

HOUSE BILL 407

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ELECTIONS; AMENDING THE ELECTION CODE; PROVIDING DEFINITIONS OF TERMS FOR THE ELECTION CODE; PROVIDING A STANDARD DEFINITION FOR "QUALIFIED ELECTOR" FOR ALL ELECTIONS HELD PURSUANT TO THE ELECTION CODE; CHANGING THE NAME OF "PRECINCT BOARD" TO "ELECTION BOARD"; PROVIDING FOR ELECTION BOARD APPOINTMENT AND TRAINING; PROVIDING FOR MESSENGER COMPENSATION AND QUALIFICATIONS; CHANGING PROVISIONS GOVERNING CHALLENGERS, WATCHERS AND COUNTY AND STATE CANVASS OBSERVERS; AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT AND PROVISIONS RELATED TO PRECINCTS; PROVIDING FOR VOTER CONVENIENCE CENTERS; PROVIDING FOR REGISTRATION OF QUALIFIED RESIDENTS AND QUALIFIED

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ELECTORS; PROVIDING PROVISIONS GOVERNING BOARDS OF
REGISTRATION; ALLOWING MUNICIPALITIES AND LOCAL GOVERNMENTS TO
ENTER INTO AGREEMENTS WITH THE SECRETARY OF STATE FOR ACCESS TO
THE VOTER REGISTRATION ELECTRONIC MANAGEMENT SYSTEM; CHANGING
PROCEDURES RELATING TO ABSENTEE VOTING AND OVERSEAS MILITARY
VOTING; HJC→~~CREATING A REGULAR LOCAL ELECTION MAILED BALLOT
PILOT PROGRAM;~~←HJC ENACTING THE RECALL ACT TO GOVERN RECALL
ELECTIONS; ENACTING THE NONPARTISAN JUDICIAL RETENTION ACT;
SYNCHRONIZING POLITICAL SUBDIVISION ELECTION PROCEDURES WITH
THE PROVISIONS OF THE LOCAL ELECTION ACT; REQUIRING THE
SECRETARY OF STATE TO ISSUE PROCLAMATIONS FOR CERTAIN
ELECTIONS; CHANGING PROVISIONS RELATED TO PRIMARY ELECTIONS AND
NOMINATING PETITIONS; REMOVING ANNUAL ASSESSMENTS ON LOCAL
GOVERNMENTS FOR ADMINISTERING REGULAR LOCAL ELECTIONS;
HJC→~~CHANGING THE NAME OF THE LOCAL ELECTION FUND AND PROVIDING
FOR BUDGETARY AUTHORITY OVER THE FUND BY THE SECRETARY OF
STATE;~~←HJC REVISING WRITE-IN CANDIDATE PROCEDURES; CREATING A
MAILED BALLOT AND A PROVISIONAL BALLOT REGISTER; ALLOWING A
VOTER TO COMMUNICATE THE VOTER'S BALLOT INFORMATION TO OTHERS;
PROHIBITING A PERSON FROM SOLICITING A VOTER TO REVEAL THE
VOTER'S BALLOT INFORMATION; PRESCRIBING PROCEDURES FOR THE
HANDLING OF NON-TABULATED PAPER BALLOTS AND CERTIFICATES OF
RETURN AND THE CANVASSING OF RETURNS; CHANGING AUTOMATIC
RECOUNT PROVISIONS; REVISING PROCEDURES FOR FILLING UNITED
STATES REPRESENTATIVE VACANCIES; CHANGING PROVISIONS REGARDING

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ANALYSIS AND PUBLICATION OF PROPOSED CONSTITUTIONAL AMENDMENTS;
HJC→~~CHANGING DEFINITIONS IN THE CAMPAIGN REPORTING ACT;~~←HJC
REVISING DEFINITIONS IN THE LOCAL ELECTION ACT; REVISING
MUNICIPAL OFFICER ELECTION PROCEDURES; REVISING SPECIAL
ELECTION PROCEDURES; CHANGING USE OF THE TERM "QUALIFIED
ELECTOR" IN CERTAIN STATUTES; MAKING LEGISLATIVE FINDINGS
CONCERNING THE PROVISIONS OF ARTICLE 9, SECTION 12 OF THE
CONSTITUTION OF NEW MEXICO AND ITS EFFECT ON THE VOTING RIGHTS
OF CERTAIN PROPERTY OWNERS; REMOVING THE RIGHT OF NONRESIDENT
MUNICIPAL ELECTORS TO VOTE IN MUNICIPAL BOND ELECTIONS;
CHANGING REQUIREMENTS FOR THE FORMATION OF AND ELECTIONS FOR
PUBLIC IMPROVEMENT DISTRICTS AND TAX INCREMENT DEVELOPMENT
DISTRICTS; REQUIRING A STANDARD FORM FOR A PUBLIC REGULATION
COMMISSION CANDIDATE QUALIFICATIONS AFFIDAVIT; AMENDING
CIRCUMSTANCES CAUSING A VACANCY IN LOCAL OFFICE; AWARDED
PUBLIC EMPLOYEES RETIREMENT SERVICE CREDIT TO OFFICERS WHOSE
TERMS ARE SHORTENED; CHANGING PROVISIONS IN THE FINANCIAL
DISCLOSURE ACT; PROVIDING FOR A DELAY IN MAILING OF PROPERTY
TAX BILLS FOR CERTAIN COUNTIES; CHANGING PROVISIONS RELATED TO
LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY ELECTIONS;
HJC→**CHANGING PROVISIONS RELATING TO WATER AND SANITATION
DISTRICT BOARD ELECTIONS;**←HJC MAKING TECHNICAL AND CONFORMING
CHANGES TO LAWS RELATED TO ELECTIONS; AMENDING, REPEALING,
ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; DECLARING
AN EMERGENCY.

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

SECTION 1. Section 1-1-3.3 NMSA 1978 (being Laws 2011, Chapter 137, Section 2) is amended to read:

"1-1-3.3. ELECTION-RELATED ORGANIZATION.--As used in the Election Code, "election-related organization" means an organization registered with the secretary of state that is involved in election monitoring or voter turnout activities, but does not include a qualified political party HJC→in an election in which the political party is represented on the ballot←HJC."

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

"1-1-4. QUALIFIED ELECTOR.--

A. As used in the Election Code and rules promulgated by the secretary of state, "qualified elector" means any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States and includes any qualified resident.

B. As used in all other statutes and rules of New Mexico, unless otherwise defined, "qualified elector" means a "voter" as that term is defined in Section 1-1-5 NMSA 1978.

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

"1-1-5. VOTER.--As used in the Election Code, "voter"

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means any qualified elector or federal qualified elector who is registered to vote under the provisions of the Election Code."

SECTION 4. Section 1-1-5.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 9, as amended) is amended to read:

"1-1-5.2. DEFINITION OF A VOTE--~~[COUNTING OF]~~ MACHINE-TABULATED--HAND-TALLIED [BALLOTS]--WRITE-IN.--

A. ~~[A vote on]~~ For a paper ballot [used on an electronic vote tabulating system, optical scan vote tabulating system or high-speed central count vote tabulator consists of a) that is machine-tabulated on a vote tabulation system certified for use in this state, a vote shall be counted if the:

(1) voter's selection of a candidate or answer to a ballot question is indicated in the voting response area of the paper ballot; and

(2) ballot is marked in accordance with the instructions for that ballot type.

B. For a paper ~~[ballots]~~ ballot that ~~[are]~~ is hand-tallied, a vote shall be counted if:

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

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

(3) there is a distinct marking, such as a cross or check, within the voting response area for the

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preferred candidate or answer to [the] a ballot question; or

(4) the presiding judge and election judges [for the precinct] hand-tallying the ballot unanimously agree that the voter's intent is clearly discernable.

C. For a paper ballot that is machine-tabulated or hand-tallied and that contains a write-in vote, the write-in vote shall be counted if the name is:

(1) the name of a declared write-in candidate for that office and position and is on the proper line provided for a write-in vote for that office and position; and

(2) written as first and last name; first name, middle name or initial and last name; one or two initials and last name; or last name alone if there is no other declared write-in candidate for the office or position that is the same or so similar as to tend to confuse the candidates' identities; provided that:

(a) when the presiding judge and election judges reviewing the write-in vote unanimously agree that the voter's intent is clearly discernable, an abbreviation, misspelling or other minor variation in the form of the name of a declared write-in candidate shall be accepted as a valid vote; and

(b) as used in this subsection, "write-in" and "written" do not include the imprinting of any name by stamp or similar method or device or the use of a

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stencil or a preprinted sticker or label."

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

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

SECTION 6. Section 1-1-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 11, as amended by Laws 2011, Chapter 131, Section 1 and by Laws 2011, Chapter 137, Section 7) is amended to read:

"1-1-12. CONSOLIDATED PRECINCT.--

A. As used in the Election Code, "consolidated precinct" means a single precinct or the combination of two or more precincts into one polling place for the purpose of establishing a voter convenience center pursuant to the provisions of Section 1-3-4 NMSA 1978.

B. When consolidated precincts are used to establish a voter convenience center in [~~an~~] a statewide election, references to "precincts" in the voting process shall be applicable to consolidated precincts."

SECTION 7. Section 1-1-13 NMSA 1978 (being Laws 1969,

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Chapter 240, Section 12, as amended) is amended to read:

"1-1-13. [PRECINCT] ELECTION BOARD.--As used in the Election Code, "[~~precinct~~] election board" [~~or "poll workers"~~] means the [~~appointed election officials~~] judges of election in accordance with Article 7, Section 1 of the constitution of New Mexico and the election clerks that are appointed pursuant to Section 1-2-12 NMSA 1978 and serving [a single precinct, a consolidated precinct, an absent voter precinct or an alternate voting location] in a polling place or tallying ballots that have been cast in a statewide or special election."

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

"1-1-15. POSTING.--

A. As used in the Election Code, "posting" means posting [~~for not less than seven days prior to an election or to an action to be taken~~] from the date a posting is required until forty-five days after adjournment of the state or county canvassing board or until forty-five days following any recount, contest or other judicial inquiry, whichever is later.

B. A posting as described in Subsection A of this section is satisfied by posting on the website and in a public area in the office of:

(1) the secretary of state [~~and on the secretary of state's web site~~], when the secretary of state has the duty to post; or

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(2) the county clerk [~~and on the county's web site, if the county maintains a web site~~], when the county clerk has the duty to post."

SECTION 9. Section 1-8-31 NMSA 1978 (being Laws 1973, Chapter 228, Section 5, as amended) is recompiled in Chapter 1, Article 1 NMSA 1978 and is amended to read:

"~~[NOMINATING PETITION]~~ PETITIONS--NOMINATIONS--SIGNATURES TO BE COUNTED.--

A. A person who signs a nominating petition shall sign only one petition for the same office unless more than one candidate is to be elected to that office, and in that case, a person may sign not more than the number of nominating petitions equal to the number of candidates to be elected to the office.

B. A person who signs a nominating petition shall indicate the person's registration address. If the person does not have a standard street address, the person may provide the mailing address as shown on the person's certificate of registration.

C. A signature shall be counted on a nominating petition unless there is evidence presented that the petition does not provide the information required by the nominating petition for each person signing or the person signing:

~~[(1) failed to provide information required by the nominating petition;~~

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~~(2)~~ (1) is not a voter of the state, district, county or area to be represented by the office for which the person seeking the nomination is a candidate;

~~(3)~~ (2) has signed more than one petition for the same office, except as provided in Subsection A of this section, ~~[or has signed one petition more than once]~~ and if the person has signed more than one petition for the same office ~~Hfl→~~and in the same election cycle~~←Hfl~~, none of the ~~Hfl→~~challenged~~←Hfl~~ signatures from that person shall count toward the total number of signatures required for any candidate for that office;

(3) has signed one petition more than once, in which case only one signature from that person shall count toward the total number of signatures required for that candidate for office;

(4) ~~Hfl→~~in a primary election,~~←Hfl~~ is not of the same political party as the candidate named in the nominating petition as shown by the signer's certificate of registration; or

(5) is not the person whose name appears on the nominating petition.

~~[D. The following information shall be listed in the appropriate space at the top of the nominating petition before the petition has been signed by any voter:~~

~~(1) the party affiliation of voters signing~~

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~~the petition;~~

~~(2) the candidate's name;~~

~~(3) the office sought by the candidate; and~~

~~(4) the district of the office sought, or, if~~

~~the office sought is a judicial division office within a
judicial district, the judicial division number.~~

~~E. With or without a showing of fraud or reasonable
opportunity for fraud, a nominating petition, including all
signatures on the petition page, shall be invalid if any of the
information required by Subsection D of this section is not
listed on the petition before the petition is signed by a voter
or if any of the required information is altered.~~

~~F.] D.~~ The procedures set forth in this section
shall be used to validate signatures on any petition required
by the Election Code, except that Paragraph (4) of Subsection C
of this section shall not apply to petitions filed by
unaffiliated candidates or petitions filed by candidates of
minor political parties."

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

"[NEW MATERIAL] BALLOT QUESTION.--As used in the Election
Code, "ballot question" means a question submitted to the
voters of the state or a local government on a ballot pursuant
to the provisions of the Election Code and does not include a
candidate nomination, election contest or nonpartisan judicial

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retention election."

SECTION 11. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] COUNTY.--As used in the Election Code, "county" means a county in this state, including a combined city and county corporation, incorporated county, urban county or single urban government."

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

"[NEW MATERIAL] MUNICIPALITY.--As used in the Election Code, "municipality" means an incorporated city, town or village, whether incorporated under general act, special act, special charter or territorial charter, but does not mean a combined city and county corporation, an incorporated county or a single urban government."

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

"[NEW MATERIAL] PETITIONS--NOMINATIONS--REQUIREMENTS BEFORE SIGNED BY VOTERS--INVALIDATED PETITIONS.--

A. The following information shall be listed in the appropriate space at the top of a nominating petition before the petition has been signed by a voter:

(1) the candidate's name as it appears on the candidate's certificate of registration;

(2) the address where the candidate resides;

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(3) the office sought by the candidate;

(4) if the office sought is a districted office or a division within a judicial district or has been assigned a position number for purposes of the election, the district, division or position number of the office sought;

(5) if the office sought will be on the general election ballot, the party affiliation of the candidate or that the candidate is unaffiliated with any qualified political party; and

(6) if the office sought will be nominated at a political party primary, the party affiliation of voters permitted to sign the petition.

B. With or without a showing of fraud or a reasonable opportunity for fraud, a nominating petition page, including all signatures on the petition page, shall be invalid if any of the information required by Subsection A of this section is not listed on the petition before the petition page is signed by a voter or if any of the required information is subsequently changed in any way."

SECTION 14. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] PROPER FILING OFFICER.--As used in the Election Code, "proper filing officer" means, for the purposes of filing:

A. reports required by the Campaign Reporting Act

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and the School District Campaign Reporting Act, the secretary of state;

B. declarations of candidacy and candidate qualification documents by any candidate for statewide or federal office, the secretary of state; and

C. declarations of candidacy and candidate qualification documents by all other candidates, the county clerk of the county in which the candidate resides."

SECTION 15. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] QUALIFIED RESIDENT.--As used in the Election Code, "qualified resident" means an individual who is under the age of eighteen and, except for the age requirement, otherwise satisfies the state's voter eligibility requirements as a qualified elector or a federal qualified elector."

SECTION 16. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SPECIAL ELECTION.--As used in the Election Code, "special election" means an election at which only ballot questions are considered and that is held at a time other than a statewide election."

SECTION 17. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] STATEWIDE ELECTION.--As used in the Election Code, "statewide election" means:

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- A. a general election;
- B. a political party primary;
- C. a regular local election; or

D. with respect to the applicable counties and precincts, an election called to fill a vacancy in the office of United States representative."

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

"[NEW MATERIAL] UNITED STATES.--As used in the Election Code, "United States" means the several states and the District of Columbia, but does not mean Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States."

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

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

A. The county clerk on or before [fifty-five] forty-two days next preceding [~~the primary~~] a statewide election shall appoint the [~~precinct board for each precinct~~].

~~B. The members of the precinct board shall be appointed for a term of two years.~~

~~C. In the event of a vacancy in the office of precinct board member by reason of death, removal from the county, disqualification, refusal to serve, or excusal by the county clerk for sufficient cause, the county clerk shall~~

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~~appoint a qualified person to fill the vacancy for the unexpired term]~~ necessary election boards for that election, and before twenty-one days next preceding a special election the county clerk shall appoint the necessary election boards for that election. The appointment of the members of each election board shall be in writing and delivered to the person receiving the appointment.

B. The county clerk shall maintain in a public place in the county clerk's office a list of the members of the election board, the positions of the election board members and the assignments of the election board members. The list shall be made available at least forty days before a statewide election and at least twenty days before a special election and shall be updated HJC→regularly←HJC HJC→ when changed ←HJC until forty-five days after adjournment of the state or county canvassing board or until forty-five days following any recount, contest or other judicial inquiry, whichever is later."

SECTION 20. Section 1-2-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 29, as amended) is amended to read:

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

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

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

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

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

- (1) who is a candidate to be voted for at the election;
- (2) who is a spouse, parent, child, brother or sister of any candidate to be voted for at the election;
- (3) who is married to a parent, child, brother or sister of any candidate to be voted for at the election or who is the parent of the spouse of any candidate to be voted for at the election; or
- (4) who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

D. A county clerk may appoint not more than two

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minors to serve on [~~a precinct~~] an election board under the direct supervision of the presiding judge. A minor appointed by the county clerk shall:

- (1) meet the qualifications set forth in Subsection A of this section, except the minor need not be eligible to vote;
- (2) be sixteen or seventeen years of age at the time of the election in which the minor is serving as a member of [~~a precinct~~] an election board;
- (3) be a citizen at the time of the election for which the minor will be serving as a member of [~~a precinct~~] an election board;
- (4) have the approval of the minor's parent or legal guardian, unless the minor is emancipated;
- (5) attend at least one school of instruction in accordance with the provisions of Section 1-2-17 NMSA 1978; and
- (6) be appointed to [~~a precinct~~] an election board in the county in which the minor's parent or legal guardian resides, in accordance with the provisions of Section 1-2-11 NMSA 1978.

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

SECTION 21. Section 1-2-9 NMSA 1978 (being Laws 1975, .211327.3

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Chapter 255, Section 15, as amended) is amended to read:

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

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

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

SECTION 22. Section 1-2-11 NMSA 1978 (being Laws 1977, Chapter 222, Section 5, as amended) is amended to read:

"1-2-11. [PRECINCT] ELECTION BOARD--ASSIGNMENT.--Wherever possible, the county clerk shall assign persons appointed as [~~precinct~~] election board members to serve in precincts wherein they reside or in precincts located in the representative district wherein they reside. In the event of a shortage or absence of [~~precinct~~] election board members in certain precincts, the county clerk may, in the best interest of the election process, assign appointed [~~precinct~~] election board

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members to serve on any [~~precinct~~] election board in the county; provided that such appointed board members shall not change the proportionate representation of each party on the board."

SECTION 23. Section 1-2-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 32, as amended) is amended to read:

"1-2-12. [~~PRECINCT~~] ELECTION BOARD--~~[NUMBER FOR EACH PRECINCT]~~ POSITIONS ON EACH BOARD--

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

- (1) a presiding judge;
- (2) two election judges; and
- (3) [~~one~~] election [~~clerk~~] clerks who are

appointed to assist the presiding judge and election judges.

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

~~(1)] shall appoint presiding judges and election judges so that [at least one election judge shall not be of the same political party, if any, as the presiding judge; and~~

~~(2)] not more than two of the three judges belong to the same political party at the time of their appointment; provided that:~~

~~(1) a judge of an election board shall not have changed party registration in the two years next preceding~~

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the judge's appointment in such a manner that the judge's prior party registration would make the judge ineligible to serve on the assigned election board; and

(2) a judge of an election board shall not continue to serve on an election board if the judge changes party registration after the date of appointment in such a manner to make the judge ineligible to serve on the assigned election board.

C. The county clerk may appoint teams of presiding judges and election judges for alternate voting locations, absent voter precincts, [recount precinct boards] recounts and [alternate voting locations] special elections; provided that each team meets the requirements [pursuant to Paragraph (1) of this subsection.

~~C. For all other elections, the precinct board shall consist of:~~

~~(1) a presiding judge;
(2) one election judge; and
(3) one election clerk] of Subsection B of this section.~~

D. [If] The county clerk may appoint election clerks to the election board as necessary to assist the presiding judge and election judges if the county clerk determines that additional election [clerks] board members are needed. [the clerk may appoint such additional election clerks

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~~as the clerk deems necessary]~~

E. County clerk employees may be ~~[appointed to assist a precinct board]~~ assigned by the county clerk to provide support to an election board or polling location."

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

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

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

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

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

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

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SECTION 25. Section 1-2-15 NMSA 1978 (being Laws 1991, Chapter 105, Section 6) is amended to read:

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

A. If for any cause a member of the [~~precinct board~~ is not present on election day at the precinct for which he or she] election board fails to appear for the assigned duty to which the member was appointed, the remaining board members shall immediately notify the county clerk. [~~who shall fill the vacancy~~].

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

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

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

(3) ~~if the vacancy is in the position of election clerk, the presiding judge shall appoint any voter of~~

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~~the precinct to fill the vacancy, provided the voter is of a different political party than the remaining election clerk on a five-member board or of a different political party than that of the presiding judge on a four-member board.]~~

B. In the event of a vacancy in an election board position by reason of death, removal from the county, disqualification, refusal to serve, failure to appear for an assigned duty or excusal by the county clerk for sufficient cause, the county clerk may appoint a qualified person to fill the vacancy.

C. No vacancy [~~on election day~~] shall prevent the remaining board members from proceeding to open the polls [~~and conducting~~] or otherwise perform their duties for the election in their assigned [precinct] location."

SECTION 26. Section 1-2-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 36, as amended) is amended to read:

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

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

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

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

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

SECTION 27. Section 1-2-17 NMSA 1978 (being Laws 1969, Chapter 240, Section 37, as amended) is amended to read:

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

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

B. The schools [~~for~~] of instruction provided for in this section shall be [~~as follows:~~

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

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

(3) ~~one school not less than seven days before any other statewide]~~ held following an election board member's appointment and before the member performs assigned duties in

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an election.

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

D. The school of instruction shall be open to any interested person, and the county clerk shall post notice of the school [~~shall be given to the public press~~] at least four days before the school is to be held. Each member of [~~the precinct~~] an election board shall be notified at least seven days prior to commencement of the school.

E. A person shall not serve as a [~~judge or~~] member of [~~a precinct~~] an election board in any election unless that person has attended at least one such school of instruction [~~in the calendar year of~~] for the election at which the person is appointed to serve [~~or~~] and has been certified by the county clerk with respect to the person's completion of the school of instruction. This subsection shall not apply to filling of vacancies on election day as provided in Subsection B of Section 1-2-15 NMSA 1978."

SECTION 28. Section 1-2-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 38) is amended to read:

"1-2-18. [~~PRECINCT~~] ELECTION BOARD MEMBERS-- IDENTIFICATION BADGES.--At all times on election day while performing their duties, members of the [~~precinct~~] election

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board shall wear uniform identification badges. Such badges shall be furnished by the county clerk. The secretary of state shall prescribe the form and material of such identification badges, which shall include the identification of the election board member's name, title and political party."

SECTION 29. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--COMPENSATION.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect absentee ballots and removable media storage devices from polling places and deliver them to locations designated by the county clerk.

B. Messengers may be compensated at the same daily or hourly rate as provided for election board members or at a rate established by the county clerk. Messengers [~~shall~~] may be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route when the messenger travels by private vehicle. The compensation and mileage shall be paid within thirty days following the date of election [~~if funds are available for payment~~].

C. Messengers shall take an oath of office before entering into service as a messenger. Messengers may be appointed to serve solely in that capacity or may be election

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board members or county employees also appointed to serve as messengers."

SECTION 30. Section 1-2-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 40, as amended) is amended to read:

"1-2-21. CHALLENGERS--APPOINTMENT.--

A. The county chair of each political party represented on the ballot in a partisan election may appoint in writing challengers for each polling location. If more than one challenger is appointed to a polling location, the challengers shall be listed in ranking order.

