published in the authority in the  
19 English language at least once a week and of general  
20 circulation in the authority. Except as otherwise  
21 specifically provided or necessarily implied, "publication"  
22 or "publish" also means publication for at least once a week  
23 for three consecutive weeks by three weekly insertions, the  
24 first publication being at least fifteen days prior to the  
25 designated time or event, unless otherwise so stated. It is

1 not necessary that publication be made on the same day of the  
2 week in each of the three calendar weeks, but not less than  
3 fourteen days shall intervene between the first publication  
4 and the last publication, and publication shall be complete  
5 on the day of the last publication. Any publication required  
6 shall be verified by the affidavit of the publisher and filed  
7 with the secretary;

8 W. "public body" means the state or any agency,  
9 instrumentality or corporation thereof or any municipality,  
10 school district or other type of district or any other  
11 political subdivision of the state, excluding the authority  
12 and excluding the federal government;

13 X. "qualified elector" means a person qualified and  
14 registered to vote in general elections in the state, who is  
15 a resident of the authority at the time of any election held  
16 under the provisions of the Eastern Sandoval County Arroyo  
17 Flood Control Act or at any other time in reference to which  
18 the term "qualified elector" is used;

19 Y. "real property" means:

20 (1) land, including land under water;

21 (2) buildings, structures, fixtures and  
22 improvements on land;

23 (3) any property appurtenant to or used in  
24 connection with land; and

25 (4) every estate, interest, privilege,

1 easement, franchise and right in land, legal or equitable,  
2 including without limiting the generality of the foregoing,  
3 rights of way, terms for years and liens, charges or  
4 encumbrances by way of judgment, mortgage or otherwise and  
5 the indebtedness secured by such liens;

6 Z. "secretary" means the secretary of the  
7 authority;

8 AA. "secretary of state" means the secretary of  
9 state of New Mexico;

10 BB. "securities" means any notes, warrants, bonds,  
11 temporary bonds or interim debentures or other obligations of  
12 the authority or any public body appertaining to any project  
13 or interest therein authorized by the Eastern Sandoval County  
14 Arroyo Flood Control Act;

15 CC. "sewer facilities" means any one or more of the  
16 various devices used in the collection, channeling,  
17 impounding or disposition of storm, flood or surface drainage  
18 waters, including all inlets, collection, drainage or  
19 disposal lines, canals, intercepting sewers, outfall sewers,  
20 all pumping, power and other equipment and appurtenances, all  
21 extensions, improvements, remodeling, additions and  
22 alterations thereof and any rights or interest in such sewer  
23 facilities;

24 DD. "sewer improvement" or "improve any sewer"  
25 means the acquisition, reacquisition, improvement,

1 reimprovement or repair of any storm sewer or combination  
2 storm and sanitary sewer, including collecting and  
3 intercepting sewer lines or mains, submains, trunks,  
4 laterals, outlets, ditches, ventilation stations, pumping  
5 facilities, ejector stations and all other appurtenances and  
6 machinery necessary, useful or convenient for the collection,  
7 transportation and disposal of storm water;

8 EE. "state" means the state of New Mexico or any  
9 agency, instrumentality or corporation thereof;

10 FF. "street" means any street, avenue, boulevard,  
11 alley, highway or other public right of way used for any  
12 vehicular traffic;

13 GG. "taxes" means general (ad valorem) taxes  
14 pertaining to any project authorized by the Eastern Sandoval  
15 County Arroyo Flood Control Act; and

16 HH. "treasurer" means the treasurer of the  
17 authority."

18 **SECTION 132.** Section 72-20-8 NMSA 1978 (being Laws  
19 2007, Chapter 99, Section 8, as amended) is amended to read:

20 "72-20-8. BOARD OF DIRECTORS.--

21 A. The governing body of the authority is a board  
22 of directors consisting of three registered qualified  
23 electors of the authority; provided that, after single-member  
24 districts are created pursuant to Subsection B of Section  
25 72-20-10 NMSA 1978 and after the expiration of the terms of



1 any directors-at-large who are serving at the time that  
2 single-member districts are created:

3 (1) each director shall reside within and  
4 represent a specified district; and

5 (2) if a director no longer resides within the  
6 district that the director represents, the director's  
7 position shall be deemed vacant and a successor shall be  
8 appointed to serve the unexpired term pursuant to Section  
9 72-20-12 NMSA 1978.

10 B. All powers, rights, privileges and duties vested  
11 in or imposed upon the authority are exercised and performed  
12 by and through the board of directors; provided that the  
13 exercise of any executive, administrative and ministerial  
14 powers may be, by the board, delegated and redelegated to  
15 officers and employees of the authority or to any officer or  
16 employee contracted by agreement to manage and administer the  
17 operations of the authority. Except for the first directors  
18 appointed as provided for in Section 72-20-9 NMSA 1978 or  
19 elected as provided in Section 72-20-10 NMSA 1978 and except  
20 for any director chosen to fill an unexpired term, and except  
21 for the first directors serving after the authority is  
22 divided into single-member districts, the term of each  
23 director runs for six years. Each director, subject to such  
24 exceptions, shall serve a six-year term, and each director  
25 shall serve until a successor has been duly chosen and

1 qualified."

2           **SECTION 133.** Section 72-20-10 NMSA 1978 (being Laws  
3 2007, Chapter 99, Section 10, as amended) is amended to read:

4           "72-20-10. ELECTION OF DIRECTORS--SINGLE-MEMBER  
5 DISTRICTS.--

6           A. At the time that a proposal to incur debt is  
7 first submitted to the qualified electors, the qualified  
8 electors of the authority shall elect five qualified  
9 directors, two to serve a term ending January 1, 2011, two to  
10 serve a term ending January 1, 2013 and one to serve a term  
11 ending January 1, 2015. At the first election, the five  
12 candidates receiving the highest number of votes shall be  
13 elected as directors. The terms of the directors shall be  
14 determined by lot at their organizational meeting.

15           B. Upon the exclusion of land pursuant to  
16 Subsection C of Section 72-20-6 NMSA 1978, the two directors  
17 elected in the 2010 general election shall be deemed to have  
18 resigned, and, notwithstanding the provisions of Section  
19 72-20-12 NMSA 1978, their positions shall not be filled.  
20 Thereafter, the board shall consist of three directors. The  
21 board shall divide the authority into three single-member  
22 districts. The following provisions shall govern the  
23 procedure for converting to single-member districts:

24                   (1) the districts shall be as contiguous,  
25 compact and as equal in population as is practicable;

1                   (2) remaining terms for the three incumbent  
2 directors shall be chosen by lot so that one term expires on  
3 January 1, 2013, one term expires on January 1, 2015 and one  
4 term expires on January 1, 2017;

5                   (3) if, as a result of the division of the  
6 authority into districts, two or more incumbent directors  
7 reside within the same district, the board shall determine,  
8 by lot, one of the directors to represent the district, and  
9 the other directors residing within that district shall  
10 represent the authority at large until their terms expire;

11                   (4) if, as a result of the exclusion of land  
12 pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or  
13 more incumbent directors reside outside of any district, the  
14 directors shall represent the authority at large until their  
15 terms expire; and

16                   (5) if more than one director represents the  
17 authority at large pursuant to Paragraph (3) or (4) of this  
18 subsection, the board shall determine by lot the district  
19 that will elect a resident to succeed a director-at-large as  
20 the term of each director-at-large expires.