B. If any county chair fails to make such appointments or if there is no county chair, the [~~precinct~~] state chair of the political party may in a partisan election appoint in writing one challenger for [~~the~~] each polling location [~~corresponding to the precinct.~~

~~C. If any precinct chair fails to make such appointments, or if no person properly appointed is present at the polling place and offers to serve, the voters present belonging to that political party may appoint one challenger in writing] in the county."~~

SECTION 31. Section 1-2-25 NMSA 1978 (being Laws 1969, Chapter 240, Section 44, as amended) is amended to read:

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

A. Challengers, watchers and county canvass

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observers shall:

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

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

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

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

(5) be allowed in the room in which the voting is being conducted at a polling location; provided that at any given time, each political party, candidate or election-related organization may have no more than one person present; and

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

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

(b) four persons present at any given

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time in counties with more than fifty thousand registered voters; or

(c) fifteen persons present at any given time in counties with more than [~~two~~] one hundred fifty thousand registered voters.

B. Subject to permission granted by the county clerk, additional challengers may be present in the room in which the absent voter [~~precinct~~] election board, the recount election board or the election board for a special election conducts its business in a partisan election; provided that the number of additional challengers allowed pursuant to this subsection is identical for each political party participating in the election."

SECTION 32. Section 1-2-27 NMSA 1978 (being Laws 1969, Chapter 240, Section 46, as amended) is amended to read:

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

A. An election-related organization may in a statewide or special election appoint watchers in a county if the organization provides a written notice to the secretary of state at least [~~ten~~] seven days prior to serving as a watcher during early voting, the election date or the ballot qualification period for mailed ballots in a statewide or a special election and specifies the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the

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election.

B. Any group of three candidates for elected office in a statewide election may appoint watchers in a county if the candidates provide a written notice to the secretary of state at least [~~ten~~] seven days prior to serving as a watcher during early voting, the election date or the ballot qualification period for mailed ballots in a statewide or special election and specify the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election."

SECTION 33. Section 1-2-31 NMSA 1978 (being Laws 2005, Chapter 270, Section 15, as amended) is amended to read:

"1-2-31. COUNTY CANVASS OBSERVERS.--

A. The county chair of each political party represented on [~~the~~] a partisan ballot may appoint in writing county canvass observers. A candidate for elected office and an election-related organization in a statewide or special election may each appoint county canvass observers in a county if the candidate or organization makes a written request to the secretary of state [~~at least ten days prior to the election date~~] and specifies the names of the qualified appointees. The secretary of state shall immediately notify the county clerk of the qualified appointees [~~at least five days before the election~~].

B. County canvass observers shall be voters of a

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precinct located in that county to which they are appointed. No person shall be qualified for appointment or service as a county canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

C. A county canvass observer or an election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the county canvassing begins until the completion of the canvass.

D. A county canvass observer or election observer is strictly limited to observing and documenting the canvassing process and shall not interrupt the canvassing process.

E. County canvass observers and election observers shall not interfere with the orderly conduct of the canvass and may be removed by the county clerk if the observer does not comply with the law.

F. As used in this section, "county canvass" means the process in the office of the county clerk of qualifying and verifying paper ballots and counting and tallying votes for each precinct beginning upon the closing of the polls and ending with the certification and announcement of the results by the county canvassing board."

SECTION 34. Section 1-2-32 NMSA 1978 (being Laws 2011, Chapter 137, Section 11) is amended to read:

"1-2-32. STATE CANVASS OBSERVERS.--

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A. The state chair of each political party represented on ~~[the]~~ a partisan ballot may appoint in writing state canvass observers. A candidate for elected office in a statewide election and an election-related organization in a statewide or special election may each appoint state canvass observers if the candidate or organization makes a written request to the secretary of state ~~[at least ten days prior to the election date]~~ and specifies the names of the qualified appointees.

B. State canvass observers shall be voters of the state. No person shall be qualified for appointment or service as a state canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

C. The state canvass observer or election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the state canvassing begins until the completion of the canvass.

D. A state canvass observer or election observer is strictly limited to observing and documenting the canvassing process and shall not interrupt the canvassing process.

E. State canvass observers shall not interfere with the orderly conduct of the canvass and may be removed by the secretary of state if the observer does not comply with the law.

F. As used in this section, "state canvass" means

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the process ~~[of examining]~~ in the office of the secretary of state or by such person as the state canvassing board may appoint to examine election returns and certificates issued by the county canvassing boards and ending with the certification and announcement of the results by the state canvassing board."

SECTION 35. Section 1-3-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 50, as amended) is amended to read:

"1-3-1. NATURE OF A PRECINCT--MAPS.--

A. Each precinct as nearly as practicable shall be composed of contiguous and compact areas having clearly definable boundaries. All precinct boundaries shall comply with the provisions of the Precinct Boundary Adjustment Act.

B. A precinct ~~[for general or primary election purposes shall not have had more than eight]~~ shall be divided or its boundaries adjusted if the precinct has had more than:

(1) seven hundred fifty votes cast ~~[in person in]~~ by voters of that precinct at [the last preceding] a general election, based on the two most recent general elections; or

(2) two thousand five hundred persons residing within the boundaries of the precinct, based on the most recent federal decennial census.

C. A precinct HJC→~~shall~~←HJC HJC→may←HJC be combined with another precinct or its boundaries adjusted if the precinct HJC→~~is in a county with more than one thousand~~

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~~five hundred persons residing within the boundaries of the county, based on the most recent federal decennial census, and the precinct~~ ←HJC has had less than:

(1) one hundred votes cast by voters of that precinct at a general election, based on the two most recent general elections; or

(2) five hundred persons residing within the boundaries of the precinct, based on the most recent federal decennial census.

D. A precinct shall not be combined with an adjoining precinct as provided in Subsection C of this section if the combination of the two precincts would:

(1) violate the maximum votes cast or population requirements of Subsection B of this section; or

(2) cross any local, state or federal district or districted boundary lines.

~~[G. Each county clerk]~~ E. The secretary of state shall provide and maintain a suitable map showing the current geographical boundaries with designation of each precinct, local government, representative district and senatorial district in the county. The size and form of such maps shall be prescribed by the secretary of state. A word description of the geographical boundaries shall be attached to each map, [Such] along with a description of the changes from the previous map of the area. The map, with attached description,

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is a public record.

~~[D. Each county clerk shall send a copy of each map with attached description to the secretary of state. These copies are also public records.]"~~

SECTION 36. Section 1-3-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 51, as amended) is amended to read:

"1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--~~[A.]~~
For the conduct of any statewide election during the period beginning January 1 of the next succeeding even-numbered year until December 31 of the odd-numbered year thereafter, in June or July of each odd-numbered year, the board of county commissioners shall by resolution:

~~[(1)]~~ A. designate the polling place of each precinct that shall provide individuals with physical mobility limitations an unobstructed access to at least one voting machine;

~~[(2)]~~ B. consolidate any precincts ~~[for the next succeeding primary and general elections]~~ pursuant to Section 1-3-4 NMSA 1978;

~~[(3)]~~ C. designate any mail ballot election precincts ~~[for the next succeeding primary and general elections];~~

~~(4)~~ consolidate precincts for the regular local elections following the next succeeding general election as provided in Section 1-3-4 NMSA 1978;

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~~(5) designate any mail ballot election precincts for the regular local election following the next succeeding general election;~~

~~(6) create additional precincts to meet the requirements of Section 1-3-1 NMSA 1978 or upon petition pursuant to Section 4-38-21 NMSA 1978] pursuant to Section 1-6-22.1 NMSA 1978; and~~

~~[(7)] D. create additional polling places in existing precincts [as necessary] pursuant to Section 1-3-7.1 NMSA 1978 [and~~

~~(8) divide any precincts as necessary to meet legal and constitutional requirements for redistricting.~~

~~B. Polling places, consolidated precincts and mail ballot election precinct designations established in the resolution adopted pursuant to Subsection A of this section for primary and general elections shall be the same used for any special election for the office of United States representative held in the two succeeding calendar years following adoption of the resolution.~~

~~G. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish a copy of the map showing the current geographical boundaries, designation and word description of each new polling place and each new or changed~~

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precinct.

~~D. The secretary of state shall review all new or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act. Any necessary precinct boundary adjustments shall be made and submitted to the secretary of state no later than the first Monday in December of each odd-numbered year. Upon approval of the new or changed precincts by the secretary of state, the precincts and polling places as changed by the resolution of the boards of county commissioners and approved by the secretary of state shall be the official precincts and polling places for the next succeeding primary and general elections and the regular local election following the next succeeding general election]."~~

SECTION 37. Section 1-3-4 NMSA 1978 (being Laws 1975, Chapter 255, Section 30, as amended) is amended to read:

"1-3-4. CONSOLIDATION OF PRECINCTS--VOTER CONVENIENCE CENTERS.--

A. [~~Precincts may be consolidated by~~] The board of county commissioners [~~for the following elections:~~

~~(1) primary and general elections; and~~

~~(2) local elections]~~ may permit voters in the

county to cast ballots in statewide elections at voter convenience centers through the use of consolidated precincts authorized pursuant to this section.

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B. When precincts are consolidated [~~for a primary and general election or a regular local election~~] and voter convenience centers are established for statewide elections:

(1) the resolution required by Section 1-3-2 NMSA 1978, in addition to the other matters required by law, shall state therein which precincts have been consolidated and the [~~designation of the polling place. In addition, when consolidating precincts~~] location of the voter convenience center within that consolidated precinct;

[~~(1)~~] (2) any voter of the county shall be allowed to vote [~~in any consolidated precinct polling location~~] on a regular ballot at any voter convenience center in the county;

[~~(2)~~] (3) each [~~consolidated precinct in a primary or general election~~] voter convenience center shall be a consolidated precinct composed of no more than ten precincts;

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

(4) each [~~consolidated precinct~~] voter convenience center shall comply with the provisions of Section 1-3-7 NMSA 1978;

(5) each [~~consolidated precinct polling location~~] voter convenience center shall have a broadband internet connection and real-time access to the [~~statewide~~] voter registration electronic management system;

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(6) the county clerk may maintain any ~~[alternative]~~ alternate voting locations or mobile alternate voting locations previously used in the same election open for voting on election day ~~[for any voter in the county]~~ as a voter convenience center, in addition to the ~~[polling location]~~ voter convenience center established ~~[in]~~ within each consolidated precinct; provided that the locations otherwise meet the requirements of a voter convenience center; and

(7) the board of county commissioners may permit ~~[rural]~~ certain precincts to be exempted from operating as a voter convenience center or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for ~~[the rural]~~ that precinct does not have real-time access to the ~~[statewide]~~ voter registration electronic management system, voters registered in a ~~[rural]~~ precinct as described in this paragraph are permitted to vote ~~[in]~~ at any ~~[consolidated precinct polling location]~~ voter convenience center on election day only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the ~~[rural precinct]~~ same election on any other ballot.

C. Unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived, each ~~[consolidated precinct~~

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~~polling location]~~ voter convenience center shall:

(1) have ballots available for voters from every precinct ~~[that is able]~~ authorized to vote ~~[in the consolidated precinct]~~ at that voter convenience center;

(2) have at least one optical scan tabulator programmed to read every ballot style able to be cast ~~[in the consolidated precinct]~~ at that voter convenience center;

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

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

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

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

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

(8) be in a location that is accessible and

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compliant with the requirements of the federal Americans with Disabilities Act of 1990.

D. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more convenient and accessible to voters of the consolidated precinct and will not result in delays for voters in the voting process and that the [~~consolidated precinct voting location~~] voter convenience center will be centrally located within the consolidated precinct. HJC→The board of county commissioners shall give due consideration to input received from any local public body in the county regarding the location of voter convenience centers.←HJC"

SECTION 38. Section 1-3-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 55, as amended) is amended to read:

"1-3-5. PRECINCTS--POWERS OF COUNTY COMMISSIONERS.--

A. The board of county commissioners shall by resolution:

(1) create additional precincts to meet the requirements of Section 1-3-1 NMSA 1978; and

(2) divide, abolish, combine or adjust the boundaries of any precincts as necessary to meet legal and constitutional requirements for redistricting.

B. Any necessary precinct boundary adjustments shall be submitted to the secretary of state no later than the first Monday in December of each odd-numbered year to become

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effective January 1 next succeeding the approval of the boundary adjustment. No precinct shall be created, divided, abolished or [~~consolidated~~] combined or the boundaries [~~or polling place therein changed~~] adjusted less than four months prior to [~~each~~] a statewide election, except by order of the district court.

C. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish the current geographical boundaries, designation and word description of each new polling place and each new or changed precinct.

D. The secretary of state shall review all new or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978.

E. Precincts shall be designated solely by whole numbers."

SECTION 39. Section 1-3-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 56, as amended) is amended to read:

"1-3-6. PRECINCTS--BOUNDARIES--PROTEST.--

A. Any twenty-five or more voters of a precinct dissatisfied with the boundaries fixed for a precinct or location of the polling place designated by the board of county commissioners for that precinct may, within one hundred eighty

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days from the date a change to the boundaries of a precinct was approved in the case of a protest to the boundaries of a precinct, or at any time not less than [fifty-five] one hundred twenty days prior to any [general] statewide election, petition the district court of that county, setting forth the facts and reasons for their dissatisfaction and requesting that the board of county commissioners be required by mandamus to change the boundaries or polling place as set forth in the petition.

B. Upon filing of the petition, the court shall fix a time and place for hearing, which time shall not be more than twenty days from the date the petition was filed. Each member of the board of county commissioners and the person whose name appears first on the petition as a signer [~~thereof~~] shall immediately be given notice by the court of the filing of the petition and the date set for hearing.

C. On the date set for the hearing on the petition, the court shall hear the evidence, decide the issues involved and issue its order as the law and facts require."

SECTION 40. Section 1-3-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 57, as amended) is amended to read:

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

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

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polling place and use a single [~~precinct~~] election board.

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

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

D. If, in a precinct that is not a mail ballot election precinct or a consolidated precinct, there is no public building or public school building available in the precinct, and there is no other suitable place obtainable in the precinct, the board of county commissioners may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained. No polling place shall be designated outside the boundary of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

E. Upon application of the board of county

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commissioners, the governing board of any school district shall permit the use of any school building or a part thereof for registration purposes and the conduct of any election; provided that the building or the part used for the election complies with the standards set out in the federal Voting Accessibility for the Elderly and Handicapped Act. Application for use of a school building or any part thereof for the conduct of a statewide election shall be made by delivering to the superintendent of the school district the resolution adopted pursuant to Section 1-3-2 NMSA 1978.

F. [~~Public schools may be closed for elections at the discretion of local school boards.~~] On the day of any statewide election for which application was made pursuant to Subsection E of this section, the board of education of a school district shall provide exclusive use of any school building or the part thereof to be used in the conduct of the election and shall provide sufficient parking for election officials and to permit voters to exercise the elective franchise."

SECTION 41. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st S.S.), Chapter 3, Section 4, as amended) is amended to read:

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

A. Before each federal decennial census, every precinct shall comply with the requirements of Section 1-3-1

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NMSA 1978, and if necessary its boundary shall be adjusted to coincide with a feature or a boundary that is:

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

(2) a designated census block boundary on the proposed federal PL 94-171 [~~2010~~] 2020 census block maps; or

(3) approved by the secretary of state and the United States bureau of the census.

B. Prior to commencement of the federal decennial census, the secretary of state shall have prepared and shall furnish to each county clerk standard base maps of the county. The standard base map for urban and nonurban areas of the county shall, as nearly as practical, show:

(1) all state and federal highways;

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

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

(4) all major railroad lines;

(5) federal, state and county political boundaries, municipal boundaries and school district boundaries;

(6) all streets within urban areas; and

(7) other major terrain features, such as flowing rivers and streams, arroyos, [~~powerlines~~] power lines,

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pipelines, roads, trails and ridgelines and other acceptable census block boundaries.

C. The board of county commissioners [~~and the county clerks~~], upon receipt of the standard base maps from the secretary of state and upon the recommendation of the county clerk, shall:

(1) adjust all precinct boundaries to coincide with numbered or named street boundaries or suitable visible terrain features shown on the standard base map; provided that the precincts shall be composed of contiguous and compact areas, and state, county, municipal, school district and other special district or political boundary lines shall serve as precinct boundaries whenever possible; and

(2) upon the completion of the precinct boundary adjustments as required in this section, indicate on the standard base maps the boundaries for both urban and nonurban precincts and, together with a written description of the precincts, shall send an electronic copy [~~in a format approved by the secretary of state or four copies of the precinct maps~~] to the secretary of state for approval.

D. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for the [~~2011~~] 2021 redistricting.

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For the [2012] 2022 and subsequent [~~primary and general~~]
statewide elections, changes in precincts shall be made in
accordance with the provisions of Chapter 1, Article 3 NMSA
1978.

E. In the same calendar year in which the state
receives the results of a federal decennial census, the state
legislature shall redistrict federal representative districts,
each chamber of the legislature, public regulation commission
districts, public education commission districts and any other
state districts requiring redistricting.

[E.] F. In the calendar year following the receipt
of the results of a federal decennial census, each local public
body subject to districting shall create or redraw districts
for the local public body. A local public body, when creating
or redrawing districts, shall not split a precinct into two or
more districts for any elected office unless necessary to
comply with federal law or to preserve communities of interest.

[~~F. Precincts shall be designated solely by whole
numbers.~~]"

SECTION 42. Section 1-3-13 NMSA 1978 (being Laws 1983,
Chapter 223, Section 4, as amended) is amended to read:

"1-3-13. SECRETARY OF STATE POWERS AND DUTIES.--

A. Prior to commencement of the federal decennial
census, the secretary of state shall review all county precinct
maps submitted pursuant to Section 1-3-12 NMSA 1978 for

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compliance with the provisions of the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978. Those county precinct maps determined not to be in compliance with the precinct boundary criteria set forth in Subsection A of Section 1-13-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected and returned to the appropriate county clerk with a written statement setting forth those instances in which the map does not comply. The county clerk and the board of county commissioners shall make the required adjustments [~~and resubmit one copy of the corrected county precinct map~~] within thirty days after receiving notice of noncompliance.

B. [~~Prior to January 1, 2012~~] Following receipt of the results of a federal decennial census Hf1→, the secretary of state shall again follow the procedures outlined in Subsection A of this section to allow the counties to make any necessary adjustments. For any county that does not make the required adjustments within thirty days after receiving notice of noncompliance following receipt of the results of a federal decennial census, the secretary of state shall send a second notice of noncompliance,←Hf1 and no later than June 30 of the same year, if any precinct boundary adjustments are necessary to meet the legal Hf1→~~and constitutional~~←Hf1 requirements of redistricting Hf1→~~including the requirements of Section 1-3-1~~←Hf1 Hf1→pursuant to Sections 1-3-1 and 1-3-12←Hf1 NMSA 1978, the secretary of state shall adjust the boundaries of the

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precincts only to the extent necessary to achieve compliance
Hf1→with the requirements of those sections←Hf1 and notify
[any] the county of those boundary adjustments [that are
necessary in that county. Upon review and certification of the
adjusted precinct boundaries, the county shall submit the
certified precinct changes to the secretary of state for final
approval of the precincts for the 2012 primary and general
elections]."

SECTION 43. Section 1-3-18 NMSA 1978 (being Laws 1989,
Chapter 199, Section 1, as amended) is amended to read:

"1-3-18. POLLING PLACES--BUILDING REQUIREMENTS--
INSPECTION.--

~~A. No building used as a polling place for the
conduct of an election in any class A county shall house:~~

~~(1) more than four precinct polling places in
the conduct of any single election; and~~

~~(2) more than two precinct polling places in
any single room.~~

~~B. The restrictions set forth in Subsection A of
this section may be waived with the approval of the director of
the bureau of elections and do not apply to precincts that are
consolidated pursuant to the provisions of Section 1-3-4 NMSA
1978.~~

~~C.] A. The location of each [precinct] polling
place within [the] a building shall be clearly designated by~~

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appropriate signs, displayed prominently and clearly [~~displayed~~
~~at a height no less than six feet from the floor~~]. Signs for
each [~~precinct~~] polling place shall also be clearly displayed
outside the building where polling takes place.

[~~D.~~] B. Not less than thirty days prior to [~~any~~]
each election at which [~~the~~] a building is intended for use as
[~~a~~] an alternate voting location, a mobile alternate voting
location or an election day polling place, the county clerk or
the clerk's designated representative shall physically inspect
each such facility to determine its suitability for [~~precinct~~
~~polling places~~] use as a polling place and its capability of
handling heavy voter traffic in the most expeditious manner
with a maximum efficiency and minimum discomfort of the voter.
[~~In the event the building is found to meet these standards,~~
~~the county clerk shall certify for the record its~~
~~acceptability.~~] The county clerk shall maintain a log of the
day and time each facility was physically inspected, whether
the inspection was performed by the county clerk, and if the
inspection was not performed by the county clerk, the name of
the person designated by the county clerk to perform the
inspection.

[~~E.~~] C. Each polling place shall be furnished and
have available equipment necessary to assist voters in reading
the ballot."

SECTION 44. Section 1-3-19 NMSA 1978 (being Laws 2013,
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Chapter 189, Section 1 and Laws 2015, Chapter 145, Section 12)
is amended to read:

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

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

B. Each election-day polling place shall:

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

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

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

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

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

(3) sufficient spaces for at least five voters

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to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible, for the precinct."

HJC→SECTION 45. Section 1-4-1.1 NMSA 1978 (being Laws 2015, Chapter 145, Section 19) is amended to read:

"1-4-1.1. AUTHORIZATION TO VERIFY VOTER REGISTRATION INFORMATION--INVESTIGATION AND RECONCILIATION.--

A. The secretary of state may:

(1) provide to the chief election officer of another state or a consortium of chief election officers of other states information that is requested, including social security numbers, dates of birth, driver's licenses and identification card numbers and other information that the secretary of state deems necessary for the chief election officer of that state or for the consortium to maintain a voter registration list, if the secretary of state is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list; and

(2) request from the chief election officer of another state or a consortium of chief election officers of other states information that the secretary of state deems necessary to maintain the statewide voter registration list.

B. The secretary of state may enter into a written

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agreement with an agency or political subdivision of this state or with a department of the federal government pursuant to which the state agency, political subdivision or federal department shall provide to the secretary of state information that is in the possession of the state agency, political subdivision or federal department and that the secretary of state deems necessary to maintain the statewide voter registration list.

C. The secretary of state [may] shall enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to 42 U.S.C. Section 15483 (now 52 U.S.C. Section 21083), for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the

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secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall only disclose information received from the secretary of state pursuant to this subsection to complete an investigation pursuant to this section.

E. The county clerk shall investigate or reconcile the information received from the secretary of state. The secretary of state shall develop and maintain a manual for county clerks that describes best practices in investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters."←HJC

SECTION HJC→45 46←HJC. Section 1-4-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 60, as amended) is amended to read:

"1-4-2. [~~QUALIFICATION FOR~~] REGISTRATION OF QUALIFIED RESIDENTS--RIGHT TO VOTE IN PRIMARY.--

A. Any qualified resident of New Mexico [~~who will~~

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~~be a qualified elector at the date of the next ensuing general election]~~ shall be permitted within the provisions of the Election Code to ~~[register and become a voter]~~ submit a voter registration certificate in paper form, through the online voter registration portal provided by the secretary of state, electronically when conducting an in-person transaction at the motor vehicle division of the taxation and revenue department or as otherwise prescribed by the secretary of state. The certificate shall be processed by the county clerk in the same manner as for a qualified elector, but the qualified resident shall not become a voter nor be considered a voter except as provided by this section.

B. If a ~~[person who is seventeen years old will be a qualified elector on the day of the general election and registers to vote in accordance with the provisions of Subsection A of this section, for the purposes of the primary election, that person shall be considered to be a voter and may vote in the primary election immediately preceding that general election]~~ qualified resident submits a voter registration certificate in accordance with the provisions of Subsection A of this section and pursuant to the requirements of Section 1-4-8 NMSA 1978, the qualified resident shall:

- (1) become a voter upon the qualified resident's eighteenth birthday;
- (2) be considered a voter for the purpose of

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participation in a statewide or special election where the qualified resident will turn eighteen on or before the day of the statewide or special election; or

(3) be considered a voter for the purpose of participation in a political party primary election where the qualified resident will turn eighteen on or before the day of the general election immediately succeeding the primary election.

C. Any resident of New Mexico who may be a qualified elector upon the resident's eighteenth birthday, who obtains a license, permit or identification card from the motor vehicle division of the taxation and revenue department and who has not submitted a voter registration certificate pursuant to Subsection A of this section shall be sent a notification by the secretary of state advising the resident of the requirements and opportunity to register to vote and a uniform resource locator for a web page where the resident may submit a voter registration certificate online. When applicable, a notification shall be sent to a resident described in this subsection within the sixty days following the resident's seventeenth birthday, when the resident obtained a license, permit or identification card from the motor vehicle division prior to the resident's seventeenth birthday and within thirty days prior to the resident's eighteenth birthday."

SECTION HJC→46 47←HJC Section 1-4-5.1 NMSA 1978 (being
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Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

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

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

B. A person may request certificate of registration forms from the secretary of state or any county clerk in person, by telephone or by mail for that person or for other persons.

C. [~~Except as provided in Subsection D of this section~~] A qualified elector who wishes to register to vote shall fill out completely and sign the certificate of registration. The qualified elector may seek the assistance of any person in completing the certificate of registration.

D. A qualified elector who has filed for an order of protection pursuant to the provisions of the Family Violence Protection Act and who presents a copy of that order from a state or tribal court to the registration officer shall [~~not be required to provide physical residence address information on the certificate of registration~~] be referred to the confidential address program administered by the secretary of state pursuant to the Confidential Substitute Address Act.

E. Completed certificates of registration may be mailed or presented in person by the registrant or any other

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person to the secretary of state, [~~or presented in person by the registrant or any other person~~] to the county clerk of the county in which the registrant resides or to any other county clerk in this state.

F. If the registrant wishes to vote in the next election, the completed and signed certificate of registration shall be delivered or mailed and postmarked [~~at least twenty-eight days before the election~~] within the time frame provided in Subsection A of Section 1-4-8 NMSA 1978.

G. Within one business day after receipt of a certificate of registration, the secretary of state shall send the certificate to the county clerk in the county where the qualified elector resides. Within one business day after receipt of a certificate of registration of another county, a county clerk shall send the certificate of registration to the county clerk in the county where the qualified elector resides.

H. Only when the certificate of registration is properly filled out, signed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector. A qualified elector complies with a voter registration deadline established in the Election Code when a properly filled-out voter registration certificate has been received by a county clerk or the

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secretary of state, regardless of the date the certificate is processed.

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

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

~~[(2) the question "Will you be at least eighteen years of age on or before the next general election?" and boxes for the applicant to check to indicate whether the applicant will be eighteen years of age or older on or before the next general election;~~

~~(3)]~~ (2) the statement "If you checked 'no' [in response to either of these questions], do not complete this form.";

~~[(4)]~~ (3) a statement informing the applicant that:

(a) if the form is submitted by mail by the applicant and the applicant is registering for the first

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time in New Mexico, the applicant must submit with the form a copy of: 1) a [~~current and valid~~] photo identification issued by a government or educational institution; or 2) a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and current address of the applicant; and

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

[~~(5)~~] (4) a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true."

SECTION HJC→47 48←HJC . Section 1-4-5.4 NMSA 1978 (being Laws 1969, Chapter 240, Section 125, as amended) is amended to read:

"1-4-5.4. REGISTRATION--FORM.--

A. The secretary of state shall prescribe the paper form and [~~assure~~] ensure that the certificate of registration to be used in any county is compatible with the data processing systems. The secretary of state shall also prescribe the form produced by an online or electronic voter registration transaction.

B. The certificate of registration form shall

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require the following elements of information concerning the applicant for registration: name, gender, residence, municipality, post office, county of former registration, ~~[social security number]~~ date of birth, political party affiliation, zip code, telephone number at the applicant's option and statement of qualification for voting. The paper form shall contain a space for the qualified elector to provide a driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department or the last four digits of the qualified elector's social security number, while the form resulting from an online or electronic voter registration transaction shall contain the qualified elector's full social security number.

C. Provision shall be made for the usual signature or mark of the applicant, for the signature of the county clerk and for the dates of such signatures.

D. The certificate form may be multipurpose by providing for an indication of whether the certificate of registration is for a new registration, a change in the existing registration or a cancellation of an existing registration. Provision shall be made on any multipurpose form for entry of any existing registered information for which a change may be requested.

E. The certificate of registration forms shall be serially numbered and shall be furnished promptly and in

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adequate supply by the secretary of state upon application from the county clerk.

F. The secretary of state shall maintain on the secretary's website a Privacy Act notice in conformance with the federal Privacy Act of 1974."

SECTION HJC→48 49←HJC. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For qualified electors seeking to register to vote or update an existing voter registration in the state, the following provisions shall apply:

A. to participate in an election, the deadline to register to vote or update an existing voter registration is twenty-eight days prior to that election;

~~[A.] B. the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall [close registration at the end of the twenty-eighth day immediately preceding any election at which the registration books are to be furnished to the precinct board;~~

~~B. registration shall be reopened on the Monday following the election;~~

~~C. for purposes of a municipal or school election,~~

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~~the registration period for those precincts within the municipality or school district is closed at the end of the twenty-eighth day immediately preceding the municipal or school election and is opened again on the Monday following the election;~~

~~D. during the period when registration is closed, the county clerk shall receive certificates of registration and other documents pertaining thereto but shall not file any certificate of registration in the registration book until the Monday following the election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration] not process any certificate of registration subscribed and sworn beginning the first business day after the deadline to register to vote or update an existing voter registration before an election if the residential address on the certificate of registration indicates that the registration is for a:~~

- (1) statewide election, within the county; or
- (2) special election, within any precinct in the county in which votes may be cast in the special election;

C. between the deadline to register to vote or update an existing voter registration through the day of the election, the county clerk shall process all:

- (1) new voter registrations that meet the requirements of this section;

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(2) updates to existing voter registrations in this state that meet the requirements of this section; provided that an update to an existing registration in this state shall not be processed if the voter has requested or been sent a ballot in the election, unless the voter executes an affidavit stating that the voter has not and will not vote the ballot that was issued and the ballot register does not show that a ballot from the voter has been cast in the election; and

(3) pending cancellations of existing voter registrations in this state through the day of the election; provided that a cancellation of an existing voter registration shall not be processed if the voter has requested or been sent a ballot in the election;

D. certificates of registration and cancellations of existing voter registrations not processed pursuant to Subsection B or C of this section shall be processed beginning thirty-five days after an election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration; provided that if there is a subsequent election scheduled at which a qualified elector or voter would be eligible to vote if the certificate of registration were processed on an earlier date, the certificate of registration for that qualified elector or voter shall be processed by the county clerk on a day and in a manner to ensure the ability of the qualified elector or voter

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to vote in the subsequent election;

E. when the [~~twenty-eighth day prior to any~~]
deadline to register to vote or update an existing voter
registration prior to an election referred to in this section
is a Saturday, Sunday or [~~legal~~] state holiday, registration
certificates shall be [~~closed at the end of~~] accepted through
the next succeeding [~~regular~~] business day for the office of
the county clerk; and

F. the county clerk shall accept for filing and
process any certificate of registration that is subscribed and
dated on or before [~~the twenty-eighth day preceding~~] the
deadline to register to vote or update an existing voter
registration prior to an election and:

(1) received by the county clerk by the end of
the last regular business day of the week for the office of the
county clerk [~~on the Friday~~] immediately following the [~~close~~
~~of registration~~] deadline to register to vote or update an
existing voter registration prior to an election;

(2) mailed and postmarked [~~not less than~~
~~twenty-eight days~~] on or before the day of the deadline to
register to vote or update an existing voter registration prior
to any election referred to in this section; or

(3) accepted at a state agency designated
pursuant to Section 1-4-5.2 NMSA 1978."

SECTION HJC→49 50←HJC. Section 1-4-11 NMSA 1978 (being
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Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

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

A. Upon receipt of a complete certificate of registration, if the certificate of registration is in proper form, the county clerk shall determine if the qualified elector applying for registration is already registered in the registration records of the county. If the qualified elector is not already registered in the county and if the certificate of registration is received within the time allowed by law for filing certificates of registration in the county clerk's office, the county clerk shall sign or stamp, in the space provided therefor on each copy of the certificate, the qualified elector's name and the date the certificate was accepted for filing in the county registration records. Voter information shall be handed or mailed immediately to the qualified elector and to no other person.

B. [~~If the qualified elector is already registered in the county as shown by the qualified elector's original certificate of registration currently on file in the county registration records, the county clerk shall not accept the new certificate of registration unless it is filed pursuant to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978.~~] If the applicant's certificate of registration is rejected for any

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reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation of why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. The county clerk shall reject any certificate of registration that does not contain the qualified elector's name, address [~~social security number~~] and date of birth, along with a signature or usual mark. If the qualified elector is a new voter, the county clerk shall reject any certificate of registration that does not contain the qualified elector's driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department, social security number or last four digits of the qualified elector's social security number. The county clerk shall reject any certificate of registration in which the question regarding citizenship is not answered or is answered in the negative.

D. A social security number is required to finish processing a new voter registration in this state. If the certificate of registration does not contain a social security number, the county clerk shall ascertain the qualified elector's social security number from the qualified elector's

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previous certificate of registration, from the motor vehicle division of the taxation and revenue department or from the secretary of state.

Hf1→E.←Hf1 If the county clerk Hf1→rejects a certificate of registration because required information is not provided on the certificate or ←Hf1 cannot ascertain the qualified elector's social security number, the county clerk shall indicate this on the qualified elector's certificate of registration and shall make the appropriate notation in the voter file, indicating that the voter may only vote on a provisional ballot Hf1→~~if the social security number has not been ascertained~~←Hf1. The provisional ballot shall be counted once the Hf1→required information is provided or the ←Hf1 voter's social security number is ascertained.

[D-] Hf1→E. F.←Hf1 If the qualified elector does not register in person, [~~indicates that the qualified elector~~] has not previously voted in [~~a general~~] an election in New Mexico and does not provide the registration officer with the required documentary identification, the registration officer shall indicate this on the qualified elector's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

SECTION HJC→50 51←HJC. Section 1-4-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 72, as amended by Laws 1993, Chapter 314, Section 15 and also by Laws 1993, Chapter 316, .211327.3

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Section 15) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE.--

A. No designation of party affiliation shall be made or changed on an existing certificate of registration at any time during which registration is closed.

B. Every person appearing as a candidate on the primary or general election ballot shall be a candidate only under the name and party affiliation designation appearing on [~~his~~] the person's existing certificate of registration on file in the county clerk's office on the date of the [~~governor's~~] secretary of state's general election proclamation [~~of a primary election~~]."

SECTION HJC→51 52←HJC. Section 1-4-22 NMSA 1978 (being Laws 1969, Chapter 240, Section 78, as amended) is amended to read:

"1-4-22. CANCELLATION OF REGISTRATION--PETITION TO DISTRICT COURT.--

A. At any time not less than [~~ninety~~] one hundred twenty days prior to and following a [~~primary or general~~] statewide election, the secretary of state may file and present to the district court a verified petition alleging, on information and belief, that certain persons registered, named in the petition, are not qualified electors in the precincts named in the petition. The petition shall contain a brief

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statement of the facts upon which such allegation is made.

B. Upon filing and presentation of the petition, the court shall by order fix a day for hearing thereon, which date shall be not less than fourteen days nor more than twenty-one days after such order. The court shall direct the county clerk to use the address on the certificates of registration to forthwith notify the persons named in the petition whose registration is sought to be canceled of the date and purpose of the hearing and that each person should contact the county clerk no later than the close of business the day before the hearing or be present at the hearing if the person desires to oppose the cancellation.

C. If, after hearing, the court finds that the registration of any of the persons named in the petition should be canceled, it shall by order direct the county clerk to cancel the registrations.

D. Within thirty days following a hearing held pursuant to this section, the secretary of state shall report the results of the hearing to the United States election assistance commission and to the voting section of the civil rights division of the United States department of justice. The report required by this subsection shall be posted on the secretary of state's website for one year following the hearing."

HJC→SECTION 53. Section 1-4-24 NMSA 1978 (being Laws

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1969, Chapter 240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--
GROUNDS.--The county clerk shall cancel certificates of
registration for the following reasons:

A. death of the voter;

~~B. legal insanity of the voter;~~

~~C.]~~ B. a felony conviction of the voter;

~~D.]~~ C. at the request of the voter; or

~~E.]~~ D. at the direction of the board of

registration." ←HJC

SECTION HJC→52 54←HJC. Section 1-4-28 NMSA 1978 (being
Laws 1975, Chapter 255, Section 46, as amended) is amended to
read:

"1-4-28. CANCELLATION OF REGISTRATION--CHANGE OF
RESIDENCE--NOTICE.--

A. The secretary of state, county clerks and boards
of registration, in compliance with the federal National Voter
Registration Act of 1993, shall remove from the official list
of eligible voters the names of voters who are ineligible to
vote due to change of residence.

B. The secretary of state shall conduct a general
program that identifies voters who may no longer reside at
their address of registration. This program shall use
information supplied by the United States postal service
national change of address service. This program may also

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include, among other practices, identification of voters whose official election-related mail is returned and periodic mailings to voters to verify continued residency at their address of registration, provided such practices are uniform, nondiscriminatory and in compliance with the federal Voting Rights Act of 1965.

C. Between ninety and one hundred twenty days before the next general election, the secretary of state shall send to each voter who it appears has changed address from the voter's precinct of registration a notice, sent by forwardable mail, that shall include a postage prepaid and pre-addressed return card. The notice shall state that:

(1) if the voter did not change residency, the voter should return the card no later than twenty-eight days before the next general election;

(2) if the voter does not return the card, the voter may be provided an opportunity to update the voter's registration address before the voter casts a ballot in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice;

(3) if the voter does not vote in any election during the period beginning on the date of that notice and ending on the day after the second general election that occurs after the date of the notice, the voter's registration may be

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canceled; and

(4) if the voter has changed residence within the same county, the voter should complete the place on the return card for the voter to indicate the address of the new residence and a request to have the voter's registration moved to that address in the same county [~~and~~

~~(5) if the voter has changed residence outside of the county, the voter should follow the information provided concerning how the voter can continue to be eligible to vote].~~

D. If the voter returned the card indicating a new address and the address is:

(1) in the same county, the county clerk shall correct the official list of eligible voters in accordance with the change of residence information obtained on the [~~prepaid and pre-addressed~~] return card [~~to a new address in the same county, and such names shall not be removed from the list of eligible voters for reason of change of residence~~]; or

(2) in another county, the county clerk shall forward the return card to the appropriate county clerk, who shall process the change of residence as a new registration in the county.

E. No later than the fifteenth day of March following a general election, the board of registration shall review the list of eligible voters. The board of registration shall direct the county clerk to cancel the registration of any

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voter who has been sent notice in conformance with this section and who:

(1) has failed to respond to the notice sent in conformance with this section and has not voted or appeared to vote in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice; or

(2) has confirmed in writing that the voter has changed residence to a place outside the [county] state."

SECTION HJC→53 55←HJC. Section 1-4-34 NMSA 1978 (being Laws 1969, Chapter 240, Section 90, as amended) is amended to read:

"1-4-34. BOARD OF REGISTRATION--BOARD OF COUNTY COMMISSIONERS--APPOINTMENT.--

A. The board of county commissioners shall, at its first regular scheduled meeting in [~~February~~] June of each odd-numbered year, appoint [~~three~~] five voters who shall constitute the board of registration for the county; provided that a class B county as defined in Section 4-44-1 NMSA 1978 shall appoint three voters who shall constitute the board of registration for the county.

B. [~~No~~] Members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two [of the three persons appointed to] members of the board of

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registration shall be members of the same [major] political party at the time of their appointment; [~~provided that if a major party has no registered, qualified elector who is able to fill the position, a registered, qualified elector from another major party may be chosen by the county clerk.~~]

~~C. In addition, the board of county commissioners shall appoint two alternates who shall not belong to the same political party at the time of their appointment.~~

~~D. In making all appointments to the board of registration or as alternates to the board of registration from the lists of the county chairmen, the board of county commissioners shall give preference to the names in the order indicated by the numbers on the list] provided that:~~

(1) a member of the board of registration shall not have changed party registration in the two years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the board of registration; and

(2) a member of the board of registration shall not continue to serve on the board of registration if the member changes party registration after the date of appointment in such a manner to make the member ineligible to serve on the board of registration.

C. In the event that a position on the board of registration becomes vacant for any of the reasons described in

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Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Subsection B of this section and serve until the expiration of the original term."

SECTION HJC→54 56←HJC. Section 1-4-35 NMSA 1978 (being Laws 1969, Chapter 240, Section 91) is amended to read:

"1-4-35. BOARD OF REGISTRATION--SECRETARY.--The county clerk or [~~his~~] the county clerk's authorized deputy shall be secretary to the board of registration [~~and shall serve without additional compensation~~]."

SECTION HJC→55 57←HJC. Section 1-4-37 NMSA 1978 (being Laws 1969, Chapter 240, Section 93) is amended to read:

"1-4-37. BOARD OF REGISTRATION--TERM--QUALIFICATION.--

A. The term of office of members of the board of registration is from July 1 of an odd-numbered year until June 30 of the next succeeding odd-numbered year. Members of the board of registration shall hold office until their successors are appointed and qualified.

B. Members of the board of registration shall qualify by taking and filing in the office of the county clerk the oath required of county officials."

SECTION HJC→56 58←HJC. Section 1-4-38 NMSA 1978 (being Laws 1969, Chapter 240, Section 94, as amended) is amended to read:

"1-4-38. BOARD OF REGISTRATION--[PLACE OF] MEETINGS.--

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~~[The board of registration shall meet at the office of the county clerk.]~~

A. All meetings of the board of registration shall be open meetings held in accordance with the Open Meetings Act.

B. All reports and other records of the board of registration shall be open to public inspection pursuant to the Inspection of Public Records Act.

C. A person's month and day of birth, and any part of a person's driver's license number or other identifier assigned by the motor vehicle division of the taxation and revenue department, state or federal tax identification number or social security number shall not be disclosed in any meeting or in any record of the board of registration made available to the public. This subsection does not preclude disclosure of a person's unique identifier as defined in Section 1-1-23 NMSA 1978.

D. Members of the board of registration are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act, to be paid out of the election funds appropriated to the county clerk from the county general fund."

SECTION HJC→57 59←HJC. Section 1-5-30 NMSA 1978 (being Laws 1989, Chapter 298, Section 1, as amended) is amended to read:

"1-5-30. SECRETARY OF STATE--~~[ESTABLISHMENT OF STATEWIDE COMPUTERIZED]~~ VOTER REGISTRATION ELECTRONIC MANAGEMENT

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SYSTEM.--

A. The secretary of state shall develop, implement, establish and supervise a [~~statewide computerized~~] voter registration electronic management system that complies with the federal Help America Vote Act of 2002 to facilitate voter registration and to provide a central database containing voter registration information for New Mexico.

B. The [~~statewide computerized~~] voter registration electronic management system shall:

- (1) provide for the establishment and maintenance of a central database for all voter registration information;
- (2) permit the offices of all county clerks to add, modify and delete county information from the system to provide for accurate and up-to-date records;
- (3) permit the offices of the county clerks and the bureau of elections to have access to the central database for review and search capabilities;
- (4) provide security and protection for all information in the central database and monitor the central database to ensure the prevention of unauthorized entry;
- (5) provide procedures for the electronic receipt of voter registration application and update information, including digitized and electronic signatures, photographs and other data provided by the motor vehicle

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division of the taxation and revenue department or the federal social security administration;

HJC→(6) permit a proper filing officer to upload declarations of candidacy and candidate qualification documents, as prescribed by the Election Code, and resolutions approving a ballot question within one day of being filed with the proper filing officer;←HJC

HJC→(6 7←HJC) provide procedures for entering data into the central database; and

HJC→(7 8←HJC) provide a centralized system for each county to enter the precinct to which a voter should be assigned for voting purposes.

C. Based on written agreements with the secretary of state, the secretary of state shall provide access to the voter registration electronic management system to municipalities and other local governments based upon statutory responsibilities for administration of elections or to administer procedures related to elections that do not conflict with the provisions of the Election Code. The agreements shall include the scope of access, required initial and continuing training, job titles for persons with login credentials and security requirements associated with accessing the voter registration electronic management system."

SECTION HJC→58 60←HJC. A new Section 1-6-1.1 NMSA 1978 is enacted to read:

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"1-6-1.1. [NEW MATERIAL] DEFINITIONS.--As used in the Absent Voter Act:

A. "absentee" means the ability of a voter to receive, fill out and return a ballot at a place and time other than a polling location on the day of the election;

B. "early voting location" means the office of the county clerk, an alternate voting location or a mobile alternate voting location;

C. "mailed ballot" means a ballot that is sent to a voter pursuant to the provisions of the Election Code and does not include a ballot that is provided to a voter in person at an early voting location; and

D. "registered ballot" means a ballot that has been filled out by the voter and whose votes have been recorded and retained by an electronic voting system before the day of the election pursuant to the provisions of the Election Code."

SECTION HJC→59 61←HJC. Section 1-6-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 129, as amended) is amended to read:

"1-6-3. RIGHT TO VOTE [BY] ABSENTEE [BALLOT].--A voter may vote [by] absentee [~~ballot for all candidates and on all questions appearing on the ballot as if the voter were able to cast the ballot in person~~] in all candidate contests and on all ballot questions as if the voter had appeared on the day of the election to vote in person at a polling location."

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SECTION HJC→60 62←HJC . Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

"1-6-4. [~~ABSENTEE~~] MAILED BALLOT APPLICATION.--

A. In a statewide election, application by a voter for [~~an absentee~~] a mailed ballot shall be made only on a paper form or its [~~electronic~~] online equivalent [~~as prescribed by the secretary of state~~]. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of [~~an absentee~~] a mailed ballot under the Absent Voter Act; provided that only on the application form for a [~~general~~] primary election ballot there shall be [~~no~~] a box, space or place provided for designation of the voter's political party affiliation.

B. Each application on a paper form for [~~an absentee~~] a mailed ballot shall be signed by the applicant and shall require the applicant's printed name, registration address and year of birth to be supplied by the applicant, which shall constitute the required form of identification. [~~except for~~] When submitted by the voter, the county clerk shall accept an application for a mailed ballot pursuant to this subsection regardless of whether the application for a mailed ballot is delivered to the county clerk on paper or by electronic means. When submitted by a third party, the county clerk shall not accept an application for a mailed ballot

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pursuant to this subsection if the application for a mailed ballot is delivered by electronic means.

C. The secretary of state shall allow a voter to submit an online application for a mailed ballot through a website authorized by the secretary of state; provided that the voter shall have a current or expired New Mexico driver's license or state identification card issued by the motor vehicle division of the taxation and revenue department. An online request for a mailed ballot shall contain all of the information that is required for a paper form. The voter shall also provide the person's full New Mexico driver's license number or state identification card number.

D. When a voter requests a mailed ballot pursuant to this section, the voter shall mark the box associated with the following statement, which shall be included as part of the online mailed ballot request form:

"By clicking the boxes below, I swear or affirm all of the following:

[] I am the person whose name and identifying information is provided on this form and I desire to request a mailed ballot to vote in the state of New Mexico; and

[] All of the information that I have provided on this form is true and correct as of the date I am submitting this form."

E. Online applications for mailed ballots shall

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retain the dates of submission by the qualified elector and of acceptance by the county clerk. For purposes of deadlines contained in the Election Code, the time and date of the submission by the voter shall be considered the time and date when the application for a mailed ballot is received by the county clerk.

F. New registrants who [~~have~~] registered for the first time in this state by mail and at that time did not provide acceptable documentary identification as required by federal law shall be informed of the need to comply with federal identification requirements when returning the requested ballot. The secretary of state shall issue rules to exempt voters from submitting identification only as required by federal law and shall review and, if necessary, update these rules no later than March 15 of even-numbered years.

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

SECTION HJC→61 63←HJC. Section 1-6-4.3 NMSA 1978 (being Laws 2005, Chapter 270, Section 41, as amended) is amended to read:

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"1-6-4.3. THIRD PARTY AGENTS COLLECTING [~~ABSENTEE BALLOT~~] APPLICATIONS FOR MAILED BALLOTS.--

A. A person or organization that is not part of a government agency and that collects [~~absentee ballot~~] applications for mailed ballots shall submit the applications to the appropriate office for filing within forty-eight hours of their completion or the next business day if the appropriate office is closed for that forty-eight-hour period.