21                   C. A director who is a qualified elector and a  
22 resident of the district shall be elected by the qualified  
23 electors who are residents of that district to serve a six-  
24 year term. Elections for directors shall be held pursuant to  
25 the Local Election Act.

1 D. Nothing in this section shall be construed as  
2 preventing qualified electors of the authority from being  
3 elected or reelected as directors to succeed themselves;  
4 provided that they reside in the district from which they are  
5 elected.

6 E. As soon as feasible after each federal decennial  
7 census, the board shall assess the existing districts to  
8 determine if the districts remain as equal in population as  
9 is practicable and, if necessary, shall redistrict the  
10 authority into districts that remain contiguous, compact and  
11 as equal in population as is practicable; provided that:

12 (1) a redistricting shall be effective at the  
13 next following local election;

14 (2) an incumbent director whose residence is  
15 redistricted out of the district represented by the director  
16 shall serve until the next local election, at which a  
17 qualified elector who resides within the district shall be  
18 elected to fill the unexpired term; and

19 (3) the board shall notify the county clerk of  
20 the new district boundaries."

21 **SECTION 134.** Section 72-20-11 NMSA 1978 (being Laws  
22 2007, Chapter 99, Section 11, as amended) is amended to read:

23 "72-20-11. NOMINATION OF DIRECTORS.--Written  
24 nominations of any candidate as director may be filed with  
25 the proper filing officer in accordance with the provisions

1 of the Local Election Act. Each nomination of any candidate  
2 shall be signed by not less than fifty qualified electors,  
3 regardless of whether or not nominated, shall designate the  
4 name of the candidates nominated and shall recite that the  
5 subscribers are qualified electors and that the candidates  
6 designated are qualified electors of the authority. No  
7 written nomination may designate more qualified electors as  
8 candidates than there are vacancies. No qualified elector  
9 may nominate more than one candidate for any vacancy."

10 **SECTION 135.** Section 72-20-13 NMSA 1978 (being Laws  
11 2007, Chapter 99, Section 13) is amended to read:

12 "72-20-13. ORGANIZATIONAL MEETINGS.--Except for the  
13 first board, each board shall meet on the first business day  
14 next following the first day of the month that the term of  
15 office begins for members elected in the immediately  
16 preceding election, at the office of the board within the  
17 authority. Each member of the board, before entering upon  
18 the member's official duties, shall take and subscribe on  
19 oath that the member will support the constitution of the  
20 United States and the constitution and laws of New Mexico and  
21 that the member will faithfully and impartially discharge the  
22 duties of the office to the best of the member's ability,  
23 which oath shall be filed in the office of the secretary of  
24 state. Each director shall, before entering upon the  
25 director's official duties, give a bond to the authority in

1 the sum of ten thousand dollars (\$10,000) with good and  
2 sufficient surety, conditioned for the faithful performance  
3 of all of the duties of the director's office, without fraud,  
4 deceit or oppression, and the accounting for all money and  
5 property coming into the director's hands and the prompt and  
6 faithful payment of all money and the delivering of all  
7 property coming into the director's custody or control  
8 belonging to the authority to the director's successors in  
9 office. Premiums on all bonds provided for in this section  
10 shall be paid by the authority, and all such bonds shall be  
11 kept on file in the office of the secretary of state."

12 **SECTION 136.** Section 72-20-28 NMSA 1978 (being Laws  
13 2007, Chapter 99, Section 28) is amended to read:

14 "72-20-28. ELECTIONS.--Each biennial election of  
15 directors and any other election of the authority, including  
16 an election to seek approval for the issuance of bonds, shall  
17 be conducted pursuant to the Local Election Act."

18 **SECTION 137.** Section 73-14-20 NMSA 1978 (being Laws  
19 1975, Chapter 262, Section 3, as amended) is amended to read:

20 "73-14-20. DEFINITIONS.--As used in Sections 73-14-18  
21 through 73-14-30 NMSA 1978:

22 A. "benefited area" means that area described by a  
23 property appraisal that receives a benefit as a result of the  
24 creation of a district for any of the purposes specified in  
25 Section 73-14-4 NMSA 1978;

1           B. "list compiler" means a contractor approved by  
2 the board of directors to compile and produce a qualified  
3 elector list for a conservancy district;

4           C. "qualified elector" means an individual who owns  
5 real property within the benefited area of the conservancy  
6 district and who has provided proof of an ownership interest  
7 to one of the sources specified in Subsection B of Section  
8 73-14-20.1 NMSA 1978 within the required time period, or who  
9 resides on and owns legal or equitable title in tribal lands  
10 and who is over the age of majority;

11           D. "qualified elector's list" means the list  
12 compiled before each election that contains the individual  
13 names of all qualified electors; and

14           E. "residence" means a dwelling that lies partially  
15 or completely within the benefited area."

16           **SECTION 138.** Section 73-14-20.1 NMSA 1978 (being Laws  
17 1990, Chapter 48, Section 1, as amended) is amended to read:

18           "73-14-20.1. QUALIFIED ELECTOR LIST.--

19           A. The board of directors of the conservancy  
20 district may contract for a list compiler before each  
21 election to compile and produce a qualified elector's list  
22 for the district. The list compiler shall deliver the  
23 completed list to the appropriate county clerk no later than  
24 one hundred eighty days prior to a district election and  
25 update the list every thirty days until ninety days before

1 the election, which list the county clerk shall use for the  
2 election. An individual who purchases property ninety days  
3 prior to an election and whose name does not appear on the  
4 qualified elector's list shall not vote in that election.  
5 The individual may become certified to vote in a future  
6 election by filing a deed of title with the appropriate  
7 county clerk at least ninety days before the next conservancy  
8 district election.

9 B. Names of qualified electors shall be obtained  
10 from the records of the county clerk of the appropriate  
11 county, the appropriate county assessor of the appropriate  
12 county, records of the conservancy district or from the  
13 census bureau and enrollment records provided by the pueblos.  
14 The county assessor of the appropriate county, the county  
15 clerk of the appropriate county and the tribal  
16 representatives of the appropriate pueblos shall deliver to  
17 the list compiler all records regarding qualified electors of  
18 the benefited area no later than the last day of each March  
19 before a district election.

20 C. Updating the qualified elector's list shall  
21 consist of adding, for any new qualified elector who has  
22 purchased property in the district, the name, address and  
23 description of all property owned by the qualified elector in  
24 the benefited area and removing the name of any elector who  
25 is deceased or who no longer owns property within the



1 benefited area.

2 D. Proof of ownership of land within the benefited  
3 area requires one of the following:

4 (1) a recorded deed or real estate contract  
5 indicating current ownership of land within the benefited  
6 area;

7 (2) an individual's name on county clerk  
8 records indicating a description of property the individual  
9 owns within the benefited area;

10 (3) an individual's name on a list compiled by  
11 the governing body of a pueblo within the benefited area  
12 indicating that the individual named is residing on and has  
13 legal or equitable title in the pueblo; or

14 (4) a current property tax bill indicating  
15 ownership of land within the benefited area.

16 E. The appropriate county clerk shall distribute  
17 to each polling place a current qualified elector's list for  
18 the appropriate county. The appropriate county clerk shall  
19 distribute the qualified elector's list to each polling place  
20 within a pueblo located within the benefited area. A  
21 qualified elector may vote at any one polling place in the  
22 pueblo or county where the elector owns land. An individual  
23 who seeks to cast a vote but whose name is not on the  
24 qualified elector's list shall not be allowed to vote in that  
25 election."

1           **SECTION 139.** Section 73-14-24 NMSA 1978 (being Laws  
2 1975, Chapter 262, Section 7, as amended) is amended to read:

3           "73-14-24. TIME AND PROCEDURE FOR ELECTION.--

4           A. The members of the boards of directors created  
5 pursuant to the provisions of Sections 73-14-18 through  
6 73-14-30 NMSA 1978 shall be elected pursuant to the Local  
7 Election Act.

8           B. The elections for the members of the board of  
9 directors of the conservancy district shall be conducted,  
10 counted and canvassed as provided in the Local Election Act."

11           **SECTION 140.** Section 73-14-25 NMSA 1978 (being Laws  
12 1975, Chapter 262, Section 8, as amended) is amended to read:

13           "73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF  
14 ELECTORS.--

15           A. A person who desires to become a candidate for  
16 election as a member of the conservancy district board of  
17 directors shall file a written declaration of candidacy with  
18 the proper filing officer in accordance with the provisions  
19 of the Local Election Act.

20           B. The declaration of candidacy shall be  
21 accompanied by:

22                   (1) if a candidate for a position representing  
23 a county in the conservancy district, a petition signed by at  
24 least seventy-five qualified electors of the district who  
25 reside in that county; or

1                   (2) if a candidate for the position at large  
2 in the conservancy district, a petition signed by at least  
3 one hundred twenty-five qualified electors."

4           **SECTION 141.** Section 73-14-28.1 NMSA 1978 (being Laws  
5 1996, Chapter 42, Section 12) is amended to read:

6           "73-14-28.1. ELECTION.--Elections shall be conducted  
7 pursuant to Sections 73-14-18 through 73-14-30 NMSA 1978 and  
8 the Local Election Act."

9           **SECTION 142.** Section 73-14-55 NMSA 1978 (being Laws  
10 1943, Chapter 126, Section 2) is amended to read:

11           "73-14-55. BOARDS OF DIRECTORS--MEMBERSHIP--  
12 QUALIFICATIONS.--The boards of directors created in Sections  
13 73-14-54 through 73-14-69 NMSA 1978 shall consist of five  
14 directors, each of whom must own real property within the  
15 conservancy district that is subject to conservancy district  
16 appraisals, assessments, levies and taxes, and each of whom  
17 must actually reside within the conservancy district and also  
18 within the county from which the director is elected."

19           **SECTION 143.** Section 73-14-57 NMSA 1978 (being Laws  
20 1943, Chapter 126, Section 4, as amended) is amended to read:

21           "73-14-57. DEFINITION OF "QUALIFIED ELECTORS"--  
22 QUALIFIED ELECTOR LIST.--

23           A. The term "qualified electors", as used in  
24 Sections 73-14-56 through 73-14-67 NMSA 1978, means only  
25 those persons who have reached the age of majority and, for

1 at least six months prior to the election, have owned, during  
2 the entire six-month period, real property situated within  
3 the district that is subject to conservancy district  
4 appraisals, assessments, levies and taxes.

5 B. The conservancy district shall compile and  
6 deliver a qualified elector list to the appropriate county  
7 clerk no later than one hundred eighty days before an  
8 election, and update the list every thirty days until ninety  
9 days before the election, which list the county clerk shall  
10 use for that election."

11 **SECTION 144.** Section 73-14-58 NMSA 1978 (being Laws  
12 1943, Chapter 126, Section 5) is amended to read:

13 "73-14-58. TERMS--VACANCIES.--Each director shall be  
14 elected for a term of six years from and after the date of  
15 election and, unless removed from office as provided in  
16 Sections 73-14-54 through 73-14-69 NMSA 1978, shall serve  
17 until a successor is duly elected and has qualified; provided  
18 that at the first election, one director shall be elected for  
19 a term of two years, two for a term of four years and two for  
20 a term of six years, to be determined according to counties  
21 if there is land in any district in more than one county, by  
22 the board calling the election. Appointments to fill  
23 vacancies shall be for the unexpired term of the director  
24 whose office becomes vacant."

25 **SECTION 145.** Section 73-14-61 NMSA 1978 (being Laws

1 1943, Chapter 126, Section 8, as amended) is amended to read:

2 "73-14-61. NOTICE OF CANDIDACY--SIGNATURES OF  
3 ELECTORS.--Any qualified elector who desires to become a  
4 candidate for election as a director shall file with the  
5 proper filing officer in accordance with the provisions of  
6 the Local Election Act a written notice of candidacy, which  
7 shall state the candidate's name and residence within the  
8 conservancy district. If the candidate is a candidate at  
9 large, the candidate's notice of candidacy shall be signed by  
10 twenty qualified electors resident within the district. If  
11 the candidate is a candidate only from that portion of the  
12 district that lies within one county, the candidate's notice  
13 of candidacy shall be signed by ten qualified electors who  
14 reside within that particular portion of the district and  
15 county from which the candidate seeks to be elected."

16 **SECTION 146.** Section 73-14-62 NMSA 1978 (being Laws  
17 1943, Chapter 126, Section 9, as amended) is amended to read:

18 "73-14-62. TIME, PLACE AND PROCEDURE FOR ELECTION.--  
19 The five director-members of the board of directors created  
20 by Sections 73-14-54 through 73-14-69 NMSA 1978 shall be  
21 elected in accordance with the provisions of the Local  
22 Election Act."