B. A person who collects [~~absentee ballot~~] applications for mailed ballots and fails to submit a voter's completed [~~absentee ballot~~] application is guilty of a petty misdemeanor.

C. A person who intentionally alters another voter's completed [~~absentee ballot~~] application for a mailed ballot is guilty of a fourth degree felony."

SECTION HJC→62 64←HJC. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended) is amended to read:

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

A. The county clerk shall mark each completed [~~absentee ballot~~] application for a mailed ballot with the date and time of receipt in the clerk's office and enter the required information in the [~~absentee~~] ballot register. The county clerk shall then determine if the applicant is a voter and if the voter is a uniformed-service voter or an overseas

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voter. If the applicant is a uniformed-service voter or overseas voter, the application shall be processed pursuant to the Uniform Military and Overseas Voters Act.

B. If the applicant does not have a valid certificate of registration on file in the county, [~~an absentee~~] a mailed ballot shall not be issued and the county clerk shall mark the application "rejected", [~~and~~] file the application in a separate file from those accepted

~~[G. The county clerk shall notify in writing each applicant of the fact of acceptance or rejection of the application and, if rejected, shall explain why the application was rejected]~~ and notify the applicant in writing with an explanation why the application was rejected.

~~[D.]~~ C. When required by federal law, if the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who is a new registrant in the state and who registered by mail without submitting the required [~~voter~~] documentary identification, the county clerk shall notify the voter that the voter must submit with the [~~absentee~~] mailed ballot [~~the required physical~~] a form of documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall note on the [~~absentee~~] ballot register and signature roster that the applicant's [~~absentee~~] mailed ballot must be returned with the required

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voter identification.

~~[E.]~~ D. If the applicant has on file with the county a valid certificate of registration, the county clerk shall mark the application "accepted" and ~~[beginning twenty-eight days before the election]~~ deliver ~~[an absentee]~~ a mailed ballot to the voter ~~[in the county clerk's office or mail to the applicant an absentee ballot]~~ and the required envelopes for use in returning the ballot. ~~[An absent voter shall not be permitted to change party affiliation during those periods when change of party affiliation is prohibited by the Election Code.]~~

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

~~F.~~ ~~Absentee ballots may be marked in person at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the county~~

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~~clerk a polling place subject to the requirements of a polling place in the Election Code. If the county clerk establishes an additional alternate voting location near the clerk's office, absentee ballots may be marked in person at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election. The additional alternate voting location shall be operated by the county clerk and the county clerk's staff.~~

~~G. When marking an absentee ballot in person at the county clerk's office, the voter shall provide the required voter identification to the county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter, after subscribing an application for an absentee ballot, shall be allowed to vote by inserting the ballot into an optical scan tabulator certified for in-person absentee voting at the county clerk's office. The county clerk or the clerk's authorized representative shall make an appropriate designation indicating that the voter has voted absentee. In marking the absentee ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA~~

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~~H. Absentee ballots shall be sent to applicants not later than on the Friday immediately prior to the date of the election.~~

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

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

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

~~L. It is unlawful to electioneer in the county clerk's office or in any alternate voting location.]~~

F. A mailed ballot shall not be delivered by the county clerk to any person other than the applicant for the ballot. Mailed ballots shall be sent to applicants beginning twenty-eight days before the election. For each application for a mailed ballot received twenty-three or more days before the election, the county clerk shall send either the ballot or a notice of rejection to the applicant as soon as practicable; provided that the ballot or a notice of rejection is sent not

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later than twenty-two days before the election. For each application for a mailed ballot received within twenty-two days of election day, the county clerk shall send either the mailed ballot or a notice of rejection to the applicant within twenty-four hours after receipt of the voter's application for a mailed ballot. A mailed ballot shall be requested not later than the Thursday immediately prior to the date of the election and shall be sent to the voter not later than the Friday immediately prior to the date of the election."

SECTION HJC→63 65←HJC. Section 1-6-5.6 NMSA 1978 (being Laws 2003, Chapter 357, Section 6, as amended) is amended to read:

"1-6-5.6. EARLY VOTING--ALTERNATE VOTING LOCATIONS--PROCEDURES.--The county clerk shall:

A. ensure that voters have adequate access to [~~alternate voting locations for~~] early voting in the county, taking into consideration population density and travel time to the location of voting;

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

C. ensure that adequate interpreters are available at alternate voting locations in those precincts having a majority of qualified electors who are part of a recognized language minority; and

D. based on rules adopted by the secretary of

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state, allow for mobile alternate voting locations [~~in rural areas of the state~~] that may be set up temporarily in specified precincts of the county during the period when early voting is allowed at alternate voting locations."

SECTION HJC→64 66←HJC. Section 1-6-5.7 NMSA 1978 (being Laws 2005, Chapter 270, Section 40, as amended) is amended to read:

"1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING PROCEDURES--COUNTY CLERK'S OFFICE--ALTERNATE VOTING LOCATIONS.--

~~[A. Commencing on the third Saturday prior to an election and ending on the Saturday immediately preceding the election, an early voter may vote in person on a voting system at an alternate voting location established by the county clerk.~~

~~B.]~~ A. Commencing on the twenty-eighth day preceding the election during the regular hours and days of business at the county clerk's office and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election, early voting shall be conducted in each office of the county clerk; [and at such alternate voting locations as may be established by the county clerk] provided that:

(1) when marking a ballot in person at the county clerk's office, the voter shall provide the required voter identification to the county clerk or the clerk's

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authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter, after subscribing an application for an absentee ballot, shall be allowed to vote by inserting the ballot into an optical scan tabulator certified for in-person absentee voting at the county clerk's office. The county clerk or the clerk's authorized representative shall make an appropriate designation indicating that the voter has voted. In marking the ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA 1978;

(2) the act of marking the ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code; and

(3) if the county clerk establishes an additional alternate voting location near the clerk's office, ballots may be marked in person at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election. The additional alternate voting location may be operated by the county clerk and the

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county clerk's staff.

B. Commencing on the third Saturday prior to a statewide election and ending on the Saturday immediately prior to the date of the election, an early voter may vote in person on a voting system at alternate voting locations that may be established by the county clerk; provided that:

(1) the county clerk shall establish:

~~[(1)]~~ (a) in counties with more than ten thousand voters, not fewer than one alternate voting location;

~~[(2)]~~ (b) in counties with more than fifty thousand voters, not fewer than four alternate voting locations; and

~~[(3)]~~ (c) in counties with more than ~~[two]~~ one hundred fifty thousand voters, not fewer than fifteen alternate voting locations; and

~~[(6-)]~~ (2) not later than ninety days before each ~~[primary and general]~~ statewide election, the county clerk shall ~~[publicly fix]~~ post the location and hours of operation for ~~[alternate]~~ early voting locations in the county, which shall open no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. Within ninety days of a ~~[primary or general]~~ statewide election, a county clerk may not modify the location or hours of operation of ~~[alternate]~~ early voting locations except with the written approval of the secretary of state ~~[Alternate]~~ and upon posting the approved changes. Early

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voting locations shall be open each day of early voting for at least eight consecutive hours. Alternate voting locations may be closed Sundays and Mondays during the early voting period.

[D.] C. Each ~~[alternate]~~ early voting location shall comply with the following provisions, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived:

- (1) have ballots available for voters from every precinct in the county;
- (2) have at least one optical scan tabulator programmed to read every ballot style in the county;
- (3) have at least one voting system available to assist disabled voters to cast and record their votes;
- (4) have a broadband internet connection;
- (5) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;
- (6) have a secure area for storage of pre-printed ballots or for storage of a paper ballot stock and a system designed to print ballots at a polling location; and
- (7) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

[E.] D. When voting ~~[early]~~ at an early voting location, the voter shall provide the required voter

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identification to the election board, county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter shall be allowed to vote after subscribing an application to vote on a form approved by the secretary of state or its electronic equivalent approved by the voting system certification committee. The county clerk or the clerk's authorized representative shall make an appropriate designation on the signature roster or register next to the voter's name indicating that the voter has voted early."

SECTION HJC→65 67←HJC. Section 1-6-5.8 NMSA 1978 (being Laws 2009, Chapter 251, Section 2) is amended to read:

"1-6-5.8. EARLY VOTING--NATIVE AMERICAN EARLY VOTING LOCATIONS.--A county clerk shall provide at least one alternate [~~early~~] voting or mobile alternate voting location on Indian nation, tribal or pueblo land when requested by the Indian nation, tribe or pueblo in the county; provided that:

A. the Indian nation, tribe or pueblo submits a written request to the county clerk no later than the first Monday in November of each odd-numbered year;

B. the alternate [~~early~~] voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the Indian nation, tribe or

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pueblo and the county clerk;

~~[G. the county clerk may limit voting to precincts on and near the Indian nation, tribe or pueblo;]~~

C. any voter of the county shall have access to and be permitted to vote at the alternate voting or mobile alternate voting location;

D. the location of the alternate [early] voting or mobile alternate voting location on Indian nation, tribal or pueblo land conforms to the requirements for alternate [early] voting locations, except as specified in this section;

E. the county clerk provides federally mandated language translators at the alternate [early] voting or mobile alternate voting locations;

F. the Indian nation, tribe or pueblo provides the facility and services for the alternate [early] voting or mobile alternate voting location; and

G. the costs of voting equipment and personnel for the alternate [early] voting or mobile alternate voting locations on Indian nation, tribal or pueblo land pursuant to this section are reimbursed to the county by the secretary of state."

SECTION HJC→66 68←HJC. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

"1-6-6. [ABSENTEE] BALLOT REGISTER.--

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

- (1) the name and address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot [~~in the county clerk's office or at an alternate~~] at an early voting location or the mailing of an absentee ballot to the applicant;
- (5) the applicant's precinct;
- (6) whether the applicant is a voter and whether the voter is a uniformed-service voter or an overseas voter;
- (7) whether the voter is required to submit documentary identification pursuant to Section 1-6-5 NMSA 1978; and
- (8) the date and time the completed [~~absentee~~] mailed ballot was received from the [~~applicant~~] voter by the county clerk or the absent voter [~~voted~~] registered a ballot early in person in the county clerk's office or at an alternate location.

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

B. For each special election, the county clerk shall keep a "mailed ballot register", in which the county clerk shall enter:

(1) the name and address of each voter to whom a mailed ballot was sent;

(2) the date of mailing of a mailed ballot to the voter;

(3) the applicant's precinct;

(4) whether the voter is a uniformed-service voter or an overseas voter;

(5) whether the voter is required to submit a documentary identification pursuant to Section 1-6-5 NMSA 1978;

and

(6) the date and time the completed mailed

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ballot was received from the voter by the county clerk.

C. [~~The absentee~~] Each ballot register is a public record open to public inspection in the county clerk's office during regular office hours. The county clerk shall have an updated [~~absentee~~] ballot register available for public inspection Monday through Friday during regular office hours.

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

E. Upon request, the county clerk shall transmit to the county chair of each of the [~~major~~] political parties participating in a partisan election in the county a complete copy of entries made in the absentee ballot register. Such transmissions shall be made once each week beginning four weeks immediately prior to the election. A final copy shall be transmitted on the Saturday immediately following the election.

F. If the county clerk has available the technology to do so, at the request of a candidate or chair of a political party of the county, the county clerk shall electronically

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transmit to the candidate or chair via the internet the information, when updated, on the absentee ballot register indicating voters who have requested absentee ballots, returned their absentee ballots or voted early in person."

SECTION HJC→67 69←HJC. Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

"1-6-8. [ABSENTEE] MAILED BALLOT ENVELOPES.--

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

(1) official inner envelopes for use in sealing the completed [~~absentee~~] mailed ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the county clerk, which shall be postage-paid; provided that only the official mailing envelope for absentee ballots in a [general election] political party primary shall contain [no] a designation of party affiliation;

(3) [~~absentee~~] mailed ballot instructions, describing proper methods for completion of the ballot and returning it; and

(4) official transmittal envelopes for use by the county clerk in [~~mailing absentee~~] sending mailed ballot materials.

B. Official transmittal envelopes and official

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mailing envelopes for transmission of [~~absentee~~] mailed ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

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

[~~D.~~] The official mailing envelope shall contain a space for the voter to record the voter's name, registration address and year of birth. The envelope shall have a security flap to cover this information."

SECTION HJC→68 70←HJC. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MAILED BALLOTS--MANNER OF VOTING--[~~ALTERNATE~~] DELIVERY METHODS.-- [~~Except as provided in Section 1-6-5 or Section 1-6-5.7 NMSA 1978, a person voting pursuant to the Absent Voter Act~~]

A. When voting a mailed ballot, the voter shall secretly mark the [~~absentee~~] mailed ballot in the manner

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provided in the Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope, which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth. [~~Voters shall either deliver or mail the official mailing envelope to the county clerk of their county of residence.~~] The voter or another person authorized by law shall then return the official mailing envelope containing the voted ballot to the county clerk of the voter's county of residence. HJC→Returned←HJC HJC→If returned←HJC by a person other than the voter, the official mailing envelope shall contain the signature, printed name and relationship to the voter of the person returning the ballot.

B. The official mailing envelope may be returned by mail using the United States postal service. The secretary of state shall implement a free-access tracking system for each voter to be able to see the status of the voter's mailed ballot while en route to the voter as well as when returned to the county clerk.

C. The official mailing envelope may be returned using a commercial delivery service; provided that unless the

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secretary of state has approved the use of a specific commercial delivery service, the voter shall be responsible for the costs of delivery by means of such service.

D. The official mailing envelope may be returned in person to the office of the county clerk or to an alternate voting location, mobile alternate voting location or election day voting location.

E. The official mailing envelope may be returned by depositing the official mailing envelope in a secured container made available Hf1→~~pursuant to this subsection~~←Hf1 Hf1→by the county clerk←Hf1 to receive voted mailed ballots for that election; provided that:

(1) Hf1→~~secured containers shall be available at the office of the county clerk for any statewide or special election in which voters of any precinct of the county may cast ballots. In addition, secured containers may be located at county facilities; provided that~~←Hf1 the location of the containers and the days and times the containers will be available to receive ballots are posted by the county clerk at least Hf1→~~ninety days before a statewide election or~~←Hf1 forty-two days before Hf1→~~the~~←Hf1 Hf1→~~1~~ a special ←Hf1 election;

Hf1→(2) ~~secured containers shall be available at municipal offices and at such municipal facilities as determined by a municipal clerk and approved by the county~~

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~~clerk in any statewide or special election in which voters may cast a ballot within the boundaries of any precinct located in a municipality with more than thirty thousand voters; provided that the locations and hours of availability at the facilities are posted by the county clerk at least forty-two days before the election;~~

~~(3) secured containers may be made available at municipal offices and at such municipal facilities as determined by a municipal clerk and approved by the county clerk in any statewide or special election in which voters may cast a ballot within the boundaries of any precinct located in a municipality with fewer than thirty thousand voters; provided that the locations and hours of availability at the facilities are posted by the county clerk at least forty-two days before the election; and provided further that the municipality has been approved by the secretary of state to make available secured containers for the deposit of voted ballots in a statewide or special election;~~

~~(4) secured containers may be made available at the main administrative offices and at such other facilities as determined by a local government and approved by the county clerk in any statewide or special election in which voters may cast a ballot within the boundaries of any precinct located within the local government; provided that the locations and~~

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~~hours of availability at the facilities are posted by the county clerk at least forty-two days before the election; and provided further that the local government has been approved by the secretary of state to make available secured containers for the deposit of voted ballots in a statewide or special election;~~

~~(5) the secretary of state shall prescribe by rule specifications for secured containers where voters may deposit voted ballots pursuant to this subsection. If the secretary of state becomes aware that a county, municipality or other approved local government is not following the specifications promulgated by the secretary of state, the secretary of state may take action as is deemed appropriate to protect the ballots in that election and the sanctity of the voting process. Such action may include issuing an order requiring a county, municipality or local government to establish compliance with the specifications prior to available making secured containers for the deposit of voted ballots in a special or statewide election; and~~←Hf1

Hf1→(6) (2)←Hf1 the location of a secured container is considered a polling place for purposes of electioneering too close to the polling place in violation of Section 1-20-16 NMSA 1978 Hf1→. " ;←Hf1

Hf1→(3) all secured containers shall be

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monitored by video surveillance cameras and the video recorded by that system shall be retained by the county clerk as a record related to voting pursuant to the provisions of Section 1-12-69 NMSA 1978;

(4) signage at the location of a secured container shall inform voters and those dropping off ballots at the location:

(a) that it is a violation of law for any person who is not an immediate family member to collect and deliver a ballot for another person;

(b) that electioneering is prohibited within one hundred feet of the secured container; and

(c) of the dates and approximate time the ballots will be collected; and

(5) at least once a day, the county clerk or a full-time deputy county clerk shall collect the ballots from the secured containers, register the date and time stamp on each official mailing envelope and identify the location of the secured container in the ballot register."←Hf1

SECTION HJC→69 71←HJC. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

"1-6-10. RECEIPT OF [ABSENTEE] MAILED BALLOTS BY CLERK.--

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the

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clerk's office, record this information in the absentee or mailed ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the [~~absent voter precinct~~] proper election board, counted in the county canvass or [~~until it is~~] canceled and destroyed in accordance with law.

B. In a statewide election, if the unopened official mailing envelope is received by the county clerk from an election board before the absent voter election board has adjourned, the unopened official mailing envelope shall be logged and transmitted to the absent voter election board to be tallied immediately. If the unopened official mailing envelope is received by the county clerk from an election board after the absent voter election board has adjourned, the unopened official mailing envelope shall be logged and transmitted to be tallied and included in the canvass report of that county for the appropriate precinct.

[~~B.~~] C. Completed official mailing envelopes shall be accepted until 7:00 p.m. on election day.

D. Any completed official mailing envelope received after that time shall not be [~~delivered to the absent voter precinct board~~] qualified or opened but shall be preserved by the county clerk [~~until the time for election contests has expired. In the absence of a restraining order after expiration of the time for election contests, the county clerk~~

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~~shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction]~~ for the applicable retention period provided in Section 1-12-69 NMSA 1978. The county clerk shall [count] report the [numbers] number of late ballots from voters, uniformed-service voters and overseas voters and report the number from each category to date on the final absentee ballot report and as part of the county canvass report. If additional late ballots are received, the county clerk shall update the number of late ballots from each category to the secretary of state.

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

SECTION HJC→70 72←HJC. Section 1-6-10.1 NMSA 1978 (being Laws 2003, Chapter 357, Section 5, as amended) is amended to read:

"1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--

A. A voter, caregiver to that voter or member of

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that voter's immediate family may deliver that voter's absentee ballot to the county clerk in person or by mail; provided that the voter has subscribed the ~~[outer]~~ official mailing envelope of the absentee ballot.

B. As used in this section, "immediate family" means the spouse, children, parents or siblings of a voter."

SECTION HJC→71 73←HJC. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

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

A. At any time after mailed ballots have been sent to voters and until the fifth day before the election, the county clerk may convene an election board to meet during the normal business hours of the office of the county clerk to qualify the mailed ballots that are returned. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the required information has been completed on the reverse side of the official mailing envelope.

B. If the voter's signature HJC→or the required voter identification←HJC is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation

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"Rejected--Missing Signature" HJC→or "Rejected--Missing Required Voter Identification"←HJC in the "Notations" column of the [~~signature rosters or~~] register. The presiding judge shall place the official mailing envelope unopened in [~~an envelope~~] a container provided for rejected ballots [~~seal the envelope and write the voter's name on the front of the envelope and deposit it in the locked ballot box~~].

C. A lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any [~~absent~~] mailed ballot voter for the following reasons:

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

(2) the official mailing envelope does not contain a signature; HJC→or←HJC

HJC→(3) the official mailing envelope does not contain the required voter identification; or←HJC

HJC→(3) 4←HJC the person offering to vote is not a voter as provided in the Election Code.

D. If a challenge is upheld by unanimous vote of the presiding judge and the election judges, the official mailing envelope shall not be opened but shall be placed in [~~an envelope~~] a container provided for challenged ballots. If the reason for the challenge is satisfied by the voter before the conclusion of the county canvass or as part of an appeal, the

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official mailing envelope shall be opened and the vote counted.
[~~The same procedure shall be followed in canvassing and determining the validity of challenged absentee ballots as with other challenged ballots.~~]

E. If the official mailing envelope has been properly subscribed and the voter has not been challenged,

[~~(1)~~] the judges or election clerks shall enter the [~~absent~~] voter's name and residence address as shown on the official mailing envelope [~~in the signature rosters~~] and shall [~~mark the notation "AB"~~] make the appropriate notation opposite the voter's name in the "Notations" column of the [~~signature rosters or~~] register. [~~and~~

~~(2)~~] F. For any election in which fewer than ten thousand mailed ballots were sent to the voters of a county, only between 8:00 a.m. and 10:00 p.m. on the five days preceding the election [day, including Saturday and Sunday], and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.

G. For any election in which ten thousand or more mailed ballots were sent to the voters of a county, only during

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the regular business hours of the office of the county clerk during the two weeks preceding the election, between 8:00 a.m. and 10:00 p.m. on the four days preceding the election and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.

[F.] H. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of [~~absentee~~] mailed ballots prior to the later of the closing of the polls or the deadline for receiving mailed ballots pursuant to Section 1-6-10 NMSA 1978.

[~~G.—Absentee~~] I. Mailed ballots shall be counted and tallied, where possible, on an electronic voting machine as provided in the Election Code.

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

[~~I.—If an absentee ballot does not contain the identification required pursuant to Subsection D of Section 1-6-5 NMSA 1978]~~

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J. If a mailed ballot is rejected for any reason,
it shall be handled in the same manner as a disqualified
provisional paper ballot in accordance with the Election Code."

SECTION HJC→72 74←HJC. Section 1-6-16 (being Laws 1969,
Chapter 240, Section 141, as amended) is repealed and a new
Section 1-6-16 NMSA 1978 is enacted to read:

"1-6-16. [NEW MATERIAL] MAILED BALLOTS--REPLACEMENT AND
PROVISIONAL PAPER BALLOTS.--

A. A voter who has applied for a mailed ballot or
who has been sent a mailed ballot may execute an affidavit
stating that the person did not and will not vote the mailed
ballot that was issued. Upon receipt of the sworn affidavit,
if the ballot register does not show that a ballot from the
voter has been cast in that election, the county clerk shall
void the mailed ballot that was previously issued to the voter.

B. A voter shall be mailed a replacement ballot to
be returned to the county clerk for tabulation by the absent
ballot election board if the voter:

(1) communicates with the office of the county
clerk and requests a replacement mailed ballot be delivered to
the voter; and

(2) has executed the affidavit required by
Subsection A of this section and the county clerk has voided
the mailed ballot previously issued to the voter.

C. A voter shall be issued a replacement ballot to

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be filled out and fed by the voter into the electronic vote tabulator if the voter:

(1) appears at the office of the county clerk, an alternate voting location or a mobile alternate voting location:

(a) at any time during the period for early voting if the county clerk has real-time synchronization between the early voting locations and the qualification of mailed ballots; or

(b) during the period for early voting until the time the county clerk begins qualifying mailed ballots if the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots; and

(2) has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

D. If the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots, a voter shall be issued a provisional paper ballot to be filled out and delivered to the county clerk for tabulation during the county canvass if:

(1) the voter appears at an early voting location after the time the county clerk begins qualifying mailed ballots; and

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(2) the voter has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

E. A provisional paper ballot issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the voter did not vote any other ballot in the same election and if no challenge is successfully interposed.

F. The secretary of state shall prescribe the form of the affidavit and the manner in which the county clerk shall void the previously requested absentee ballot."

SECTION HJC→73 75←HJC. Section 1-6-16.1 NMSA 1978 (being Laws 1989, Chapter 368, Section 1, as amended) is amended to read:

"1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

A. A voter who applies for [~~an absentee~~] a mailed ballot but has not received or returned the [absentee] ballot by mail as of the date of the election may go to the voter's assigned polling place or a voter convenience center and, after executing an affidavit [of nonreceipt of absentee ballot] stating that the person did not and will not vote the mailed ballot that was issued, shall be permitted to vote on a [replacement absentee] provisional paper ballot.

[~~B. The completed ballot shall be placed in an~~

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~~official inner envelope substantially as prescribed by Section 1-6-8 NMSA 1978 and sealed. The official inner envelope shall then be placed in an official envelope substantially as prescribed for a transmittal envelope or mailing envelope in Section 1-6-8 NMSA 1978. This envelope shall contain a form on its back that identifies the voter by name and signature roster number and a printed statement to the effect that the voter made application for an absentee ballot but had not received it as of the date of the election and is permitted to vote by replacement absentee paper ballot.~~

~~C. The presiding judge shall put all replacement absentee ballots in a special envelope provided for that purpose by the county clerk, seal it and return it to the county clerk along with the machine tally sheets. The sealed envelope shall not be put in the locked ballot box.~~

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

~~(1) the voter did in fact make application for an absentee ballot; and~~

~~(2) no absentee ballot was received by the county clerk from the voter by 7:00 p.m. on election day.~~

~~E. Upon making that determination, the county clerk~~

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~~shall remove the inner envelope without opening it, retain the transmittal envelope with the other election returns and place the inner unopened envelope in a secure container to be transmitted to the county canvassing board to be tallied and included in the canvass of that county for the appropriate precinct.~~

~~F. The secretary of state shall prescribe and furnish the necessary envelopes for purposes of this section and shall adopt rules deemed necessary to preserve the secrecy of the replacement absentee paper ballots.]~~

B. If the county clerk has real-time synchronization between the election-day polling places and the qualification of ballots received by mail, the voter shall be issued a replacement ballot to be filled out and fed by the voter into the electronic vote tabulator."

SECTION HJC→74 76←HJC. Section 1-6-16.2 NMSA 1978 (being Laws 1993, Chapter 353, Section 1, as amended) is amended to read:

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

A. After the close of the period for requesting [~~absentee ballots by mail~~] a mailed ballot, any voter who is unable to go to the polls due to unforeseen illness or disability resulting in the voter's confinement in a hospital, sanatorium, nursing home or residence and who is unable to vote in person may request in writing that a provisional paper

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ballot be made available to the voter. The written request shall be signed by the voter and a health care provider under penalty of perjury.

B. The provisional paper ballot shall be made available by the county clerk of the county in which the voter resides to any authorized representative of the voter who through the representative has presented the written request to the office of the county clerk.

~~[G. Before releasing the provisional paper ballot, the county clerk shall compare the signature on the written request with the signature on the voter's affidavit of registration. If the county clerk determines that the signature on the written request is not the signature of the voter, the county clerk shall reject the request for a provisional paper ballot.~~

~~D.]~~ C. The voter shall mark the provisional paper ballot, place it in an identification envelope, fill out and sign the envelope and return the ballot to the office of the county clerk of the county in which the voter resides no later than the time of closing of the polls on election day. A provisional paper ballot issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the person did not cast any other ballot and if no challenge is successfully interposed."

HJC → ~~SECTION 75. A new section of the Absent Voter Act is~~

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~~enacted to read:~~

~~"[NEW MATERIAL] MAILED BALLOTS--REGULAR ELECTION PILOT PROJECT.--"~~

~~A. Notwithstanding the provisions of Section 1-6-4 NMSA 1978 requiring an application by a voter for a mailed ballot in a regular local election, on written request by a county clerk no later than June 30 immediately preceding a regular local election, the secretary of state may authorize a county clerk in the regular local election of the same calendar year to send a ballot to each voter authorized to receive a ballot pursuant to Subsection B of Section 1-24-3 NMSA 1978; provided that the county clerk shall send a notice by forwardable mail to each voter at least forty-two days prior to the regular local election. The notice sent to:~~

~~(1) voters described in Paragraphs (1) and (2) of Subsection B of Section 1-24-3 NMSA 1978 shall inform the voter that no ballot will be sent unless the voter updates the voter's certificate of registration within the time frame provided by Section 1-4-8 NMSA 1978 or submits an application for a mailed ballot pursuant to the provisions of Section 1-6-4 NMSA 1978; and~~

~~(2) all other voters of the county shall inform the voter that a mailed ballot will be sent to the voter twenty-two days before the election unless:~~

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~~(a) the voter has already voted in person in the office of the county clerk in that election; or~~

~~(b) the voter has communicated with the county clerk requesting that a mailed ballot not be sent to the voter in that election.~~

~~B. Beginning twenty-two days before the regular local election, the county clerk shall send mailed ballots to each voter authorized to receive a ballot pursuant to Subsection B of Section 1-24-3 NMSA 1978 and in the same manner as provided for in Subsection D of Section 1-24-3 NMSA 1978; provided that a ballot shall not be sent to any otherwise eligible voter who has already voted in person in the office of the county clerk in that election, has requested that a mailed ballot not be sent to the voter or whose notice sent pursuant to Paragraph (2) of Subsection A of this section was returned as undeliverable.~~

~~G. The secretary of state shall approve the written request of a county clerk pursuant to guidelines issued by the secretary of state if there is sufficient funding available in the election fund to cover the requirements of this section. A county clerk whose written request pursuant to this section has been authorized by the secretary of state shall provide the same number of early voting locations and election day polling places in the regular local election as would have been~~

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~~provided had the written request not been approved."~~←HJC

SECTION HJC→76 77←HJC. Section 1-6B-2 NMSA 1978 (being Laws 2015, Chapter 145, Section 26, as amended) is amended to read:

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

~~[A. "appropriate clerk" means the county clerk of the county in which the federal qualified elector is eligible to vote;~~

~~B.]~~ A. "federal postcard application" means the application prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act;

~~[C.]~~ B. "federal write-in absentee ballot" means the ballot approved pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act; and

~~[D.]~~ C. "military-overseas ballot" means
[~~(1) a federal write-in absentee ballot; or~~
~~(2) a ballot sent to a federal qualified elector by the [appropriate] county clerk [and] or cast in accordance with the provisions of the Uniform Military and Overseas Voters Act~~

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

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F. ~~"United States", used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States]."~~

SECTION HJC→77 78←HJC. Section 1-6B-3 NMSA 1978 (being Laws 2015, Chapter 145, Section 27, as amended) is amended to read:

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

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

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

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

D. To receive the benefits of the Uniform Military and Overseas Voters Act, a federal qualified elector shall

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inform the [~~appropriate~~] county clerk that the individual is a federal qualified elector. Methods of informing the [~~appropriate~~] county clerk include:

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

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

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

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

SECTION HJC→78 79←HJC. Section 1-6B-4 NMSA 1978 (being Laws 2015, Chapter 145, Section 28, as amended) is amended to read:

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

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

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B. The secretary of state shall maintain a web page dedicated to federal qualified electors. The dedicated web page shall be accessible from international internet connections and may be segregated from the main website for the office of the secretary of state. The secretary of state shall establish an electronic transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk.

C. Official transmittal envelopes and official mailing envelopes for transmission of [~~absentee~~] mailed ballot materials to and from federal qualified electors shall be in the same form as those used in the jurisdiction where the voter is registered except as modified to comply with the Uniform Military and Overseas Voters Act or federal law. The secretary of state may, to the extent reasonably possible, coordinate with other states to develop standardized [~~absentee-voting~~] materials for voting by mail, including privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used

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with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state.

D. The secretary of state shall prescribe the form and content of a declaration for use by a federal qualified elector to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a federal qualified elector and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

E. The secretary of state shall prescribe to the ~~[appropriate]~~ county clerk the form of and distribute to each county clerk a supply of:

(1) official inner envelopes for use in sealing the completed ~~[absentee]~~ mailed ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the ~~[appropriate]~~ county clerk, which shall be postage-paid within the United States postal system; provided that only the official mailing envelope for ~~[absentee]~~ mailed ballots in a political party

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primary [election] shall contain a designation of party affiliation;

(3) [absentee] mailed ballot instructions describing the proper methods for completion and return of the ballot, including instructions for those federal qualified electors returning a ballot electronically;

(4) official transmittal envelopes for use by the [appropriate] county clerk in mailing [absentee] ballot materials; and

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

SECTION HJC→79 80←HJC. Section 1-6B-5 NMSA 1978 (being Laws 2015, Chapter 145, Section 29) is amended to read:

"1-6B-5. METHODS OF REGISTERING TO VOTE.--

A. A federal qualified elector may register to vote using any of the following methods; provided that the document is received by the county clerk by the deadline for registering to vote as provided in Section 1-4-8 NMSA 1978:

(1) using the procedures provided in Chapter 1, Article 4 [~~of the Election Code~~] NMSA 1978; or

(2) using a federal postcard application or the application's approved electronic equivalent [~~or~~

~~(3) using the declaration accompanying a federal absentee write-in ballot~~].

B. A voter's certificate of registration completed

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pursuant to the Uniform Military and Overseas Voters Act shall remain valid until [~~the voter's certificate of registration is~~] canceled in accordance with the procedures specified in Chapter 1, Article 4 [~~of the Election Code~~] NMSA 1978.

C. In registering to vote, a federal qualified elector shall use and must be assigned to the voting precinct of the address of:

(1) the residence of the voter, if the voter resides in this state; or

(2) the last place of residence of the voter in this state, or the last place of residence in this state of the parent or legal guardian of the voter if the voter did not reside in this state; provided that if that address is no longer a recognized residential address, the voter shall be assigned an address or other location within that precinct [~~or that precinct part~~]."

SECTION HJC→80 81←HJC. Section 1-6B-6 NMSA 1978 (being Laws 2015, Chapter 145, Section 30, as amended) is amended to read:

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

A. A federal qualified elector who is currently registered to vote in this state may, by the deadline specified in the Absent Voter Act for receipt of [~~absentee~~] mailed ballot

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applications, apply for a military-overseas ballot by:

- (1) using [~~an absentee~~] a mailed ballot application pursuant to the Absent Voter Act; or
- (2) using the federal postcard application or the application's electronic equivalent [~~or~~
- ~~(3) using the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot].~~

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

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

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

SECTION HJC→81 82←HJC. Section 1-6B-7 NMSA 1978 (being Laws 2015, Chapter 145, Section 31, as amended) is amended to .211327.3

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read:

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

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

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

C. The [appropriate] county clerk shall transmit a ballot and balloting materials in accordance with the procedures for processing of all other absentee ballot applications for that jurisdiction when the ballot application from a federal qualified elector arrives after the [appropriate] county clerk has begun transmitting ballots and balloting materials to other voters.

D. A federal qualified elector may request that the ballot and balloting materials be sent by [~~facsimile transmission, electronic mail delivery or other equivalent~~]

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secured electronic transmission available to the [~~appropriate~~] county clerk where the ballot and balloting materials are sent directly by the clerk to the federal qualified elector. [~~The clerk shall transmit the ballot and balloting materials using the means of transmission requested by the federal qualified elector.~~] The clerk shall determine the most reasonable expedited means of delivery for a ballot and balloting materials for a federal qualified elector who does not request [~~a particular means of~~] secured electronic transmission."

SECTION HJC→82 83←HJC. Section 1-6B-8 NMSA 1978 (being Laws 2015, Chapter 145, Section 32) is amended to read:

"1-6B-8. RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS FROM FEDERAL QUALIFIED ELECTORS.--

A. A military-overseas ballot shall be considered timely if it is received by the [~~appropriate~~] county clerk no later than the [~~closing of the polls on election day~~] deadline for receiving mailed ballots in Section 1-6-10 NMSA 1978.

B. A federal qualified elector may transmit, and the [~~appropriate~~] county clerk shall accept, a military-overseas ballot by [~~facsimile transmission, electronic mail delivery or other equivalent~~] secured electronic [~~delivery~~] transmission available to the [~~appropriate~~] county clerk when the military-overseas ballot is sent directly by the voter to that clerk; provided that, when sending a military-overseas ballot [~~utilizing any method~~] as described in this subsection:

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(1) the federal qualified elector signs an affidavit waiving the right of secrecy of the federal qualified elector's ballot;

(2) the federal qualified elector transmits the affidavit with the military-overseas ballot; and

(3) the ~~[appropriate]~~ county clerk places the received ballot in a holding envelope provided by the secretary of state for this purpose and delivers the ballot to the ~~[absent precinct]~~ appropriate election board."

SECTION HJC→83 84←HJC. Section 1-6B-9 NMSA 1978 (being Laws 2015, Chapter 145, Section 33) is amended to read:

"1-6B-9. EMERGENCY RESPONSE PROVIDERS.--

A. An emergency response provider may benefit from the ability to apply for ~~[an absentee]~~ a mailed ballot and to return the marked ballot in the same manner as provided in the Uniform Military and Overseas Voters Act for federal qualified electors; provided that the emergency response provider may not use the federal postcard application or the federal write-in absentee ballot.

B. The ~~[appropriate]~~ county clerk shall transmit to, receive from and process ~~[an absentee]~~ a mailed ballot of an emergency response provider in the same manner as provided in the Uniform Military and Overseas Voters Act for a federal qualified elector.

C. As used in this section, "emergency response

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provider" means a resident of this state who otherwise satisfies this state's voter eligibility requirements and who, in response to an emergency, is temporarily assigned by a governmental or nongovernmental relief agency or employer to provide support to the victims of the emergency or to rebuild the infrastructure in the affected area and:

(1) the assignment is for a period beginning on or after the thirty-five days immediately prior to an election;

(2) the affected area is outside the individual's county of residence; and

(3) the president of the United States or the governor of a state has declared an emergency in the affected area."

SECTION HJC→84 85←HJC. Section 1-6B-10 NMSA 1978 (being Laws 2015, Chapter 145, Section 34) is amended to read:

"1-6B-10. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
QUALIFICATION.--

A. A federal qualified elector may use a federal write-in absentee ballot to vote for all offices and ballot [~~measures~~] questions in an election.

B. In completing the federal write-in absentee ballot, the federal qualified elector may designate a candidate by writing in the name of the candidate. In a general election when voting for a specified office, a federal qualified elector

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may in the alternate complete the federal write-in absentee ballot by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party.

C. A qualified federal write-in absentee ballot shall be processed by the canvassing board in the same manner as a provisional ballot. A federal write-in absentee ballot from a federal qualified elector shall not be qualified if the federal qualified elector voted on any other type of ballot. A federal write-in absentee ballot of an overseas voter shall not be qualified if the ballot is submitted from any location in the United States."

SECTION HJC→85 86←HJC. Section 1-6B-12 NMSA 1978 (being Laws 2015, Chapter 145, Section 36) is amended to read:

"1-6B-12. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

A. The county clerk shall request an electronic-mail address from each federal qualified elector who registers to vote. An electronic-mail address provided by a federal qualified elector shall not be made available to the public and is exempt from disclosure pursuant to the Inspection of Public Records Act. The electronic-mail address may be used only for official communication with the voter about the voting process, including ~~[transmitting]~~ the secured transmission of military-overseas ballots and ballot materials if the voter has requested ~~[electronic]~~ secured transmission ~~[by electronic~~

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mail], and verifying the voter's mailing address and physical location. The request for an electronic-mail address shall describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

B. If [~~an absentee~~] a mailed ballot is transmitted to a federal qualified elector via [~~electronic mail~~] secured transmission, the [~~appropriate~~] county clerk shall note in the [~~absentee~~] ballot register the voter's registration address, that the ballot was delivered to the voter electronically and the date on which it was sent, but shall not disclose the voter's electronic-mail address.

C. A federal qualified elector who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for secured electronic delivery of a ballot for all elections in the election cycle. The [~~appropriate~~] county clerk shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable as an automatic application for a military-overseas ballot."

SECTION HJC→86 87←HJC. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended by Laws 2014, Chapter 40, Section 3 and by Laws 2014, Chapter 81, Section 3) is amended to read:

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"1-8-2. NOMINATION BY MINOR POLITICAL PARTY--

CONVENTION--DESIGNATED NOMINEES.--

A. If the rules of a minor political party require nomination by political convention:

(1) the chair and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, the public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by nominating petitions containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the state for statewide offices; and

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(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by a nominating petition containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the county for countywide offices; and

(2) in the district for offices other than countywide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

D. Except in the case of a political party certified in the year of the election, persons certified as candidates shall be members of that party on the day the [governor] secretary of state issues the [primary] general election proclamation.

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E. When a political party is certified in the year of the general election, and after the day the ~~[governor]~~ secretary of state issues the ~~[primary]~~ general election proclamation, a person certified as a candidate shall be:

(1) a member of that party not later than the date the political party filed its rules and qualifying petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

(2) a resident in the district of the office for which the person is a candidate on the date of the ~~[governor's]~~ secretary of state's proclamation for the ~~[primary]~~ general election or in the case of a person seeking the office of United States senator or United States representative, a resident within New Mexico on the date of the ~~[governor's]~~ secretary of state's proclamation for the ~~[primary]~~ general election. No person who is a candidate for a party in a primary election may be certified as a candidate for a different party in the general election in the same election cycle.

F. No voter shall sign a petition prescribed by this section for more persons than the number of candidates necessary to fill the office at the next ensuing general election."

SECTION HJC→87 88←HJC. Section 1-8-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 157, as amended) is amended to read:

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"1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE PRIMARY.--

A. Vacancies on the general election ballot may be filled as provided in Subsection B of this section if after a primary election there is no nominee of a major political party for a public office to be filled in the general election and if the vacancy was caused by:

(1) the death of a candidate after filing of the declaration of candidacy or after certification as a convention-designated nominee and before the primary election; [or]

(2) the failure of a major political party to nominate a candidate for lieutenant governor; provided that the major political party nominated a candidate for governor; or

[+2] (3) the resignation or death of a person holding a public office after the last Friday before the first Tuesday in March, when such office was not included in the [governor's] general election proclamation and is required by law to be filled at the next succeeding general election after the vacancy is created.

B. The vacancy may be filled subsequent to the primary election by the central committee of the state or county political party, as the case may be, as provided by Subsection A of Section 1-8-8 NMSA 1978.

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C. The name of the person to fill the vacancy on the general election ballot shall be filed with the proper filing officer on a form approved by the secretary of state [within fifteen days] on the twenty-third day after the primary election, [and when so filed, it shall be placed on the general election ballot as the political party's nominee for such office] along with a declaration of candidacy subscribed and sworn by the selected nominee and the required form for candidates pursuant to the Campaign Reporting Act.

D. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

SECTION HJC→88 89←HJC. Section 1-8-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 158, as amended) is amended to read:

"1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING AFTER PRIMARY.--

A. If after a primary election, but seventy or more days before the general election, a vacancy occurs, for any cause, in the list of the nominees of a qualified political party for any public office to be filled in the general election, or a vacancy occurs because of the resignation or death of a person holding a public office not included in the [governor's] secretary of state's general election proclamation and which office is required by law to be filled at the next

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succeeding general election, or a vacancy occurs because a new public office is created and was not included in the ~~[governor's]~~ secretary of state's general election proclamation but is capable by law of being filled at the next succeeding general election, the vacancy on the general election ballot may be filled by:

(1) the central committee of the state political party filing the name of its nominee for the office with the proper filing officer when the office is a federal office, state office, district office or multicounty legislative district office; and

(2) the central committee of the county political party filing the name of its nominee for the office with the proper filing officer when the office is a magistrate office, county office or legislative district office where the district is entirely within the boundaries of a single county.

B. Appointments made pursuant to Subsection A of this section shall qualify pursuant to Section 1-8-18 NMSA 1978.

C. The county or state central committee members making the appointment pursuant to Subsection A of this section shall be as provided for in the rules of the respective party; provided that, at a minimum, the committee shall include those members residing within the boundaries of the area to be represented by the public office.

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D. Appointments to fill vacancies in the list of a party's nominees shall be made and filed with the proper filing officer using a form approved by the secretary of state at least sixty-three days prior to the general election, along with a declaration of candidacy subscribed and sworn by the selected nominee and the required form for candidates pursuant to the Campaign Reporting Act.

E. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

SECTION HJC→89 90←HJC. Section 1-8-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 161, as amended) is amended to read:

"1-8-12. PRIMARY ELECTION LAW--PROCLAMATION CALLING PRIMARY AND GENERAL ELECTIONS.--

A. The [~~governor~~] secretary of state shall issue a public proclamation calling a general election to be held in each county and precinct of the state on the date prescribed by Article 20, Section 6 of the constitution of New Mexico.

B. The general election proclamation shall also call a primary election for the nomination of general election candidates by each major political party to be held in each county and precinct of the state on the date prescribed by the Primary Election Law.

C. The proclamation shall be filed [~~with~~] by the

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secretary of state in the office of the secretary of state on the last Monday in January of each even-numbered year."

SECTION HJC→90 91←HJC. Section 1-8-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 162, as amended) is amended to read:

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

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

B. the offices to be elected at the general election and for which each political party shall nominate candidates; provided that if any law is enacted by the legislature in the year in which the primary election is held and the law does not take effect until after the date [of] to amend the proclamation but prior to the date [~~of the primary election~~] to fill vacancies pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the [~~proclamation~~] secretary of state shall conform the proclamation to the intent of the law with respect to the offices for which each political party shall nominate candidates;

C. the date on which declarations of candidacy and nominating petitions for United States representative, any office voted upon by all the voters of the state, a legislative office, the office of district judge, district attorney, [~~state~~

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~~board of~~] public education commission, public regulation
commission or magistrate shall be filed and the places where
they shall be filed in order to have the candidates' names
printed on the official ballot of their party at the primary
election or in order to have the candidates' names printed on
the official ballot at the general election, as applicable;

D. the date on and place at which declarations of
candidacy shall be filed for any other office and filing fees
paid or, in lieu thereof, a pauper's statement of inability to
pay;

E. the final date on and place at which candidates
for the office of United States representative and for any
statewide office seeking preprimary convention designation by
the major parties shall file petitions and declarations of
candidacy;

F. the final date on which the major political
parties shall hold state preprimary conventions for the
designation of candidates; [~~and~~]

G. the final date on and place at which
certificates of designation of primary election candidates
shall be filed by political parties with the secretary of
state;

[~~As used in the Primary Election Law, "statewide office"
means any office voted on by all the voters of the state.~~]

H. the date on which declarations of candidacy for

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minor party candidates shall be filed and the places where the declarations of candidacy shall be filed in order to have the minor party candidate names printed on the official ballot of the general election;

I. the date on which declarations of candidacy for unaffiliated candidates shall be filed and the places where the declarations of candidacy shall be filed in order to have the unaffiliated candidate names printed on the official ballot of the general election;

J. the date on which declarations of candidacy for nonpartisan judicial retention shall be filed and the places where the declarations of candidacy shall be filed in order to have the judicial retention names printed on the official ballot of the general election; and

K. the date on which declarations to be a write-in candidate are to be filed and the places where the declarations of candidacy shall be filed in order to have write-in votes counted and canvassed at the political party primary or general election."

SECTION HJC→91 92←HJC. Section 1-8-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 167, as amended) is amended to read:

"1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A CANDIDATE.--

A. No person shall become a candidate for

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nomination by a political party or have [~~his~~] the person's name printed on the primary election ballot unless [~~his~~] the person's record of voter registration shows:

(1) [~~his~~] affiliation with that political party on the date of the [~~governor's~~] secretary of state's general election proclamation [~~for the primary election~~]; and

(2) [~~his~~] residence in the district of the office for which [~~he~~] the person is a candidate on the date of the [~~governor's~~] secretary of state's general election proclamation [~~for the primary election~~] or in the case of a person seeking the office of United States senator or United States representative, [~~his~~] residence within New Mexico on the date of the [~~governor's~~] secretary of state's general election proclamation [~~for the primary election~~].

B. [~~Any~~] A voter may challenge the candidacy of [~~any~~] a person seeking nomination by a political party for the reason that [~~he~~] the person does not meet the requirements of Subsection A of this section by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy or a statement of candidacy for convention designation. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render

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a decision on the appeal forthwith."

SECTION HJC→92 93←HJC. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

~~[D. Declarations of candidacy for retention for all affected judicial offices shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election.~~

~~E.]~~ D. No ~~[candidate's]~~ name shall be placed on the ballot until the ~~[candidate]~~ person has been notified in

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writing by the proper filing officer that the certificate of registration on file, the declaration of candidacy and the petition, if required, [~~and the certificate of registration of the candidate on file~~] are in proper order and that the [~~candidate~~] person, based on those documents, is qualified to [~~have the candidate's name placed on the ballot~~] be a candidate. The proper filing officer shall mail the notice no later than 5:00 p.m. on the Tuesday following the filing date.