23 **SECTION 147.** Section 73-14-71 NMSA 1978 (being Laws  
24 1961, Chapter 67, Section 3, as amended) is amended to read:

25 "73-14-71. DEFINITION OF "QUALIFIED ELECTOR"--QUALIFIED

1 ELECTOR LIST.--

2 A. As used in the provisions of Sections 73-14-70  
3 through 73-14-88 NMSA 1978, "qualified elector" means a  
4 natural person who has reached the age of majority and who,  
5 for at least six months prior to the election, has owned,  
6 either in community or separately, real property located  
7 within the district and subject to conservancy district  
8 appraisals, assessments, levies and taxes.

9 B. The conservancy district shall compile and  
10 deliver a qualified elector list to the appropriate county  
11 clerk no later than one hundred eighty days before an  
12 election, and update the list every thirty days until ninety  
13 days before the election, which list the county clerk shall  
14 use for that election."

15 **SECTION 148.** Section 73-14-73 NMSA 1978 (being Laws  
16 1961, Chapter 67, Section 5) is amended to read:

17 "73-14-73. ELECTIONS.--Elections shall be held pursuant  
18 to the Local Election Act. Conservancy districts formed  
19 after July 1, 1961 shall hold their first election as  
20 provided in Section 73-14-74 NMSA 1978."

21 **SECTION 149.** Section 73-14-74 NMSA 1978 (being Laws  
22 1961, Chapter 67, Section 6, as amended) is amended to read:

23 "73-14-74. ELIGIBILITY OF DISTRICT TO HOLD ELECTION.--

24 A. No election shall be held in an existing  
25 conservancy district until the main canals in that district

1 are in such a condition that water can be delivered from them  
2 for irrigation on the lands within the district.

3 B. The first election in any district formed after  
4 July 1, 1961 shall be held with the first regular local  
5 election occurring after the requirements of Subsection A of  
6 this section are fulfilled."

7 **SECTION 150.** Section 73-14-78 NMSA 1978 (being Laws  
8 1961, Chapter 67, Section 10) is amended to read:

9 "73-14-78. NOTICE OF CANDIDACY--SIGNATURES OF  
10 ELECTORS.--Any qualified elector who desires to become a  
11 candidate for election as a member of a conservancy district  
12 board of directors shall file a written notice of candidacy  
13 with the proper filing officer in accordance with the  
14 provisions of the Local Election Act. In addition, a notice  
15 for candidacy shall be signed by at least ten qualified  
16 electors within the conservancy district."

17 **SECTION 151.** Section 73-18-27 NMSA 1978 (being Laws  
18 1955, Chapter 281, Section 3, as amended) is amended to read:

19 "73-18-27. ELECTIONS.--In each odd-numbered year after  
20 1955, elections shall be called and conducted pursuant to the  
21 Local Election Act for the election of directors to succeed  
22 any directors whose terms expire in that year."

23 **SECTION 152.** Section 73-18-28 NMSA 1978 (being Laws  
24 1955, Chapter 281, Section 4) is amended to read:

25 "73-18-28. DIRECTOR-AT-LARGE AND MUNICIPAL DIRECTOR--

1 QUALIFIED ELECTOR LIST.--

2 A. The director to represent the municipality and  
3 the director-at-large for the period from October 1955 to  
4 October 1957 shall be selected at the September 1955 meeting  
5 by the board of directors of the conservancy district as it  
6 exists prior to the election. The members shall be elected  
7 from the membership of the previously existing board if there  
8 are qualified members of the board willing to serve for the  
9 additional two years. If there are no members of the  
10 existing board willing to serve for the additional period of  
11 two years or if there is only one, the existing board may  
12 select one or both of the directors from qualified electors  
13 of the district for the position or positions.

14 B. In the election to be held in October 1957, a  
15 director to represent the municipal voting precinct shall be  
16 elected from the qualified electors of the municipality, and  
17 a director-at-large shall be elected from the qualified  
18 electors of the district.

19 C. Every resident, otherwise qualified, owning real  
20 estate of any character within the district shall have one  
21 vote for director-at-large. Each elector resident of the  
22 municipal voting precinct shall have one vote for municipal  
23 director. The right of a voter to vote for municipal  
24 director shall not be affected by the elector voting in any  
25 other election precinct in which the elector may own class



1 "A" land.

2 D. The conservancy district shall compile and  
3 deliver a qualified elector list to the appropriate county  
4 clerk no later than one hundred eighty days before an  
5 election, and update the list every thirty days until ninety  
6 days before the election, which list the county clerk shall  
7 use for that election."

8 **SECTION 153.** Section 73-18-33 NMSA 1978 (being Laws  
9 1955, Chapter 281, Section 9, as amended) is amended to read:

10 "73-18-33. QUALIFICATIONS OF DIRECTORS.--The director-  
11 at-large shall be the owner of class "A" land within the  
12 district and shall be a resident of the district. The  
13 director for the municipal election precinct shall be a  
14 resident and shall be the owner of real estate within the  
15 district boundaries of the municipality. A director  
16 representing a district election precinct outside the  
17 municipality shall be a resident of the district and the  
18 owner of irrigable land within the voting precinct for which  
19 the director is a director."

20 **SECTION 154.** Section 73-18-34 NMSA 1978 (being Laws  
21 1955, Chapter 281, Section 10, as amended) is amended to  
22 read:

23 "73-18-34. BECOMING A CANDIDATE FOR DIRECTOR.--Any  
24 person wishing to become a candidate for the office of  
25 director in any district shall file a declaration of

1 candidacy pursuant to the provisions of the Local Election  
2 Act, stating the election precinct for which the person is a  
3 candidate, accompanied by a petition signed by not less than  
4 ten qualified electors of the election precinct for which the  
5 person is a candidate to represent. No declaration of  
6 candidacy shall be accepted unless accompanied by such  
7 petition, signed by electors."

8 **SECTION 155.** Section 73-18-35 NMSA 1978 (being Laws  
9 1955, Chapter 281, Section 11) is amended to read:

10 "73-18-35. TERM OF OFFICE FOR DIRECTOR.--The regular  
11 term of office for a director is four years, and the director  
12 shall serve until a successor has been chosen and has  
13 qualified. A director shall qualify by taking an oath of  
14 office. Newly elected directors shall take office on the  
15 date that their terms of office begin following the election  
16 of the director."

17 **SECTION 156.** Section 73-18-41 NMSA 1978 (being Laws  
18 1955, Chapter 281, Section 17) is amended to read:

19 "73-18-41. APPLICATION OF LOCAL ELECTION ACT.--In any  
20 election held under Sections 73-18-25 through 73-18-43 NMSA  
21 1978, the Local Election Act shall be applicable except as to  
22 the requirement for registration and residence in state,  
23 county or precinct as a qualification of an elector in  
24 offering to vote."