[F.] E. If a [~~candidate~~] person is notified by the proper filing officer that the [~~candidate~~] person is not qualified to [~~have the candidate's name appear on the ballot~~] be a candidate, the [~~candidate~~] person may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

SECTION HJC→93 94←HJC. Section 1-8-29 NMSA 1978 (being Laws 1973, Chapter 228, Section 3, as amended by Laws 1993, Chapter 55, Section 5 and by Laws 1993, Chapter 314, Section 46 and also by Laws 1993, Chapter 316, Section 46) is amended to read:

"1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
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FORM.--In making a declaration of candidacy by nominating petition or by pre-primary convention designation, the candidate shall submit substantially the following form:

"DECLARATION OF CANDIDACY
BY PRE-PRIMARY CONVENTION DESIGNATION
(OR BY NOMINATING PETITION)

I, _____, (candidate's name on certificate of registration) being first duly sworn, say that I reside at _____, as shown by my certificate of registration as a voter of Precinct No. _____ of the county of _____, State of New Mexico;

I am a member of the _____ party as shown by my certificate of registration and I have not changed such party affiliation subsequent to the [~~governor's~~] secretary of state's general election proclamation calling the primary in which I seek to be a candidate;

I desire to become a candidate for the office of _____ at the primary election to be held on the date set by law for this year, and if the office be that of a member of the legislature or that of a member of the [~~state board of~~] public education commission, that I actually reside at the address designated on my certificate of voter registration;

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

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If a candidate for any office for which a nominating petition is required, I am submitting with this statement a nominating petition in the form and manner as prescribed by the Primary Election Law; and

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

(Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me this ____ day of _____, [19] 20 ____.

(Notary Public)

My commission expires:

_____ ". "

SECTION HJC→94 95←HJC. Section 1-8-36.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 1, as amended) is amended to read:

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

A. Write-in candidates are permitted in the primary election only for the offices of United States representative,

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members of the legislature, district judges, district attorneys, public regulation commission, public education commission, magistrates and any office voted upon by all voters of the state.

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

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

~~[D. A write-in vote shall be counted and canvassed only if:~~

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

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~~to identify a declared write-in candidate; and~~

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

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

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

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

SECTION HJC→93 96←HJC. Section 1-8-45 NMSA 1978 (being .211327.3

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Laws 1977, Chapter 322, Section 1, as amended) is amended to read:

"1-8-45. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--DEFINITION.--

A. As used in the Election Code, an independent candidate means a person who:

(1) is a candidate for any state or county office to be voted on at a general election:

(a) whose certificate of voter registration shows affiliation with no qualified political party on the date of the [governor's] secretary of state's general election proclamation [~~for the primary election~~] and, if applicable, shows residence on the date of the [governor's] secretary of state's proclamation [~~for the primary election~~] in the district or county of the office for which the person is a candidate; and

(b) who has complied with the nomination procedures set forth in the Election Code for independent candidates;

(2) is a candidate for United States senator or United States representative:

(a) whose certificate of voter registration, if any, shows affiliation with no qualified political party on the date of the [governor's] secretary of state's general election proclamation [~~for the primary~~

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election];

(b) who will be a resident of New Mexico when elected; and

(c) who has complied with the nomination procedures set forth in the Election Code for independent candidates; or

(3) is a candidate for the office of president or vice president who:

(a) has complied with the nomination procedures set forth in the Election Code for independent candidates; and

(b) was not a major party candidate for the same office on the primary election ballot.

B. No person shall become an independent candidate for any office, and the person's name shall not be printed on the general election ballot, unless the person complies with the requirements of this section.

C. Any voter may challenge the candidacy of any person seeking to become an independent candidate for any office for the reason that the person does not meet the requirements of this section or because the nominating petitions, if required, do not meet the requirements of Section 1-8-31 NMSA 1978 by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy. The district court shall hear and render a decision

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on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

SECTION HJC→96 97←HJC. Section 1-8-48 NMSA 1978 (being Laws 1977, Chapter 322, Section 4, as amended) is amended to read:

"1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--DECLARATION OF INDEPENDENT CANDIDACY AND NOMINATING PETITION.--

A. Nomination as an independent candidate shall be made by filing a declaration of independent candidacy and a nominating petition with the proper filing officer.

B. In making a declaration of independent candidacy, the candidate for an office other than that of president or vice president shall submit a sworn statement in the following form:

"DECLARATION OF INDEPENDENT CANDIDACY

I, _____ (candidate's name), being first duly sworn, say that:

I reside at _____;

I did not designate any current affiliation with a qualified political party on my certificate of registration on or before the date of issuance of

the ~~[governor's]~~ secretary of state's general election proclamation ~~[for the primary election]~~ in the year of the general election at which I seek to be a candidate;

I meet the qualifications listed in Section 1-8-45 NMSA 1978 for the office that I seek;

I desire to become a candidate for the office of _____, District _____ at the general election to be held on the date set by law for this year;

if the office I seek be a state or county district office, I actually reside within the district of the office for which I declare my candidacy, and if the office I seek be a countywide office, I actually reside in the county of the office for which I declare my candidacy;

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

if a candidate for any office for which a nominating petition is required, I am submitting with this statement a nominating petition in the form and manner as prescribed by the Election Code; and

I make the foregoing affidavit under oath or affirmation knowing that any false statement herein

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constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Residence Address)

(Mailing Address, if different)

Subscribed and sworn to or affirmed before me
this ____ day of _____, ____.
(month) (year)

(Notary Public)

My commission expires:

_____".

C. The secretary of state shall prescribe and furnish the form for the declaration of independent candidacy for the office of president and vice president."

SECTION HJC→97 98←HJC. Section 1-8-51 NMSA 1978 (being Laws 1977, Chapter 322, Section 7, as amended) is amended to read:

"1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE [~~SPECIAL~~] ELECTIONS--NOMINATING PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

A. The basis of percentage for the total number of .211327.3

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votes cast in each instance referred to in this section shall be the total vote cast for governor at the last preceding general election at which a governor was elected.

B. Nominating petitions for an independent candidate for president of the United States shall be signed by a number of voters equal to [~~at least three percent of the total number of votes cast in the state~~] the number of signatures required Hf1→~~for nominating petitions for minor party candidates for president of the United States~~←Hf1 Hf1→to form a new political party←Hf1.

C. Nominating petitions for an independent candidate for United States senator or any other statewide elective office shall be signed by a number of voters equal to at least [~~three~~] two percent of the total number of votes cast in the state.

D. Nominating petitions for an independent candidate for United States representative shall be signed by a number of voters equal to at least HJC→~~three~~←HJC HJC→two←HJC percent of the total number of votes cast in the district.

E. Nominating petitions for an independent candidate for a member of the legislature, public regulation commission, district judge, district attorney, member of the [~~state board of~~] public education commission, magistrate or county office shall be signed by a number of voters equal to at least [~~three~~] two percent of the total number of votes cast in

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the district, division or county, as the case may be.

F. When a vacancy for any office occurs on the general election ballot pursuant to Section 1-8-7 or 1-8-8 NMSA 1978 in which all political parties may name a general election candidate or when a vacancy occurs in the office of United States representative pursuant to Section 1-15-18.1 NMSA 1978, an independent candidate may file a declaration of candidacy on or by the same deadline applicable to the political parties. The nominating petitions for an independent candidate in such circumstances shall be signed by the number of voters provided in this section, unless there are fewer than:

(1) sixty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to two-thirds the number of voters otherwise required by this section for an independent candidate; or

(2) thirty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to one-third the number of voters otherwise required by this section for an independent candidate.

[F.] G. A voter shall not sign a petition for an independent candidate as provided in this section if [he] the

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voter has signed a petition for another independent candidate for the same office."

SECTION HJC→98 99←HJC. Section 1-10-4 NMSA 1978 (being Laws 1977, Chapter 222, Section 27, as amended) is amended to read:

"1-10-4. BALLOTS--PREPARATION.--

A. In a primary election, not less than [~~sixty-three~~] sixty days before the [~~primary~~] election, each [~~proper filing officer~~] county clerk shall group [~~all candidates for~~] each candidate who has been qualified by a proper filing officer and a space for any offices with a declared write-in candidate, separated by political party [~~by themselves~~] and [~~prepare~~] certify in writing a separate ballot for each precinct in the county for each major political party [~~and certify the candidates for each ballot position to the printer~~] to be voted on at the primary election.

B. In a general election, not less than [~~sixty-three~~] sixty days before the [~~general~~] election, each [~~proper filing officer~~] county clerk shall [~~prepare~~] certify in writing the ballot for each precinct in the county containing the name of each candidate that has been certified [~~and filed~~] as the nominee of a qualified political party, each unaffiliated candidate who has been qualified by a proper filing officer, a space for any offices with a declared write-in candidate and any [~~constitutional amendments, questions or other propositions~~]

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~~that are to be voted on and certify all such information to the ballot printer. A copy of each certification shall be kept on file in the office of the secretary of state.~~

G.] ballot questions to be voted on at the general election.

C. In a regular local election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing the name of each candidate who has been qualified by a proper filing officer, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the regular local election.

D. In a special local election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing any ballot questions to be voted on at the special election.

E. In a special state election, not less than sixty days before the election, the secretary of state shall certify in writing the ballot containing any ballot questions to be voted on at the special state election.

F. In an election to fill a vacancy in the office of United States representative and except as provided in Subsection G of this section, not less than fifty-three days before the election, the secretary of state shall certify in writing the ballot containing the name of each candidate that

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has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

G. In an election to fill a vacancy in the office of United States representative in extraordinary circumstances pursuant to 2 U.S.C. Section 8(b), not more than seventeen days after the announcement of a vacancy in the office of United States representative, the secretary of state shall certify in writing the ballot containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

H. On the date specified for each election in this section, each ballot certified pursuant to this section shall be sent to the ballot printer or other person preparing the ballot for use by voters and sent to the secretary of state to keep on file for twelve months, after which the certified ballot shall be transferred to be a permanent record at the state records center. Upon request of the county chair of a political party participating in [the] a partisan election, the county clerk shall furnish proof sheets or a copy of the proof

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sheets of the certified ballot as soon as they become available."

SECTION HJC→99 100. Section 1-10-5 NMSA 1978 (being Laws 1977, Chapter 222, Section 28, as amended) is amended to read:

"1-10-5. BALLOTS--PRINTING.--The county clerk shall have access to sufficient ballots to send to federal qualified electors no later than the last business day before the forty-fifth day prior to an election. All other pre-printed ballots shall be [~~printed and~~] in the possession of the county clerk at least forty days before the election. When a county is using a system that is designed to print ballots at a polling location, the system shall be programmed and capable of operation at least forty days before the election."

SECTION HJC→100 101←HJC. Section 1-10-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 29, as amended by Laws 1993, Chapter 314, Section 52 and also by Laws 1993, Chapter 316, Section 52) is amended to read:

"1-10-6. BALLOTS--NAME TO BE PRINTED--~~[CANDIDATES WITH]~~ SIMILAR NAMES--NAMES NOT TO BE PRINTED.--

A. In the preparation of ballots for a statewide election, [~~A.~~] the candidate's name shall be printed on the ballot as it appears on the candidate's certificate of registration that is on file in the county clerk's office on the day [~~the governor~~] the secretary of state issues the proclamation for [~~the primary~~] that election; [~~and~~] provided

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that:

(1) the last name printed on the ballot shall match the candidate's legal last name;

(2) academic, honorific and elected titles shall not be printed;

(3) periods after initials shall not be printed;

(4) punctuation common to names, other than a period, shall be printed as it appears on the candidate's certificate of registration; and

(5) only letters and punctuation used in roman typefaces shall be printed.

B. If it appears that the names of two or more candidates for any office to be voted on at the election are the same or are so similar as to tend to confuse the voter as to the candidates' identities, the occupation and, [~~post-office address~~] if further differentiation is necessary, the year of birth, of each such candidate shall be printed immediately under the candidate's name on the ballot.

C. A candidate's name shall not be printed on the ballot if at least seventy days before a general election, sixty-three days before a primary election or regular local election or seven days after the filing day for declarations of candidacy for any other election:

(1) the candidate files with the proper filing

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officer a signed and notarized statement of withdrawal as a candidate in that election;

(2) a judicial determination is made that the candidate does not qualify to be a candidate for the office sought;

(3) the voter registration of the candidate is updated by the candidate in such manner that the candidate does not qualify to be a candidate for the office sought; or

(4) the voter registration of the candidate is canceled for any reason provided in Chapter 1, Article 4 NMSA 1978."

SECTION HJC→101 102←HJC. Section 1-10-7 NMSA 1978 (being Laws 1977, Chapter 222, Section 30, as amended) is amended to read:

"1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
EXCEPTIONS.--~~[Except in the case of a candidate for United States senate or United States representative who is also a candidate for president or vice president of the United States]~~

A. In a primary or general election, no candidate's name shall appear more than once on the ballot, [Whenever a person is, with his knowledge and consent, a candidate at any nominating convention or primary for nomination as the candidate of any political party for any office to be voted on at the election to be held next after such convention or primary, his name shall not be printed on the ballot at such

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~~election except in the column under the party name and emblem of the party designated on his declaration of candidacy or statement of candidacy for convention designation] except in the case of a candidate who is also a candidate for president or vice president of the United States.~~

B. In a regular local election, a candidate's name:

- (1) shall not appear more than once to be elected to any position with the same local government; and
- (2) may appear more than once to be elected to any position with different local governments."

SECTION HJC→102 103←HJC. Section 1-10-8 NMSA 1978 (being Laws 1977, Chapter 222, Section 31, as amended) is repealed and a new Section 1-10-8 NMSA 1978 is enacted to read:

"1-10-8. [NEW MATERIAL] BALLOTS--ORDER OF OFFICES AND BALLOT QUESTIONS.--

A. In the year in which the president of the United States is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

- (1) in a presidential primary, president;
- (2) in a general election, president and vice president as a ticket;
- (3) United States senator;
- (4) United States representative;
- (5) state senator;

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- (6) state representative;
- (7) supreme court;
- (8) court of appeals;
- (9) public regulation commission districts with odd-numbered designations;
- (10) public education commission districts with odd-numbered designations;
- (11) district court;
- (12) metropolitan court;
- (13) county clerk;
- (14) county treasurer; and
- (15) county commission districts and positions with odd-numbered designations.

B. In the year in which the governor is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

- (1) United States senator;
- (2) United States representative;
- (3) in a major political party primary, governor;
- (4) in a major political party primary, lieutenant governor;
- (5) in a general election, governor and lieutenant governor as a ticket;

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- (6) secretary of state;
- (7) attorney general;
- (8) state auditor;
- (9) state treasurer;
- (10) commissioner of public lands;
- (11) state representative;
- (12) supreme court;
- (13) court of appeals;
- (14) public regulation commission districts
with even-numbered designations;
- (15) public education commission districts
with even-numbered designations;
- (16) district court;
- (17) district attorney;
- (18) metropolitan court;
- (19) magistrate court;
- (20) county sheriff;
- (21) county assessor;
- (22) county commission districts and positions
with even-numbered designations; and
- (23) probate judge.

C. The ballot in a regular local election shall contain, when applicable, nonpartisan offices to be voted on in the following order:

- (1) municipal, with elective executive

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officers listed first, governing board members listed second and judicial officers listed third;

(2) board of education of a school district;

(3) community college, branch community college, technical and vocational institute district or learning center district; and

(4) special districts listed in order by voting population of each special district, with the most populous listed first and the least populous listed last.

D. The ballot in a statewide election shall contain, when applicable, nonpartisan judicial retention and in a statewide or special election, when applicable, ballot questions to be voted on in the following order, unless a different order is prescribed by the secretary of state:

(1) judicial retention;

(2) proposed state constitutional amendments;

(3) other state ballot questions;

(4) county ballot questions; and

(5) local government ballot questions listed

in the same order as the list of local governments in

Subsection C of this section.

E. When multiple positions for the same nonjudicial office are listed on the same ballot and each position is to be elected individually:

(1) offices designated by district number

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shall appear on the ballot in ascending numerical order of the districts;

(2) offices not designated by district number shall appear on the ballot in ascending numerical order of the position; provided that the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, and only one member shall be elected for each position; and

(3) whenever two or more positions for the same office are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall first group the offices with the shorter length of time and shall designate each position with "for a term expiring ___", specifying the date the term expires.

F. When multiple positions for the same judicial office are listed on the same ballot and each position is to be elected or voted on individually:

(1) district, metropolitan and magistrate court positions, either for partisan election or for nonpartisan judicial retention, shall appear on the ballot in ascending numerical order of the division number assigned to each position;

(2) supreme court and court of appeals for partisan election shall appear on the ballot in ascending

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numerical order of the position number designated by the secretary of state for that election, based on the date of the vacancy causing the position to be listed on the ballot; provided that if multiple vacancies occurred on the same day, the positions shall appear on the ballot based on the order of seniority of the justice or judge who vacated the position, with the highest seniority listed first; and

(3) supreme court and court of appeals for nonpartisan judicial retention shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the seniority of the justice or judge seeking retention, with the highest seniority listed first."

SECTION HJC→103 104←HJC. Section 1-10-8.1 NMSA 1978 (being Laws 1981, Chapter 166, Section 1, as amended) is amended to read:

"1-10-8.1. [~~GENERAL ELECTION~~] BALLOTS--ORDER OF CANDIDATE NAMES--PARTY POSITION ON BALLOT.--

~~[A. The order of preference for position on the ballots of the candidates of political parties in the general election shall be determined by lot at the time and in the manner prescribed by the secretary of state.~~

~~B. When electronic vote recording and tabulating machines or electronic vote tabulating machines are used, the offices and candidates shall be printed on the ballot in a~~

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~~vertical position with the order of preference being from top to bottom.~~

~~C. When paper ballots are used in a general election, such ballots shall be printed and bound so that the ballots for each precinct shall reflect the actual positioning of parties as they appear on all ballots in that precinct.~~

~~D. The secretary of state shall prescribe procedures and publish instructions to carry out the provisions of this section.]~~

A. Except as provided in this section, the order of candidates for the same office in a statewide election shall be determined using a randomization method provided by rule based on candidate name or determined by lot.

B. In a general election, the order of candidates for the same office shall be determined using a randomization method provided by rule based on political party or candidate name or determined by lot.

C. Candidates designated and certified by state convention pursuant to Section 1-8-21.1 NMSA 1978 shall be placed on the respective political party primary ballot before other candidates for the same office in descending order of the vote received at the applicable state convention; provided that the order of names on the respective political party primary ballot of two or more candidates receiving an equal number of votes for designation by convention for the same office shall

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be determined using a randomization method provided by rule based on candidate name or determined by lot."

SECTION HJC→104 105←HJC. Section 1-10-13 NMSA 1978 (being Laws 1977, Chapter 222, Section 50, as amended) is amended to read:

"1-10-13. [~~PAPER~~] BALLOTS--WRITE-IN CANDIDATES.--When a write-in candidate has been [~~certified~~] qualified by the proper filing officer pursuant to the Election Code:

A. a space for entering the name of the write-in candidate shall be clearly designated by the use of the heading "Declared Write-in Candidate" after the listing of other candidates for that office; and

B. the write-in candidate's name shall not be pre-printed on the ballot, nor displayed or otherwise provided in any polling place by any election official or member of an election board."

SECTION HJC→105 106←HJC. Section 1-11-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 211) is amended to read:

"1-11-1. NOTICE OF ELECTION [~~PROCLAMATION~~].--The county clerk shall, at least [~~twelve~~] twenty-one days prior to [~~any county or~~] a statewide election, give notice of the election [~~by proclamation~~]."

SECTION HJC→106~~46~~ 107. Section 1-11-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 212, as amended) is amended to read:

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"1-11-2. NOTICE OF ELECTION--CONTENTS [~~OF PROCLAMATION~~].--The [~~proclamation~~] notice of election shall, as applicable:

A. give notice of the election;

B. set forth the purpose of the election;

C. list the ballot question or questions to be voted on by voters of any precinct of the county other than those questions that have been published by the secretary of state;

D. list the final day and time when absentee or mailed ballots will be accepted by the county clerk; and

E. for a statewide election:

[~~G.~~] (1) list the offices to be filled by voters of any precinct of the county;

[~~D.~~] (2) list all [~~properly certified~~] qualified candidates [~~and~~] for those offices whose names shall appear on the ballot and, except in the case of a regular local election, list their party affiliation; [~~for each of the offices to be filled;~~

[~~E.~~] (3) list all [~~properly certified~~] qualified candidates for nonpartisan judicial retention;

[~~F.~~] (4) list all [~~properly~~] qualified declared write-in candidates for each of the offices to be filled; and

[~~G.~~ list the names of all precinct board members,

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~~the polling location and the precinct, if applicable, to which they are appointed; and~~

H.] (5) give the address or location ~~[of each polling place and alternate voting location]~~ and the hours of operation where the election is to be held at:

(a) the office of the county clerk;

(b) each alternate voting location and mobile alternate voting location; and

(c) each election day polling place."

SECTION HJC→107 108←HJC. Section 1-11-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 213, as amended) is amended to read:

"1-11-3. ~~[PROCLAMATION]~~ NOTICE OF ELECTION--PUBLICATION--POSTING.--

A. The ~~[proclamation]~~ notice of election shall be published at least once, not more than ~~[twelve]~~ twenty-one nor less than seven days before election day.

B. The ~~[proclamation]~~ notice of election shall be published in a legal newspaper as ~~[defined by]~~ provided in Section 14-11-2 NMSA 1978.

C. If no legal newspaper is published in the county, the ~~[proclamation]~~ notice of election shall be published in a legal newspaper of general circulation in the county.

D. ~~[A copy of the proclamation shall be posted in a~~

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~~public building~~] The county clerk shall post the notice of election beginning no later than twenty days before the election. The county clerk shall also place on the county website the proclamation for the election or provide a link to the proclamation posted on the secretary of state's website.

E. The [~~proclamation~~] notice of election shall be printed in English and Spanish.

F. The [~~proclamation~~] notice of election shall be broadcast on a radio station in the appropriate Native American languages in those counties affected by the federal Voting Rights Act of 1965, as amended."

SECTION HJC→108 109←HJC. Section 1-11-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 214) is amended to read:

"1-11-4. [~~PROCLAMATION~~] NOTICE OF ELECTION--ERRORS AND OMISSIONS.--

A. The county clerk may amend the [~~proclamation~~] notice of election between the time of its issuance and the day of election to provide for any corrections or to supply any omissions.

B. Upon petition of any voter that an error or omission has occurred in the [~~proclamation~~] notice of election, the district court may forthwith order the county clerk to correct the error or to supply the omission or immediately show cause why the error should not be corrected or the omission should not be supplied."

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SECTION HJC→109 110←HJC. Section 1-22-20 NMSA 1978 (being Laws 2018, Chapter 79, Section 33) is recompiled in Chapter 1, Article 11 NMSA 1978 and is amended to read:

"COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--~~[LOCAL]~~ ELECTION FUND ESTABLISHED.--

A. There is created in the state treasury the "~~[local]~~ election fund" solely for the purposes of:

(1) paying the costs of conducting and administering statewide elections required by the Election Code;

~~[(1)]~~ (2) reimbursing the counties for the costs of conducting and administering ~~[regular local]~~ statewide elections required by the ~~[Local Election Act]~~ Election Code;

~~[(2)]~~ (3) paying the administrative costs of the office of the secretary of state for administering elections required by the ~~[Local Election Act]~~ Election Code and for administering the ~~[local]~~ election fund; and

~~[(3)]~~ (4) carrying out all other specified provisions of the ~~[Local Election Act]~~ Election Code not already covered by another fund administered by the secretary of state.

B. The state treasurer shall invest the ~~[local]~~ election fund as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in

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the fund and not revert to the general fund. HJC→Money in the fund is appropriated to the office of the secretary of state for the purposes authorized in Subsection A of this section.←HJC Money in the fund shall only be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of state or the secretary's designee.