25 **SECTION 157.** Section 73-20-1 NMSA 1978 (being Laws

1 1957, Chapter 210, Section 1) is amended to read:

2 "73-20-1. SHORT TITLE.--Sections 73-20-1 through 73-20-  
3 24 NMSA 1978 may be cited as the "Watershed District Act"."

4 **SECTION 158.** Section 73-20-9 NMSA 1978 (being Laws  
5 1957, Chapter 210, Section 9, as amended) is amended to read:

6 "73-20-9. REFERENDUM.--After the board of supervisors  
7 has made and recorded a determination that there is need, in  
8 the interest of the public health, safety and welfare, for  
9 creation of the proposed watershed district, it shall  
10 consider the question whether the operation of a district  
11 within the proposed boundaries with the powers conferred upon  
12 such districts in Section 73-20-13 NMSA 1978 is  
13 administratively practicable and feasible. To assist the  
14 board of supervisors in this determination, the board shall,  
15 within a reasonable time after entry of the finding that  
16 there is need for the organization of the district and the  
17 determination of the boundaries of the district, hold a  
18 referendum within the proposed district upon the proposition  
19 of the creation of the district. Due notice of the  
20 referendum shall be given as provided in the Local Election  
21 Act, except that notice sent to absentee landowners shall  
22 also inform them of their right to request a ballot. Ballots  
23 shall be sent to all absentee landowners upon request and  
24 they may vote by return ballot by first class mail."

25 **SECTION 159.** Section 73-20-10 NMSA 1978 (being Laws

1 1957, Chapter 210, Section 10, as amended) is amended to  
2 read:

3 "73-20-10. QUALIFIED ELECTOR LIST.--Only owners of  
4 lands lying within the boundaries of the territory, as  
5 determined by the board, shall be eligible to vote in the  
6 referendum or in elections following formation of the  
7 district. The board shall compile and deliver to the  
8 appropriate county clerks a list of qualified electors one  
9 hundred eighty days prior to a district election and update  
10 the list every thirty days until ninety days before an  
11 election, which list the county clerk shall use for the  
12 election."

13 **SECTION 160.** Section 73-20-11 NMSA 1978 (being Laws  
14 1957, Chapter 210, Section 11, as amended) is amended to  
15 read:

16 "73-20-11. VOTES--RESULTS.--The votes shall be counted  
17 in accordance with the provisions of the Local Election Act.  
18 If a majority of the votes cast favors creation of the  
19 district, the county canvassing board shall certify the  
20 results to the county clerk in the county involved. Upon  
21 proper recording of the action, the watershed district shall  
22 be duly created. After recording, the certification shall be  
23 filed with the New Mexico department of agriculture."

24 **SECTION 161.** Section 73-20-12 NMSA 1978 (being Laws  
25 1957, Chapter 210, Section 12, as amended) is amended to

1 read:

2 "73-20-12. DIRECTORS--ELECTION.--

3 A. At the next regular local election held pursuant  
4 to the Local Election Act after a watershed district is  
5 created, the board of supervisors of the soil and water  
6 conservation district involved shall cause an election to be  
7 held for the election of a board of directors of the  
8 watershed district. The board shall consist of five members.  
9 The first board shall determine by lot from among its  
10 membership two members to serve terms of two years, two  
11 members to serve terms of three years and one member to serve  
12 a term of four years. Thereafter, as these initial terms  
13 expire, their replacements shall be elected for terms of four  
14 years. Vacancies occurring before the expiration of a term  
15 shall be filled by the remaining members of the board for the  
16 unexpired term. Two or more vacancies occurring  
17 simultaneously shall be filled by appointment by the board of  
18 supervisors. The board of directors shall, under the  
19 supervision of the board of supervisors, be the governing  
20 body of the watershed district.

21 B. If the territory embraced within a watershed  
22 district lies within more than one soil and water  
23 conservation district, each additional soil and water  
24 conservation district having a minority of the land involved  
25 in the watershed shall be entitled to elect three additional

1 directors. These additional directors after their election  
2 shall determine by lot one of their number to serve a term of  
3 two years, one a term of three years and one a term of four  
4 years. Thereafter, their successors shall be elected for  
5 terms of four years. The representatives of each of these  
6 minority districts shall fill vacancies in the district's  
7 membership for the unexpired term.

8 C. The board of directors shall annually elect from  
9 its membership a chair, secretary and treasurer. The  
10 treasurer shall execute an official bond for the faithful  
11 performance of the duties of office to be approved by the  
12 board of directors. The bond shall be executed with at least  
13 three solvent personal sureties whose solvency shall exceed  
14 the amount of the bond, or by a surety company authorized to  
15 do business in this state, and shall be in an amount  
16 determined by the board of directors. If the treasurer is  
17 required to execute a surety company bond, the premium of the  
18 bond shall be paid by the board of directors.

19 D. The board of directors shall prepare and submit  
20 to the department of finance and administration such reports  
21 as it may require from among those required to be submitted  
22 by other political subdivisions.

23 E. Each person desiring to be a director of a  
24 watershed district shall file a nominating petition with the  
25 proper filing officer in accordance with the provisions of

1 the Local Election Act, signed by ten or more landowners  
2 within the watershed districts of the county involved, or, if  
3 less than fifty landowners are involved, a majority of such  
4 landowners. If the candidates nominated do not exceed the  
5 positions available, they shall be declared elected. A  
6 person shall not be eligible to be a director of a watershed  
7 district if the person is not a landowner in the district in  
8 which the person seeks election."

9 SECTION 162. Section 73-20-14 NMSA 1978 (being Laws  
10 1957, Chapter 210, Section 14, as amended) is amended to  
11 read:

12 "73-20-14. BONDS.--

13 A. Bonds authorized by Section 73-20-13 NMSA 1978  
14 shall not be issued until proposed by order or resolution of  
15 the board of directors, specifying the purpose for which the  
16 funds are to be used, and the proposed undertaking, the  
17 amount of bonds to be issued, the rate of interest they are  
18 to bear and the amount of any necessary assessment levy in  
19 excess of the maximum authorized in Section 73-20-17 NMSA  
20 1978 to establish a sinking fund for the liquidation of bonds  
21 as provided in Section 73-20-17 NMSA 1978. A copy of the  
22 order or resolution shall be certified to the board of  
23 supervisors.

24 B. The board of supervisors shall conduct a hearing  
25 on the proposal after notice given pursuant to Section 73-20-

1 8 NMSA 1978. If it appears that the proposal is within the  
2 scope and purpose of the Watershed District Act and meets all  
3 other requirements of the law, the proposal shall be  
4 submitted to the landowners of the district at an election  
5 held pursuant to the Local Election Act.