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

[~~(1)~~] ~~annual assessments imposed on local governments pursuant to Subsection F of this section; and~~

~~(2)]~~ (1) money appropriated to the fund by the legislature;

~~[D. Money in the local election fund is appropriated to the secretary of state for the purposes authorized in Subsection A of this section and for distribution to the counties for reimbursement of reasonable costs associated with conducting and administering regular local elections required by the Local Election Act. Money in the fund shall only be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of state or the secretary's designee]~~ Hf1→and←Hf1

Hf1→(2) reimbursements from the state or a local government for elections costs; and←Hf1

Hf1→~~(2)~~ (3)←Hf1 grants received by the

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secretary of state.

~~[E.]~~ D. In the event that current year balances in the ~~[local]~~ election fund do not cover the costs of ~~[local]~~ elections, the secretary of state may apply to the state board of finance for an emergency grant to cover those costs pursuant to Section 6-1-2 NMSA 1978.

~~[F.]~~ Each local government whose local governing body is elected in the regular local election shall pay an annual assessment to the secretary of state for deposit into the local election fund. The first one-half of the annual assessment shall be paid no later than thirty days following the close of the sixth month of each fiscal year, and the second one-half of the annual assessment shall be paid no later than thirty days following the close of each fiscal year. Assessments are based on a local government's general fund expenditures for each fiscal year; provided that no assessment shall be made on federal funds received by a local government nor on capital expenditures. The annual assessment shall be equal to two hundred fifty dollars (\$250) per one million dollars (\$1,000,000) or minor fraction thereof of the local government's general fund expenditures; provided that:

(1) ~~for a municipality that adopts an ordinance pursuant to Section 1-22-16 NMSA 1978 to have a top-two runoff election, the annual assessment shall be equal to five hundred dollars (\$500) per one million dollars~~

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~~(\$1,000,000) or minor fraction thereof of the municipality's general fund expenditures; and~~

~~(2) no assessment shall be paid by a local government with general fund expenditures less than one hundred thousand dollars (\$100,000).]"~~

SECTION HJC→110 111←HJC. Section 1-12-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 265, as amended) is amended to read:

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

- A. is blind;
- B. is physically disabled;
- C. is unable to read or write;
- D. is a member of a language minority who has an inability to read well enough to exercise the elective franchise; or
- E. requires assistance in operating the voting system provided for voting access for people with disabilities."

SECTION HJC→111 112←HJC. Section 1-12-19.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 2, as amended by Laws 2014, Chapter 40, Section 9 and by Laws 2014, Chapter 81, Section 9) is HJC→recompiled as Section 1-8-66 NMSA 1978 and←HJC amended to read:

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HJC→"1-12-19.1 1-8-66←HJC. GENERAL ELECTIONS [SPECIAL

ELECTIONS]--WRITE-IN CANDIDATES.--

A. A person desiring to be a write-in candidate in a general election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election a declaration of intent to be a write-in candidate. [~~A person desiring to be a write-in candidate in a special election for United States representative or a statewide special election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the sixty-third day immediately preceding the election a declaration of intent to be a write-in candidate.~~]

B. The form of the declaration of intent shall be prescribed by the secretary of state and shall contain a sworn statement by the [~~candidate~~] person that the [~~candidate~~] person is qualified to be a candidate for and to hold the office for which the [~~candidate~~] person is filing.

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

D. The secretary of state shall, not more than ten

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days after the filing date, certify the names of the declared write-in candidates to the county clerks of every county affected by such candidacy.

E. No person shall be a write-in candidate in the general election who was a candidate or who filed a declaration of candidacy in the primary election immediately prior to the general election. A write-in candidate for governor or lieutenant governor in the general election shall have a companion write-in candidate, and they shall be candidates to be elected jointly by the casting by a voter of a single vote applicable to both offices.

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

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

~~(2) the name is written in the proper office on the proper line provided on the ballot for write-in votes for the office for which the candidate has filed a declaration of intent and the voter has followed the directions for casting~~

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~~a vote for the write-in candidate.~~

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

~~H. A write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of preprinted stickers or labels.]"~~

SECTION HJC→112 113←HJC. Section 1-12-25.4 NMSA 1978 (being Laws 2003, Chapter 356, Section 7, as amended) is amended to read:

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

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

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

C. If there is no record of the voter ever having been registered in the county, the voter shall be offered the opportunity to register HJC→, and←HJC the provisional paper

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ballot shall not be counted HJC→and the voter registration certificate shall be processed following the canvass of the election←HJC.

D. If the voter was registered in the county, the registration was later canceled and the county clerk determines that the cancellation was in error, or that the voter continues to reside in the same precinct, or that the voter's name should not have been placed on the list of voters whose registrations were to be canceled, the voter's registration shall be immediately restored and the provisional paper ballot counted.

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

F. If the voter is a registered voter in the county but has voted on a provisional paper ballot HJC→~~at a polling place~~←HJC other than the HJC→~~voter's designated polling place~~←HJC HJC→ballot of the voter's correct precinct←HJC, the county canvassing board shall ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.

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

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H. The county clerk shall maintain a provisional ballot register that shall be in the same form and made available in the same manner as the absentee ballot register and the mailed ballot register. The county [~~canvassing board~~] clerk shall prepare a tally displaying the number of provisional paper ballots received, the number found valid and counted, the number rejected and not counted and the reason for not counting the ballots as part of the canvassing process and forward it to the secretary of state immediately upon certification of the election.

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

SECTION HJC→113 114←HJC. Section 1-12-31 NMSA 1978 (being Laws 1969, Chapter 240, Section 291, as amended) is amended to read:

"1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT BOXES AND OTHER ELECTION MATERIALS.--

A. The following election returns and materials shall not be placed in the ballot box and shall be returned immediately to the county clerk along with the locked ballot box:

(1) HJC→the number on the numbered seal affixed to secure the ballot box or←HJC one ballot box key in

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an envelope addressed to the county clerk;

(2) one signature roster;

(3) one [~~tally sheet; and~~] certificate of returns for the polling place;

(4) the envelope containing any provisional paper ballots cast at the polling place;

(5) the envelope containing any absentee or mailed ballots delivered to the polling place by the voter or an immediate family member of the voter;

(6) the envelope containing paper ballots that were not tabulated by the electronic vote tabulator;

(7) the envelope containing machine-tabulated paper ballots with write-in votes; and

[~~(4)~~] (8) all unused election supplies not destroyed pursuant to the Election Code.

B. The removable media storage device shall not be placed in the ballot box and shall be returned immediately to the county clerk either by messenger or along with the locked ballot box.

C. The election judge of the party different from that of the presiding judge shall place HJC→**the number on the numbered seal affixed to secure the ballot box** or←HJC the other ballot box key in the envelope addressed to the district court and immediately mail it to the district court."

SECTION HJC→~~114~~ **115**←HJC. Section 1-12-57 NMSA 1978

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(being Laws 1977, Chapter 222, Section 60, as amended) is amended to read:

"1-12-57. PAPER BALLOTS--PROCEDURE AFTER MARKING.--After marking and preparing a paper ballot in a polling place [~~or alternate voting location~~], the voter:

A. shall not show it to any person in the polling place in such a way as to reveal its contents; and

B. shall feed the paper ballot into the electronic vote tabulator."

SECTION HJC→115 116←HJC. Section 1-12-59 NMSA 1978 (being Laws 1977, Chapter 222, Section 62, as amended) is amended to read:

"1-12-59. VIEWING MARKED PAPER BALLOT.--

A. A voter may, on the voter's own initiative and using whatever form of communication or media chosen by the voter, voluntarily communicate any information regarding:

(1) the name of any candidate in a candidate contest for whom the voter voted or for whom the voter abstained from voting;

(2) the affirmative or negative vote cast by the voter on a ballot question or nonpartisan judicial retention election; or

(3) any other information regarding the manner in which a voter marked a paper ballot in an election.

B. No person shall solicit [~~the~~] a voter to show

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the voter's marked paper ballot or coerce a voter to reveal any of the information listed in Subsection A of this section.

C. No person shall disclose without the consent of the voter any of the information listed in Subsection A of this section.

D. A violation of Subsection B or C of this section may constitute the crime of offering a bribe, coercion of employees, coercion of voters, intimidation or conspiracy to violate the Election Code."

SECTION HJC→116 117←HJC. Section 1-12-65 NMSA 1978 (being Laws 1977, Chapter 222, Section 68, as amended) is amended to read:

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

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

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certificate] write the number of such ballots on each copy of the certificate of returns for that polling place and place the paper ballots that were not tabulated by the electronic vote tabulator in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for machine-tabulation or hand-tallying of the ballots.

B. The presiding judge and the election judges, assisted by the election clerks, shall count the number of machine-tabulated paper ballots with write-in votes, write the number of such ballots on each copy of the certificate of returns for that polling place and place those paper ballots with write-in votes in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for manual counting of the write-in votes.

[B.] C. The [counting and] tallying of paper ballots [in emergency situations] that were not tabulated by the electronic vote tabulator at the polling place and the counting of ballots with write-in votes shall be in accordance with procedures prescribed by the secretary of state."

SECTION HJC→117 118←HJC. Section 1-12-66 NMSA 1978 (being Laws 1977, Chapter 222, Section 69, as amended) is amended to read:

"1-12-66. PAPER BALLOTS--SIGNATURE ROSTERS, CHECKLIST OF .211327.3

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VOTERS AND TALLY SHEETS--DISPOSITION.--

A. After ~~[the counting and tallying of paper ballots are completed and after]~~ all certificates have been executed, the presiding judge and the two election judges shall place the checklist of voters and one copy of the ~~[tally sheet]~~ certificate of returns in that polling place in the stamped, addressed envelope provided for that purpose and an election judge shall immediately mail it to the secretary of state.

B. The signature roster and the original ~~[tally sheet]~~ certificate of returns in that polling place shall be returned to the county clerk. The signature roster and the ~~[tally sheet]~~ certificate of returns shall not be placed in the ballot box.

C. Signature rosters, checklists of registered voters, certificates of returns and tally sheets in the custody of the county clerk and the secretary of state may be destroyed only pursuant to Section 1-12-69 NMSA 1978."

SECTION HJC→118 119←HJC. Section 1-12-67 NMSA 1978 (being Laws 1977, Chapter 222, Section 70, as amended) is amended to read:

"1-12-67. PAPER BALLOTS TO BE PLACED IN BALLOT BOX.-- After ~~[the paper ballots are tallied, the precinct]~~ all certificates have been executed, the election board shall place the bundles of ~~[counted]~~ tabulated paper ballots in the ballot box and the ballot box shall be closed and locked."

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SECTION HJC→119 120←HJC. Section 1-13-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 303) is amended to read:

"1-13-1. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD.--

A. The board of county commissioners is ex officio the county canvassing board in each county.

B. The board of county commissioners may designate the board of registration to serve as the county canvassing board for the county. The designation shall be made in the polling place resolution adopted pursuant to Section 1-3-2 NMSA 1978 and is valid for all statewide and special elections conducted within the county until the expiration of the resolution."

SECTION HJC→120 121←HJC. Section 1-13-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 306, as amended) is amended to read:

"1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--METHOD.--
The county [~~canvassing board~~] clerk shall:

A. prepare the report of the canvass of the election returns by carefully examining [such] the returns of each precinct to ascertain if they contain the properly executed certificates required by the Election Code and to ascertain whether any discrepancy, omission or error appears on the face of the election returns; and

B. present the report of the canvass to the county

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canvassing board for the board's consideration and approval."

SECTION HJC→121 122←HJC. Section 1-13-12 NMSA 1978
(being Laws 1969, Chapter 240, Section 315) is amended to read:

"1-13-12. POST-ELECTION DUTIES--MANDAMUS TO COMPEL
CANVASS.--

~~[A. The county canvassing board shall not adjourn
until it has canvassed all the returns of the election.~~

B.] The district court, upon petition of any
[qualified elector] voter, may issue a writ of mandamus to the
county canvassing board to compel it to approve the report of
the county canvass [declare] and certify the election returns."

SECTION HJC→122 123←HJC. Section 1-13-13 NMSA 1978
(being Laws 1969, Chapter 240, Section 316, as amended) is
amended to read:

"1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING
BOARD-- CERTIFYING RESULTS.--

A. The county canvassing board shall [complete]
meet to approve the report of the canvass of the returns and
declare the results [within] no sooner than six days and no
later than ten days from the date of the election. A county
canvassing board in a county with more than [two] one hundred
fifty thousand voters shall [complete] meet to approve the
report of the canvass of the returns and declare the results
[within] no sooner than six days and no later than thirteen
days from the date of the election.

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B. The county canvassing board, immediately upon approval of the report of the canvass of the returns of an election, shall issue a certificate of canvass of the results of the election and send one copy of the certified results to:

(1) the county clerk;

(2) each local governing body with a candidate or ballot question receiving votes from any precinct in the county;

(3) the secretary of state;

(4) the state records center;

(5) the state canvassing board, in the case of a statewide election or a special state election and the results are for candidates or ballot questions voted on by the voters of more than one county; and

(6) in the case of a municipality whose laws provide for a top-two runoff, the municipality and the county clerk, if the results indicate the need for a top-two runoff election.

~~[B.]~~ C. On the thirty-first day after any primary or general ~~[or district special]~~ election, the ~~[county canvassing board]~~ secretary of state shall issue to those candidates entitled by law election certificates, or certificate of nomination in the case of the primary election, to all county officers, magistrates and to members of the legislature elected from districts wholly within the county.

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In addition, the county canvassing board, immediately after completion of the canvass, shall declare the results [~~immediately after completion of the canvass~~] of the election and of all ballot questions affecting only precincts within the county.

~~[G. The county canvassing board, immediately after completion of the canvass, shall also certify to the state canvassing board the number of votes cast for all other candidates and questions respectively and shall immediately deliver to the county chair of each political party that participated in the election a certificate showing the total number of votes cast for each candidate in the election in the county.]"~~

SECTION HJC→123 124←HJC. Section 1-13-15 NMSA 1978 (being Laws 1969, Chapter 240, Section 318, as amended) is amended to read:

"1-13-15. POST-ELECTION DUTIES--STATEWIDE ELECTION--
STATE CANVASS.--

A. The state canvassing board shall meet in the state capitol on the third Tuesday after each statewide election and proceed to approve the report of the canvass and declare the results of the election or nomination of each candidate voted upon by the entire state and by the voters of more than one county.

B. The state canvassing board shall also meet in

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the state capitol on the third Tuesday after each statewide election or special state election to approve the report of the canvass and declare the result of the vote on any constitutional amendment or any ballot question voted upon by the voters of more than one county.

C. Upon the completion of the state canvass, the secretary of state shall notify each county clerk of that fact."

SECTION HJC→124 125←HJC. Section 1-13-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 319, as amended) is amended to read:

"1-13-16. POST-ELECTION DUTIES--~~[STATE CANVASS METHOD]~~
SECRETARY OF STATE DUTIES.--

A. The report of the state canvass shall be made from the election returns transmitted directly to the secretary of state from each of the [precinct] election boards and, in the case of candidates voted upon by a district composed of two or more counties, from the certificates transmitted by the county canvassing boards. The secretary of state shall prepare the report of the state canvass; provided that the state canvassing board may designate a person or persons to compare the totals appearing on the election returns, statements of canvass and certificates and to certify the results of their findings to the state canvassing board.

B. Upon ~~[the completion]~~ approval of the report of
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the state canvass, but not sooner than the thirty-first day after any primary or general [~~or district special~~] election, the [~~state canvassing board~~] secretary of state shall issue to those candidates entitled by law the appropriate certificate of election or, in the case of a primary election, a certificate of nomination.

~~[G. The state canvassing board may designate a person or persons to compare the totals appearing on the election returns, statements of canvass and certificates and to certify the results of their findings to the state canvassing board.]~~

C. Upon receipt of the reports of the county canvass of a local election from each county, the secretary of state shall:

(1) not sooner than the twenty-fourth day after a regular local election, issue to those candidates entitled by law the appropriate certificate of election;

(2) not sooner than the HJC→seventeenth←HJC HJC→seventh←HJC day following a top-two runoff election HJC→and no later than the last business day before the first day of the new term of office←HJC, issue to those candidates entitled by law the appropriate certificate of election; and

(3) no later than the seventeenth day following a special local election in which votes were cast by the voters of more than one county, declare the result of the

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vote on any ballot question and issue a certificate of canvass of the results of the special election."

SECTION HJC→125 126←HJC. Section 1-13-21 NMSA 1978 (being Laws 1971, Chapter 317, Section 21, as amended) is amended to read:

"1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING BALLOTS.--

A. The county clerk shall not clear the votes recorded on the removable storage media devices until at least forty-five days after adjournment of the county or state canvassing board, whichever is later.

B. The county clerk shall not clear and shall keep locked those removable media storage devices from voting systems used to tabulate votes for precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of the contest or inspection.

C. Beginning forty-five days after the adjournment of the state or county canvassing board, whichever is later, or forty-five days after completion of a recount or judicial inquiry, the county clerk may transfer ballots from the locked ballot boxes for disposition pursuant to Section 1-12-69 NMSA 1978."

SECTION HJC→126 127←HJC . Section 1-22-17 NMSA 1978 (being Laws 2018, Chapter 79, Section 30) is recompiled in .211327.3

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Chapter 1, Article 13 NMSA 1978 and is amended to read:

"POST-ELECTION DUTIES--RECORDS.--

A. The returns and certificates of the result of the county canvass [~~of a regular or special local election~~] are public documents, subject to inspection and retention as provided by Section 1-12-69 NMSA 1978. The certificate of results of the canvass of the election shall, forty-five days after the election or recount after any contest has been settled by the court, be preserved as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be preserved as a permanent record in the office of the county clerk in a separate book maintained for recording the results of elections.

B. The returns and certificates of the result of the state canvass are public documents, subject to inspection and retention as provided by Section 1-12-69 NMSA 1978. The certificate of results of the canvass of the election shall, forty-five days after the election or recount after any contest has been settled by the court, be preserved as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be preserved as a permanent record in the office of the secretary of state in a separate book maintained for recording the results of elections."

SECTION HJC→127 128←HJC. A new section of Chapter 1,
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Article 13 NMSA 1978 is enacted to read:

"[NEW MATERIAL] POST-ELECTION DUTIES--UNOPPOSED WRITE-IN CANDIDATES.--

A. In a general election, the proper canvassing board shall not certify the election of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes equal to two percent of the total vote in the state, district or county in which the candidate seeks election that were cast for governor in the last preceding general election in which a governor was elected.

B. In a regular local election, the secretary of state shall not issue a certificate of election to an unopposed write-in candidate unless the candidate receives either one hundred votes or the number of write-in votes equal to at least ten percent of the total number of ballots on which the office appears that are cast in the regular local election.

C. In a primary election, the proper canvassing board shall not certify the nomination of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes in the primary election as the write-in candidate would need for signatures on a nominating petition pursuant to the requirements set out in Section 1-8-33 NMSA 1978.

D. In an election to fill a vacancy in the office of United States representative, the state canvassing board

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shall not certify the election of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes equal to two percent of the total vote in the congressional district in which the candidate seeks election that were cast for governor in the last preceding general election in which a governor was elected."

SECTION HJC→128 129←HJC. Section 1-14-22 NMSA 1978 (being Laws 2005, Chapter 270, Section 76, as amended) is amended to read:

"1-14-22. CONTESTS AND RECOUNTS--PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS--USE OF BALLOT IMAGES.--

A. The secretary of state shall issue rules governing and allowing procedures for reviewing the qualification of provisional ballot envelopes, absentee and other paper ballots in the case of a contest or recount of election results. All rejected provisional paper ballot envelopes shall be included in any contest or recount of election results, and a review of the qualification of provisional ballot envelopes shall occur in a recount.

B. Upon petition by the secretary of state or a county clerk, the district court may permit a review of ballot images in place of paper ballots whenever there are defective or missing returns in an election and when the voting system technology captures an image of each ballot in an election."

SECTION HJC→129 130←HJC. Section 1-14-24 NMSA 1978

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(being Laws 2008, Chapter 41, Section 1, as amended) is amended to read:

"1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND FEDERAL OFFICES--PROCEDURES.--

A. An automatic recount of the vote is required when the canvass of returns [~~in a primary or general election for a federal or statewide office, or a judicial office in a county with more than two hundred thousand registered qualified electors~~] indicates that the margin between the two candidates receiving the greatest number of votes for [~~the~~] an office, the margin between those supporting and those opposing a ballot question or the margin affecting the outcome of a nonpartisan judicial retention election is less than:

(1) one-fourth [~~of one~~] percent of the total votes cast in that election:

(a) for that office [~~in that election.~~ An automatic recount of the vote is required when the canvass of returns in a primary or general election for any other state office indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than one percent of the total votes cast for that office in that election] in the case of a federal or statewide office;

(b) on a ballot question in the case of a state ballot question; or

(c) on a nonpartisan judicial retention

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election in the case of the supreme court or the court of appeals;

(2) one-half percent of the total votes cast in that election:

(a) for that office in the case of a public regulation commissioner, public education commissioner, district attorney or any office elected countywide in a county with more than one hundred fifty thousand registered voters;

(b) on a ballot question in the case of a local ballot question; or

(c) on a nonpartisan judicial retention election in the case of a district court or the metropolitan court; or

(3) one percent of the total votes cast in that election for that office in the case of any other office.

B. For an office for which ballots were cast in more than one county, the secretary of state shall file notice with the state canvassing board upon the completion of the state canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office. For an office in which ballots were cast solely within one county, the secretary of state shall file notice with the state canvassing board within seven days after receiving notice from the county clerk following the completion of the county canvass that an automatic recount is required,

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and the state canvassing board shall order a recount of the ballots for the specified office.

C. Automatic recounts shall be conducted pursuant to the recount procedures established in Sections 1-14-16 and 1-14-18 through 1-14-23 NMSA 1978.

[D. ~~For the purposes of this section, "state office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, secretary of state, supreme court justice, court of appeals judge, district judge, magistrate judge, public regulation commissioner, commissioner of public lands, state senator or state representative.~~]"

SECTION HJC→130 131←HJC. Section 1-15-18.1 NMSA 1978 (being Laws 1983, Chapter 232, Section 16, as amended) is amended to read:

"1-15-18.1. UNITED STATES REPRESENTATIVE--VACANCY.--

A. Within ten days after a vacancy occurs in the office of United States representative, the [governor] secretary of state shall, by proclamation, call [~~a special~~] an election to be held not less than [~~eighty-four~~] seventy-seven nor more than ninety-one days after the date of the vacancy for the purpose of filling the vacancy, except as provided in Subsections [E] H and [F] I of this section.

B. The proclamation shall forthwith be filed by the secretary of state in the office of the secretary of state.

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The proclamation shall specify the:

- (1) date on which the election will be held;
- (2) purpose for which the election is called;
- (3) date on which declarations of candidacy are to be filed;
- (4) date on which declarations of intent to be a write-in candidate are to be filed; and
- (5) date certificates of registration are to be subscribed and sworn to participate in the election as required by law.

C. After the proclamation is issued pursuant to Subsection B of this section, the secretary of state shall within five days certify the proclamation to each county clerk with precincts located in the United States representative district in which the vacancy exists. Beginning not less than sixty-three days before the date of the election, the secretary of state shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation.

~~[B.]~~ D. Upon the issuance of the ~~[governor's]~~ proclamation, each qualified political party may nominate in the manner provided by the rules of that party a candidate to fill the vacancy in the office of United States representative; provided that such nomination is certified to the secretary of state by the state chair of that party no later than 5:00 p.m. on the fifty-sixth day preceding the date of the ~~[special]~~

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election.

[G.] E. Declarations of [~~independent~~] unaffiliated candidacy to fill the vacancy in the office of United States representative and nominating petitions pertaining thereto shall be filed with the secretary of state no later than 5:00 p.m. on the fifty-sixth day preceding the date of the [~~special~~] election.

[D. ~~Special~~] F. Declarations of intent to be a write-in candidate to fill a vacancy in the office of United States representative shall be filed with the secretary of state no later than 5:00 p.m. on the fifty-sixth day preceding the date of the election.

G. Elections called for the purpose of filling a vacancy in the office of United States representative shall be conducted in accordance with the provisions of the Election Code for general elections; provided, however, if there is a conflict between this section and other provisions of the Election Code, the provisions of this section shall control. The secretary of state shall, only when necessary, adjust the day provided in the Uniform Military and Overseas Voters Act to send ballots to federal qualified electors in an election to fill a vacancy in the office of United States representative. The adjusted day shall be immediately posted on the website of the secretary of state and reported to the federal voting assistance program.