6 C. If two-thirds of the landowners voting favor the  
7 proposal, the bonds may be issued."

8 **SECTION 163.** Section 73-20-21 NMSA 1978 (being Laws  
9 1957, Chapter 210, Section 20, as amended) is amended to  
10 read:

11 "73-20-21. ADDITION OF LAND.--

12 A. Any one or more owners of land may petition the  
13 board of supervisors to have their lands added to a watershed  
14 district. The petition shall define the boundaries of the  
15 land desired to be annexed, the number of acres of land  
16 involved and other information pertinent to the proposal.  
17 When the boundary described embraces lands of others than the  
18 petitioners, the petition shall so state and shall be signed  
19 by twenty-five or more of the landowners in the territory  
20 described, if fifty or more such owners are involved, or by a  
21 majority if less than fifty landowners are involved.

22 B. Within thirty days after the petition is filed,  
23 the board shall cause due notice to be given as provided in  
24 Section 73-20-8 NMSA 1978 of a hearing on the petition. All  
25 interested parties shall have a right to attend the hearing



1 and be heard. The board shall determine whether the lands  
2 described in the petition or any portion of them shall be  
3 included in the district. If all the landowners in the  
4 territory involved are not petitioners, a referendum shall be  
5 held within the territory in accordance with the Local  
6 Election Act before making a final determination. If it is  
7 determined that the land should be added, this fact shall be  
8 certified by the board of supervisors to the county clerk in  
9 the county involved. After recording, the certification  
10 shall be filed with the New Mexico department of  
11 agriculture."

12 **SECTION 164.** Section 73-20-23 NMSA 1978 (being Laws  
13 1957, Chapter 210, Section 22, as amended by Laws 2013,  
14 Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section  
15 2) is amended to read:

16 "73-20-23. DISCONTINUANCE OF DISTRICTS.--

17 A. At any time after five years from the  
18 organization of a watershed district, a majority of the  
19 landowners in the district may file a petition with the board  
20 of supervisors and the board of directors requesting that the  
21 existence of the district be discontinued if all obligations  
22 of the district have been met. The petition shall state the  
23 reasons for discontinuance and demonstrate that all  
24 obligations of the district have been met.

25 B. After giving notice as defined in Section

1 73-20-8 NMSA 1978, the board of supervisors may conduct  
2 hearings on the petition as may be necessary to assist it in  
3 making a determination.

4 C. Within sixty days after petition is filed, a  
5 referendum shall be held pursuant to the provisions of the  
6 Local Election Act.

7 D. If a majority of the votes cast in the  
8 referendum favors the discontinuance of the district and it  
9 is found that all obligations have been met, the board of  
10 supervisors shall make a determination that the watershed  
11 district shall be discontinued. A copy of the determination  
12 shall be certified by the clerk of the county involved for  
13 recording. After recording, the certification shall be filed  
14 with the New Mexico department of agriculture."

15 **SECTION 165.** Section 73-20-37 NMSA 1978 (being Laws  
16 1965, Chapter 137, Section 11, as amended) is amended to  
17 read:

18 "73-20-37. DISTRICT SUPERVISORS--ELECTION AND  
19 APPOINTMENT--NEW DISTRICTS.--

20 A. The governing body of a district shall be  
21 composed of five supervisors who shall be residents of the  
22 district and shall be elected pursuant to the provisions of  
23 the Local Election Act; provided, however, that two  
24 additional supervisors may be appointed to the governing body  
25 of each district by the commission in accordance with the

1 provisions of the Soil and Water Conservation District Act.  
2 Four elected supervisor positions of each district shall be  
3 filled by landowners within the defined geographical area of  
4 their district. One elected supervisor position shall be  
5 designated supervisor-at-large, and the supervisor filling  
6 that position may serve the district without landowner  
7 qualification.

8 B. In the first election of supervisors to serve a  
9 newly organized district, two supervisors shall be elected  
10 for terms of four years and three supervisors shall be  
11 elected for terms of two years. Thereafter, each elected  
12 supervisor shall serve a term of four years and shall  
13 continue in office until a successor has been elected or  
14 appointed and has completed an oath of office. A vacant  
15 unexpired term of the office of an elected supervisor shall  
16 be filled by appointment by the remaining supervisors of the  
17 district. Two or more vacant unexpired terms occurring  
18 simultaneously in the same district shall be filled by  
19 appointment by the commission.

20 C. Appointed interim supervisors may continue to  
21 serve as appointed supervisors until their successors are  
22 elected at the next local election pursuant to the Local  
23 Election Act."

24 **SECTION 166.** Section 73-20-38 NMSA 1978 (being Laws  
25 1965, Chapter 137, Section 12, as amended) is amended to

1 read:

2 "73-20-38. DISTRICT SUPERVISORS--ELECTION AND  
3 APPOINTMENT--ORGANIZED DISTRICTS.--

4 A. Successors to supervisors whose terms end in a  
5 calendar year shall be elected pursuant to the Local Election  
6 Act. Elections shall be called, conducted and canvassed in  
7 accordance with the Local Election Act.

8 B. By June 15 of each year, the district  
9 supervisors may submit to the commission a list of persons  
10 interested in the district and who by experience or training  
11 are qualified to serve as supervisors. The commission may  
12 appoint from the list submitted two persons to serve as  
13 supervisors if it is the determination of the commission that  
14 the appointments are necessary or desirable and would benefit  
15 or facilitate the work and functions of the district. In the  
16 event a list is not submitted to the commission by the  
17 supervisors by June 15, the commission may appoint two  
18 supervisors qualified to serve by training or experience.  
19 Appointed supervisors shall serve a term of two years and  
20 shall have the same powers and perform the same duties as  
21 elected supervisors. Successors to appointed supervisors, or  
22 replacement-appointed supervisors in the event of vacancy,  
23 shall be appointed by the commission from a list of  
24 candidates in accordance with the provisions of this  
25 subsection."

1           **SECTION 167.** Section 73-20-46 NMSA 1978 (being Laws  
2 1965, Chapter 137, Section 20, as amended) is amended to  
3 read:

4           "73-20-46. DISTRICT ASSESSMENTS.--

5           A. In the event a district is unable to meet or  
6 bear the expense of the duties imposed upon it by the Soil  
7 and Water Conservation District Act, the supervisors may  
8 adopt a resolution that, to be effective, shall be approved  
9 by referendum in the district and that shall provide for an  
10 annual levy for a stated period of up to ten years in a  
11 stated amount not exceeding one dollar (\$1.00) on each one  
12 thousand dollars (\$1,000) of net taxable value, as that term  
13 is defined in the Property Tax Code, of real property within  
14 the district, except that real property within incorporated  
15 cities and towns in the district may be excluded. The  
16 referendum held to approve or reject the resolution of the  
17 supervisors shall be conducted pursuant to the Local Election  
18 Act. After the initial authorization is approved by  
19 referendum, the supervisors shall adopt a resolution in each  
20 following year authorizing the levy. To extend an assessment  
21 beyond the period of time originally authorized and approved  
22 by referendum, the supervisors shall adopt a new resolution  
23 and the district voters shall approve it in a referendum.  
24 The extension shall be for the same period of time as  
25 originally approved, but the rate of the tax may be different

1 as long as it does not exceed one dollar (\$1.00) on each one  
2 thousand dollars (\$1,000) of net taxable value of real  
3 property within the district, except that real property  
4 within incorporated municipalities in the district may be  
5 excluded. If the district is indebted to the United States  
6 or the state or any of their respective agencies or  
7 instrumentalities, including the New Mexico finance  
8 authority, at the time of the expiration of the original  
9 authorization, the supervisors may renew the assessment by  
10 resolution for a period not to exceed the maturity date of  
11 the indebtedness, and no referendum for that renewal is  
12 necessary.

13 B. A resolution authorized under Subsection A of  
14 this section shall not be effective, and neither a referendum  
15 nor a levy is authorized, unless the resolution is submitted  
16 to and approved in writing by the commission.

17 C. In the event a resolution of the supervisors is  
18 adopted and approved in accordance with the provisions of  
19 Subsection A of this section, the supervisors of the district  
20 shall certify by the fifteenth of July of each year to the  
21 county assessor of each county in which there is situate land  
22 subject to the district assessment:

23 (1) a copy of the resolution of the  
24 supervisors;

25 (2) the results of any referendum held in the

1 year the certification is made; and

2 (3) a list of landowners of the district and a  
3 description of the land owned by each that is subject to  
4 assessment.

5 D. A county assessor shall indicate the information  
6 on the tax schedules, compute the assessment and present the  
7 district assessment by regular tax bill.

8 E. The district assessment shall be collected by  
9 the county treasurer of each county in which taxable district  
10 land is situate in the same manner and at the same time that  
11 county ad valorem taxes are levied. The conditions,  
12 penalties and rates of interest applicable to county ad  
13 valorem taxation apply to the levy and collection of district  
14 assessments. A county treasurer shall be entitled to a  
15 collection fee equal to the actual costs of collection or  
16 four percent of the money collected from the levy of the  
17 district assessment, whichever is the lesser.

18 F. District funds, regardless of origin, shall be  
19 transferred to and held by the supervisors and shall be  
20 expended for district obligations and functions. The  
21 supervisors shall prepare an annual budget and submit it for  
22 approval to the commission and to the local government  
23 division of the department of finance and administration.  
24 All district funds shall be expended in accordance with the  
25 approved budgets.

1           G. In the event the supervisors of a district  
2 determine that there are or will be sufficient funds  
3 available for the operation of the district for any year for  
4 which an assessment is to be levied, they shall, by  
5 resolution, direct the assessor of each county in which  
6 taxable district land is situate, by July 15 of each year, to  
7 decrease the district assessment or to delete the district  
8 assessment reflected on the tax schedules.

9           H. Any levy authorized by the Soil and Water  
10 Conservation District Act and any loan or other indebtedness  
11 authorized by that act that will require that a levy shall be  
12 based exclusively on or levied exclusively on the real  
13 property in the district, except that real property within  
14 incorporated cities and towns may be excluded."

15           **SECTION 168.** Section 73-21-14 NMSA 1978 (being Laws  
16 1943, Chapter 80, Section 13, as amended) is amended to read:

17           "73-21-14. ELECTIONS.--

18           A. In any district, except a district created  
19 pursuant to a petition signed by the chair of the board of  
20 county commissioners of a county, in accordance with the  
21 Local Election Act, there shall be elected by the qualified  
22 electors of the district one member of the board to serve for  
23 a term of six years, except that if the district elects to  
24 adopt four-year terms, the member shall serve for a term of  
25 four years.



1           B. In any district created pursuant to a petition  
2 signed by the chair of the board of county commissioners of a  
3 county, in the odd-numbered year after the organization of  
4 the district and every second year thereafter, there shall be  
5 elected by the qualified electors of the district at least  
6 two, but no more than three, members of the board to serve  
7 for a term of two years. The election shall be held in  
8 accordance with the provisions of the Local Election Act.

9           C. Nominations may be filed with the proper filing  
10 officer in accordance with the provisions of the Local  
11 Election Act. If within ninety days prior to a board  
12 election, the district publishes materials that describe the  
13 qualifications, experience and accomplishments of incumbents,  
14 equal space shall be made available without charge for  
15 similar information provided by opponents seeking a position  
16 on the board."

17           **SECTION 169.** Section 73-21-28 NMSA 1978 (being Laws  
18 1943, Chapter 80, Section 25, as amended) is amended to read:

19           "73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--  
20 Whenever the board shall, by resolution, determine that the  
21 interest of the district and the public interest or necessity  
22 demand the acquisition, construction, installation or  
23 completion of any works or other improvements or facilities,  
24 or the making of any contract with the United States or other  
25 persons or corporations, to carry out the objects or purposes

1 of the district, requiring the creation of a general  
2 obligation indebtedness of five thousand dollars (\$5,000) or  
3 more, secured by property tax revenue from within the  
4 district, the board shall order the submission of the  
5 proposition of issuing the obligations or bonds or creating  
6 other indebtedness to the qualified electors of the district  
7 at a district election held in accordance with the provisions  
8 of the Local Election Act. The declaration of public  
9 interest or necessity required in this section and the  
10 provision for the holding of the election may be included  
11 within one and the same resolution. The resolution, in  
12 addition to the declaration of public interest or necessity,  
13 shall recite the objects and purposes for which the  
14 indebtedness is proposed to be incurred, the estimated cost  
15 of the works or improvements, as the case may be, the amount  
16 of principal of the indebtedness to be incurred and the  
17 maximum rate of interest to be paid on the indebtedness. The  
18 resolution shall also announce the date upon which the  
19 election shall be held; provided that the date is not in  
20 conflict with the provisions of Section 1-12-71 NMSA 1978."

21 **SECTION 170. TEMPORARY PROVISION.--**

22 A. The term of an elected local government officer  
23 that was set to expire on or before June 30, 2020 pursuant to  
24 the governing statutes of that local government in effect  
25 before the effective date of this act shall expire on

1 December 31, 2019, and that officer's successor shall be  
2 elected in the local election held on the first Tuesday after  
3 the first Monday of November 2019 for a term beginning on  
4 January 1, 2020.

5 B. The term of an elected local government officer  
6 that was set to expire on or after July 1, 2020 but on or  
7 before June 30, 2022 pursuant to the governing statutes of  
8 that local government in effect before the effective date of  
9 this act shall expire on December 31, 2021, and that  
10 officer's successor shall be elected in the local election  
11 held on the first Tuesday after the first Monday of November  
12 2021 for a term beginning on January 1, 2022.

13 C. The term of an elected local government officer  
14 that was set to expire on or after July 1, 2022 pursuant to  
15 the governing statutes of that local government in effect  
16 before the effective date of this act shall expire on  
17 December 31, 2023, and that officer's successor shall be  
18 elected in the local election held on the first Tuesday after  
19 the first Monday of November 2023 for a term beginning on  
20 January 1, 2024.

21 D. The provisions of this section only apply to  
22 local government officers whose elections are subject to the  
23 provisions of the Local Election Act but do not apply to  
24 conservancy district or watershed district elections, which  
25 are subject to the provisions of Section 171 of this act.

1           **SECTION 171. TEMPORARY PROVISION.--**

2           A. The term of a conservancy district or watershed  
3 district board member that was set to expire on or before  
4 June 30, 2024 pursuant to the governing statutes of that  
5 district in effect before the effective date of this section  
6 shall expire on December 31, 2023, and that member's  
7 successor shall be elected in the local election held on the  
8 first Tuesday after the first Monday of November 2023 for a  
9 term beginning on January 1, 2024.

10          B. The term of a conservancy district or watershed  
11 district board member that was set to expire on or after July  
12 1, 2024 but on or before June 30, 2026 pursuant to the  
13 governing statutes of that district in effect before the  
14 effective date of this section shall expire on December 31,  
15 2025, and that member's successor shall be elected in the  
16 local election held on the first Tuesday after the first  
17 Monday of November 2025 for a term beginning on January 1,  
18 2026.

19          C. The term of a conservancy district or watershed  
20 district board member that was set to expire on or after July  
21 1, 2026 pursuant to the governing statutes of that district  
22 in effect before the effective date of this section shall  
23 expire on December 31, 2027, and that member's successor  
24 shall be elected in the local election held on the first  
25 Tuesday after the first Monday of November 2027 for a term

1 beginning on January 1, 2028.

2       **SECTION 172. TEMPORARY PROVISION.**--References in law to  
3 the Municipal Election Code and to the School Election Law  
4 shall be deemed to be references to the Local Election Act.

5       **SECTION 173. REPEAL.**--

6           A. Sections 1-6-19, 1-22-5, 1-23-1 through 1-23-7,  
7 21-13-18.1, 21-13-18.2, 21-16-21, 21-16-22, 72-16-29 through  
8 72-16-34, 72-17-29 through 72-17-34, 72-18-36 through  
9 72-18-41, 72-19-29 through 72-19-34, 72-20-29 through  
10 72-20-34, 73-21-29 and 73-21-30 NMSA 1978 (being Laws 1969,  
11 Chapter 54, Section 1, Laws 1985, Chapter 168, Section 7,  
12 Laws 1987, Chapter 160, Sections 1 through 6, Laws 1991,  
13 Chapter 105, Section 43, Laws 1987, Chapter 160, Section 7,  
14 Laws 1993, Chapter 75, Sections 3 and 4, Laws 1964 (1st  
15 S.S.), Chapter 12, Sections 6 and 7, Laws 1963, Chapter 311,  
16 Sections 29 through 34, Laws 1967, Chapter 156, Sections 29  
17 through 34, Laws 1981, Chapter 377, Sections 36 through 41,  
18 Laws 1990, Chapter 14, Sections 29 through 34, Laws 2007,  
19 Chapter 99, Sections 29 through 34 and Laws 1943, Chapter 80,  
20 Sections 26 and 27, as amended) are repealed.

21           B. Sections 3-8-1 through 3-8-80, 3-9-1 through  
22 3-9-16 and 3-14-7 NMSA 1978 (being Laws 1985, Chapter 208,  
23 Sections 9 through 14, Laws 1991, Chapter 123, Section 2,  
24 Laws 1965, Chapter 300, Section 14-8-5, Laws 1985, Chapter  
25 208, Sections 16 through 22 and 24 through 26, Laws 1971,

1 Chapter 306, Sections 8 and 9, Laws 1985, Chapter 208,  
2 Sections 29 through 32, Laws 1965, Chapter 300, Sections  
3 14-8-3, 14-8-4, 14-8-8 and 14-8-6, Laws 1985, Chapter 208,  
4 Section 37, Laws 1965, Chapter 300, Section 14-8-9, Laws  
5 1971, Chapter 306, Section 10, Laws 1965, Chapter 300,  
6 Section 14-8-13, Laws 1985, Chapter 208, Sections 41 and 42,  
7 Laws 1965, Chapter 300, Section 14-8-2, Laws 1985, Chapter  
8 208, Sections 44 and 45, Laws 2009, Chapter 278, Section 31,  
9 Laws 1985, Chapter 208, Sections 46 through 49 and 51 through  
10 60, Laws 1965, Chapter 300, Section 14-8-14, Laws 1985,  
11 Chapter 208, Sections 62 through 69, Laws 1965, Chapter 300,  
12 Section 14-8-16, Laws 1985, Chapter 208, Sections 71 through  
13 88, Laws 1973, Chapter 375, Sections 2, 1, 3 and 6 through  
14 10, Laws 1985, Chapter 208, Sections 98 through 100, Laws  
15 1973, Chapter 375, Section 11, Laws 2003, Chapter 244,  
16 Section 19, Laws 1973, Chapter 375, Sections 13 and 14 and  
17 Laws 1965, Chapter 300, Section 14-13-7, as amended) are  
18 repealed.

19 **SECTION 174. DELAYED REPEAL.**--Sections 73-14-27,  
20 73-14-28, 73-14-29, 73-14-31 through 73-14-31.3, 73-14-63  
21 through 73-14-65, 73-14-80 through 73-14-86 and 73-18-37  
22 through 73-18-40 NMSA 1978 (being Laws 1975, Chapter 262,  
23 Sections 10 through 12 and 14, Laws 1996, Chapter 42,  
24 Sections 15 and 16, Laws 1999, Chapter 168, Section 8, Laws  
25 1943, Chapter 126, Sections 10 through 12, Laws 1961, Chapter

1 67, Sections 12 through 17, Laws 1996, Chapter 42, Section  
2 17, Laws 1961, Chapter 67, Section 18 and Laws 1955, Chapter  
3 281, Sections 13 through 16, as amended) are repealed  
4 effective July 1, 2022.

5 **SECTION 175. EFFECTIVE DATES.--**

6 A. The effective date of the provisions of Sections  
7 1 through 136, 165 through 170, 172 and 173 of this act is  
8 July 1, 2018.

9 B. The effective date of Sections 137 through 164,  
10 171 and 174 of this act is July 1, 2022.

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