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[E-] H. If a vacancy occurs in the office of United States representative [~~after the date of the primary election and before the date of the general election of that same year, the vacancy shall be filled at that general election of the same year~~] beginning one hundred sixty days and no less than sixty-three days before a statewide election, the vacancy shall be filled at the next statewide election; provided that when filling a vacancy:

(1) at a general election, candidates seeking the office of United States representative in that general election for the next succeeding term shall be deemed to be candidates for the unexpired term as well, and the candidate elected shall take office upon the certification of the election results; or

(2) at a political party primary or a regular local election, each ballot shall contain the election to fill the vacancy in the office of United States representative listed before the contests in the political party primary or regular local election, and ballots containing only the election of the vacancy in the office of United States representative shall be available to voters who do not otherwise qualify to vote in the political party primary or that regular local election.

[F-] I. If a vacancy occurs in the office of United States representative in extraordinary circumstances when there

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are more than one hundred vacancies in the United States house of representatives and there are more than seventy-five days before a regularly scheduled election [~~or previously scheduled special election~~], then pursuant to 2 U.S.C. Section 8(b):

(1) the governor shall immediately issue a writ of election, upon which the secretary of state shall, by proclamation, call [~~a special~~ an election to be held not more than forty-nine days after the vacancy is announced and file the proclamation along with the writ in the office of the secretary of state;

(2) the secretary of state shall immediately certify the proclamation to each county clerk with precincts located in the United States representative district in which the vacancy exists, and beginning not less than thirty-five days before the date of the election, the secretary of state shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation;

[~~(2)~~] (3) each qualified political party may nominate in the manner provided by the rules of that party a candidate to fill the vacancy in the office of United States representative; provided that such nomination is certified to the secretary of state by the state chair of that party no later than 5:00 p.m. on the tenth business day following announcement of the vacancy; [~~and~~

[~~(3)~~] (4) declarations of independent candidacy

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to fill the vacancy in the office of United States representative and nominating petitions pertaining thereto shall be filed with the secretary of state no later than 5:00 p.m. on the [~~twentieth~~] tenth business day following announcement of the vacancy; and

(5) declarations of intent to be a write-in candidate to fill the vacancy in the office of United States representative shall be filed with the secretary of state no later than 5:00 p.m. on the tenth business day following announcement of the vacancy.

J. The state shall pay all costs of an election to fill a vacancy in the office of United States representative when the election is not held on the same ballot as a statewide election."

SECTION HJC→131 132←HJC. Section 1-15-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 370) is amended to read:

"1-15-20. EXPIRING TERM AND NEXT SUCCEEDING TERM IN SAME ELECTION.--

A. In all instances where the expiring term of [~~any elective state or district office or~~] the office of United States senator or representative and the term next succeeding [~~such~~] the expiring term are to be voted upon at the same general election, the same individual may be a candidate for both [~~such~~] the expiring term and next succeeding term, whether at a primary election, nominating convention or general

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election.

B. In those instances where a person is initially elected for a next succeeding term of the office of United States senator or representative at a general election and there becomes a vacancy in the expiring term of that office at any time beginning seventy days before the general election through the first day of the next succeeding term, the person initially elected for the next succeeding term and in possession of the certificate of election from the general election shall be declared elected for the remainder of the expiring term."

SECTION HJC→132 133←HJC. Section 1-16-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 374) is amended to read:

"1-16-1. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT QUESTIONS--APPLICATION OF ELECTION CODE.--At all elections at which any [~~proposed constitutional amendment or~~] ballot question is submitted to [~~a vote of the electors~~] the voters, the election shall be [~~held and~~] called, conducted and canvassed in accordance with the Election Code."

SECTION HJC→133 134←HJC. Section 1-16-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 375) is amended to read:

"1-16-2. [~~STATE CONSTITUTIONAL AMENDMENTS--BALLOTS--SPECIAL ELECTIONS~~] BALLOT QUESTIONS--STATE BALLOT QUESTIONS--LOCAL GOVERNMENT BALLOT QUESTIONS.--[~~The secretary of state shall provide ballots for the use of voters in all special~~

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~~elections where constitutional amendments or other questions are submitted to the voters of the entire state. Paper ballots shall bear on their face the facsimile signature of the secretary of state and shall be furnished to each of the county clerks.]~~

A. A state ballot question includes any:

(1) proposed amendment to the constitution of New Mexico, as provided in a joint resolution passed by the legislature;

(2) tax authorization for general obligation bonds or mill levy, as provided by law;

(3) referendum, as provided in Article 4, Section 1 of the constitution of New Mexico; and

(4) other questions, as provided by statute or the constitution of New Mexico.

B. A local government ballot question includes any:

(1) tax authorization for bond sales, mill levy or gross receipts tax, as required by law;

(2) recall of county, school board or certain municipal officers, as provided by law or by municipal home rule charter;

(3) petition for the creation of a special district or consideration of a statutory local option, as provided by law;

(4) referendum on local governing body

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taxation authority, as provided by law;

(5) referendum on local government ordinances, as provided by the charter of a home rule municipality, by an incorporated or urban county or by law;

(6) change in the laws of a home rule municipality, as provided by the municipal charter or by law;

(7) changes in the charter of an incorporated or urban county, as provided by the charter of the incorporated or urban county or by law; and

(8) other questions, as provided by state statute or the constitution of New Mexico."

SECTION HJC→134 135←HJC. Section 1-16-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 376, as amended) is amended to read:

"1-16-3. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT QUESTIONS--CERTIFICATION.--

A. Whenever a [~~proposed constitutional amendment or other~~] state ballot question is to be submitted to the voters of the entire state [~~the secretary of state~~] on a general election or regular local election ballot, not less than [~~sixty-three~~] seventy days before the election, [~~at which it is to be submitted~~] the secretary of state shall certify the [~~proposed constitutional amendment or~~] state ballot question to the county clerk of each county.

B. Whenever a local government ballot question is

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to be submitted to the voters of a local government on a general election or regular local election ballot, not less than seventy days before the election at which the ballot question is proposed to be submitted to the voters, the local government shall file a resolution proposing the ballot question with the county clerk of each county containing any precinct in which votes may be cast for or against the local government ballot question. Not less than sixty-seven days before the election, each county clerk shall certify the local government ballot question to the secretary of state.

C. Whenever a state or local government ballot question is to be submitted to the voters in a special election, the proclamation calling the election shall be filed with or certified to the county clerk of each county containing any precinct in which votes may be cast pursuant to the provisions of the Special Election Act."

SECTION HJC→135 136←HJC. Section 1-16-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 377) is amended to read:

"1-16-4. BALLOT QUESTIONS--STATE CONSTITUTIONAL AMENDMENTS--PUBLICATION.--~~[Upon receipt of the certified proposed constitutional amendment or other question, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed constitutional amendment or other question in accordance with the constitution of New Mexico.]~~

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A. The secretary of state shall cause a proposed constitutional amendment to be published as provided in Article 19, Section 1 of the constitution of New Mexico.

B. The secretary of state shall post a proposed constitutional amendment beginning no later than seventy days prior to the election at which the amendment is to be submitted to the voters of the state for their approval or rejection.

C. Each county clerk shall post a proposed constitutional amendment beginning no later than sixty-seven days prior to the election at which the amendment is to be submitted to the voters of the state for their approval or rejection."

SECTION HJC→136 137←HJC. Section 1-16-7 NMSA 1978 (being Laws 1977, Chapter 222, Section 96, as amended) is amended to read:

"1-16-7. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT
[~~LABELS~~] QUESTIONS--FORM.--

A. The secretary of state shall by rule prescribe
Hf1→~~the form in which~~←Hf1 Hf1→uniform guidelines for←Hf1
[~~state constitutional amendments~~] a state or local ballot
question Hf1→~~shall~~←Hf1 Hf1→to←Hf1 appear on the ballot.
[Such]

B. For a proposed constitutional amendment, the
form Hf1→of the ballot question←Hf1 shall include the full
title of the joint resolution proposing the constitutional

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amendment and the constitutional amendment number assigned to the joint resolution by the secretary of state. [~~The secretary of state may provide an analysis of the proposed constitutional amendment on the ballot. The ballot shall be printed in both English and Spanish.~~]"

SECTION HJC→137 138←HJC. Section 1-16-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 380, as amended) is amended to read:

"1-16-8. [~~OTHER~~] BALLOT QUESTIONS--PROHIBITION ON NONBINDING OR ADVISORY QUESTIONS.--

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

~~B.]~~ In no case shall a nonbinding or merely advisory question be placed on the ballot for any election held pursuant to the Election Code."

SECTION HJC→138 139←HJC. Section 1-16-9 NMSA 1978 (being .211327.3

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Laws 1969, Chapter 240, Section 381, as amended) is amended to read:

"1-16-9. [~~STATE CONSTITUTIONAL AMENDMENTS~~] BALLOT QUESTIONS--SINGLE BALLOT--SPACE ON BALLOT.--[Proposed constitutional amendments or other]

A. Ballot questions submitted to the voters at any election shall be printed on one ballot only.

B. State ballot questions certified by the secretary of state shall be printed on the ballot as provided in the Election Code.

C. Local government ballot questions authorized by law shall be printed on the ballot of each county containing any precinct in which votes may be cast for or against the local government ballot question.

D. If, after printing any offices required to be elected and the state ballot questions certified by the secretary of state, there is insufficient space on a single-page ballot using both sides of the page to accommodate the various ballot questions submitted by local governments:

(1) priority for printing local government ballot questions shall be in the order the approved ballot questions were filed with the county clerk; provided that for multicounty jurisdictions, exclusion from one county's ballot excludes that local government ballot question from the ballot in all applicable counties;

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(2) a local government ballot question that, based on the order received by the county clerk, would require the ballot to be on more than one page shall be included on the ballot only if the local government submitting the ballot question pays the additional costs of any subsequent ballot page; provided that if more than one local government submits ballot questions that would require the ballot to be on more than one page, those local governments shall share the additional costs of any subsequent ballot page;

(3) a single ballot that is printed on more than one page may permit voters to cast on the first page a vote for or against any local government ballot question printed on a subsequent ballot page; and

(4) regardless of the order in which local government ballot questions are filed with the county clerk, the ballot questions shall be printed on the ballot in the order provided in Section 1-10-8 NMSA 1978."

HJC→~~SECTION 139. Section 1-19-26 NMSA 1978 (being Laws 1979, Chapter 360, Section 2, as amended by Laws 2009, Chapter 67, Section 1 and by Laws 2009, Chapter 68, Section 2) is amended to read:~~

~~"1-19-26. DEFINITIONS.--As used in the Campaign Reporting Act:~~

~~A. "advertising campaign" means an advertisement or series of advertisements used for a political purpose and~~

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~~disseminated to the public either in print, by radio or television broadcast or by any other electronic means, including telephonic communications, and may include direct or bulk mailings of printed materials;~~

~~B. "anonymous contribution" means a contribution the contributor of which is unknown to the candidate or the candidate's agent or the political committee or its agent who accepts the contribution;~~

~~C. "bank account" means an account in a financial institution located in New Mexico;~~

~~D. "campaign committee" means two or more persons authorized by a candidate to raise, collect or expend contributions on the candidate's behalf for the purpose of electing the candidate to office;~~

~~E. "candidate" means an individual who seeks or considers an office [in an] to be voted on in a primary or general election [covered by the Campaign Reporting Act], including a public official, who either has filed a declaration of candidacy [or nominating petition] or:~~

~~(1) for a nonstatewide office, has received contributions or made expenditures of one thousand dollars (\$1,000) or more or authorized another person or campaign committee to receive contributions or make expenditures of one thousand dollars (\$1,000) or more for the purpose of seeking~~

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~~election to the office; or~~

~~(2) for a statewide office, has received contributions or made expenditures of two thousand five hundred dollars (\$2,500) or more or authorized another person or campaign committee to receive contributions or make expenditures of two thousand five hundred dollars (\$2,500) or more for the purpose of seeking election to the office or for candidacy exploration purposes in the years prior to the year of the election;~~

~~F. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign, but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee;~~

~~G. "deliver" or "delivery" means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;~~

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~~H. "election" means any primary or general [or statewide special] election [in New Mexico and includes county and judicial retention elections but excludes municipal, school board and special district elections];~~

~~I. "election year" means an even-numbered year in which an election covered by the Campaign Reporting Act is held;~~

~~J. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign or pre-primary convention, but does not include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee;~~

~~K. "person" means an individual or entity;~~

~~L. "political committee" means two or more persons, other than members of a candidate's immediate family or campaign committee or a [husband and wife] spouse who make a contribution out of a joint account, who are selected, appointed, chosen, associated, organized or operated primarily for a political purpose; and "political committee" includes:~~

~~(1) political parties, political action committees or similar organizations composed of employees or~~

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~~members of any corporation, labor organization, trade or professional association or any other similar group that raises, collects, expends or contributes money or any other thing of value for a political purpose;~~

~~(2) a single individual whose actions represent that the individual is a political committee; and~~

~~(3) a person or an organization of two or more persons that within one calendar year expends funds in excess of five hundred dollars (\$500) to conduct an advertising campaign for a political purpose;~~

~~M. "political purpose" means influencing or attempting to influence an election or pre-primary convention, including a constitutional amendment or other question submitted to the voters;~~

~~N. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;~~

~~{0. "proper filing officer" means either the secretary of state or the county clerk as provided in Section 1-19-27 NMSA 1978;~~

~~P.} 0. "public official" means a person elected to an office in an election covered by the Campaign Reporting Act or a person appointed to an office that is subject to an election covered by that act; and~~

~~{Q.} P. "reporting individual" means every public~~

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~~official, candidate or treasurer of a campaign committee and every treasurer of a political committee."~~←HJC

SECTION 140. Section 1-22-2 NMSA 1978 (being Laws 2018, Chapter 79, Section 17) is amended to read:

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

- A. "local election" means a local government election;
- B. "local governing body" means a board, council or commission, as appropriate for a given local government;
- C. "local government" means a [~~school district, a special hospital district, a community college district, a technical and vocational institute district, a learning center district, an arroyo flood control district, a special zoning district, a soil and water conservation district, a water and sanitation district and a municipality, including a home rule municipality governed pursuant to Article 10, Section 6 of the constitution of New Mexico, a municipality operating pursuant to a territorial charter or special charter and, beginning July 1, 2022, a conservancy district governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978 and a watershed district governed pursuant to the Watershed District Act~~]:

(1) political subdivision of the state with authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico and its enabling legislation, but

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does not include a conservancy district governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978 or a county; and

(2) political subdivision of the state without authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico or its enabling legislation, but whose statutory provisions provide for election of officers or ballot questions to be decided pursuant to the Local Election Act;

D. "municipal officers" means the local governing body and any executive and judicial officers of a municipality; [and

~~E. "proper filing officer" means the clerk of the county in which the candidate resides;]~~

E. "regular local election" means the biennial local election at which local governing body members are elected pursuant to the provisions of the Local Election Act; and

F. "special local election" means a local election conducted at a time other than a statewide election at which only ballot questions are considered pursuant to the provisions of the Special Election Act."

SECTION 141. Section 1-22-2 NMSA 1978 (being Laws 2018, Chapter 79, Section 17, as amended by Section 140 of this act) is repealed and a new Section 1-22-2 NMSA 1978 is enacted to read:

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"1-22-2. [NEW MATERIAL] DEFINITIONS.--As used in the
Local Election Act:

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

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

C. "local government" means a:

(1) political subdivision of the state with
authority to levy taxes pursuant to Article 8, Section 9 of the
constitution of New Mexico and its enabling legislation, but
does not include a county; and

(2) political subdivision of the state without
authority to levy taxes pursuant to Article 8, Section 9 of the
constitution of New Mexico or its enabling legislation, but
whose statutory provisions provide for election of officers or
ballot questions to be decided pursuant to the Local Election
Act;

D. "municipal officers" means the local governing
body and any elective executive and judicial officers of a
municipality;

E. "regular local election" means the biennial
local election at which local governing body members are
elected pursuant to the provisions of the Local Election Act;
and

F. "special local election" means a local election

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conducted at a time other than a statewide election at which only ballot questions are considered pursuant to the provisions of the Special Election Act."

SECTION 142. Section 1-22-3 NMSA 1978 (being Laws 2018, Chapter 79, Section 18) is amended to read:

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

A. A regular local election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year. [~~B.~~] A regular local election shall be held to elect qualified persons to membership on a local governing body and, where applicable, to elective municipal executive office and to municipal judicial office.

B. A regular local election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot with no party or slate designation. No person shall become a candidate in a regular local election unless the person physically resides within the boundaries of the district or districted area in which the person desires to be elected or to represent and the person's record of voter registration shows that the person is both a qualified elector of the state [~~physically resides in the district in which the person is a candidate~~] and was registered to vote in the [~~district~~] area to be elected to represent on the date the proclamation calling a local election is filed in the office of the secretary of

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state.

C. ~~[In addition to candidates in the election, a regular local election ballot may contain ballot questions proposed by the state, county or local government or as otherwise provided by law. An election on a ballot question held at any time other than the date for a regular local election shall be held with the general election, as provided by law, or municipal officer election if authorized by the governing body of the municipality; or shall be]~~ A local government may propose a ballot question to be considered by the voters of the local government:

(1) at a regular local election or a general election as provided by Subsection B of Section 1-16-3 NMSA 1978; or

(2) at a special local election called, conducted and canvassed as provided in [Chapter 1, Article 24 NMSA 1978.

~~D. Provisions in a territorial charter supplemental to the Local Election Act may be implemented pursuant to authorization by the secretary of state in the proclamation for the regular local election]~~ the Special Election Act.

~~[E.]~~ D. Except as otherwise provided in the Local Election Act, local elections shall be called, conducted and canvassed as provided in the Election Code."

SECTION 143. Section 1-22-3.1 NMSA 1978 (being Laws

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2018, Chapter 79, Section 34) is amended to read:

"1-22-3.1. MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--
EXCEPTIONS.--

A. All municipalities shall elect their municipal officers pursuant to this section on the municipal officer election day, which is the first Tuesday in March of even-numbered years, unless the municipality has opted in to the election of its municipal officers at the regular local election.

B. Except as provided in Subsection C of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than [January] June 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of office for current office holders will be lengthened or shortened to correspond with the new election date. Following the second regular local election at which its municipal officers are elected at the regular local election, a municipality that has passed an ordinance pursuant to this subsection may [at any time] rescind the ordinance opting in to the election of its municipal officers in the regular local election [upon filing] and file the rescission with the secretary of state no later than [January] June 30 of the year

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in which the next regular local election is scheduled.

C. A home rule municipality that pursuant to its charter is implementing a form of required voter identification that supersedes the provisions of Section 1-1-24 NMSA 1978 shall not elect its municipal officers at the regular local election.

D. For municipalities that elect their officers on municipal officer election day:

(1) all provisions of the Local Election Act as supplemented by the Election Code apply, except as provided in this section; ~~[and except for those election procedures contained in the charter of a home rule municipality that operate in lieu of or in addition to the provisions of the Election Code.]~~

(2) for a municipal officer election, when the Local Election Act or the Election Code references a process or procedure to be conducted by the county clerk in the administration of a regular local election, the process or procedure shall instead be fulfilled and administered by the municipal clerk;

(3) for a special local election, the municipal clerk shall fulfill the duties of the county clerk pursuant to the Special Election Act in the conduct of administering a special local election by the municipality, unless the municipal clerk has entered into a memorandum of

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understanding with the county clerk to administer the special local election on behalf of the municipality;

(4) for a recall election, notwithstanding the laws of any municipality to the contrary, the county clerk shall at all times conduct a municipal recall election pursuant to the provisions of the Recall Act;

(5) in an election administered by the municipal clerk, the secretary of state shall provide to the municipal clerk access to the list of voters of the municipality through the voter registration electronic management system;

(6) the provisions of the Uniform Military and Overseas Voters Act apply to an election administered by the municipal clerk; provided that for the municipal officer election, military-overseas ballots shall be sent to federal qualified electors beginning thirty-five days before the election;

(7) upon the approval of the governing body of a municipality, a local government ballot question may appear on the ballot for an election conducted pursuant to this section at the request of a county, school or special district;

(8) the governing body of a municipality may act in relation to the duties of the board of county commissioners set forth in Section 1-3-2 NMSA 1978 in setting polling places and consolidating precincts for the municipal

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officer election; provided that if the governing body of a municipality does not pass a resolution as provided by Section 1-3-2 NMSA 1978, the polling places set by the board of county commissioners within the boundaries of the municipality shall be used for municipal officer elections;

(9) the provisions of Section 1-22-3.2 NMSA 1978 apply to a municipality conducting elections pursuant to this section; provided that the adjustment of dates in the laws of the municipality shall accord with the schedule imposed by the Election Code for the conduct of the municipal officer election; and

(10) a municipality that elects its municipal officers pursuant to this section shall bear the costs of administering the municipal officer election.

E. ~~[Except as otherwise provided in this subsection]~~ Candidate procedures for municipalities that elect their officers on municipal officer election day are as follows:

(1) the secretary of state shall, in accordance with the provisions of Section 1-22-4 NMSA 1978, issue the proclamation calling for the municipal officer election for all municipalities conducting the election of their officers pursuant to this section. The municipal clerk shall post those portions of the proclamation relevant to the municipality and publish what is posted in accordance with the

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schedule and procedures provided in Subsection D of Section 1-22-4 NMSA 1978, and each county clerk shall post the entire proclamation on the county clerk's website along with a notice of which municipalities in the county are conducting elections pursuant to this section;

(2) each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy;

(3) declarations of candidacy for municipal officer elections shall be filed between 9:00 a.m. and 5:00 p.m. on the fifty-sixth day before the election. [For a home rule municipality whose charter or ordinance requires that a candidate file a declaration of candidacy before qualifying for public financing, declarations of candidacy shall be filed on the date provided in the municipality's charter.] No name shall be placed on the ballot until the person has been notified in writing by the municipal clerk that the certificate of registration of the candidate on file with the county clerk, the declaration of candidacy and the petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The municipal clerk shall deliver the notice to the person no later than 5:00 p.m. on the Friday following the filing date;

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(4) write-in candidates for municipal officer elections shall file declarations of candidacy between 9:00 a.m. and 5:00 p.m. on the forty-ninth day before the election. [The last day to file a statement of withdrawal for a municipal officer election is forty-nine days before the election.] No space shall appear on the ballot for a write-in candidate until the person has been notified in writing by the municipal clerk that the certificate of registration of the candidate on file with the county clerk and the declaration of candidacy are in proper order and that the person, based on those documents, is qualified to be a declared write-in candidate. The municipal clerk shall deliver the notice to the person no later than 5:00 p.m. on the Friday following the filing date;

(5) any voter may challenge the candidacy of any person seeking election to municipal office for the reason that the person does not meet the requirements for the office sought by filing a petition in the district court within seven days after the deadline for filing a declaration of candidacy. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(6) the municipal clerk shall certify in

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writing the ballot for each precinct in the municipality containing the name of each candidate who has been qualified, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the municipal officer election. The order of candidates for the same office in a municipal officer election shall follow the randomization method established by rule by the secretary of state for the regular local election. Each ballot certified pursuant to this paragraph shall, no later than forty-two days before the election, be sent to the ballot printer or other person preparing the ballot for use by the voters and a certified copy sent to the secretary of state. A copy of each certification shall be kept on file in the office of the secretary of state for twelve months, after which the ballot certification shall be transferred to be a permanent record at the state records center.

F. Except for municipalities that provide for a top-two runoff election pursuant to Section 1-22-16 NMSA 1978, [~~have chosen to have a top-two runoff election~~] the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the election. For [~~home rule~~] municipalities that [~~hold~~] provide for a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the runoff election.

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~~[G.— A municipality holding municipal officer elections pursuant to this section may place ballot questions on the ballot of an election held pursuant to this section and as otherwise provided in the Local Election Act.~~

~~H.— The municipal clerk shall fulfill the duties of the county clerk in the conduct of elections held pursuant to this section and, except for recall elections, special local elections held pursuant to Section 1-24-3 NMSA 1978.— The county clerk shall maintain accurate voter registration information for each municipality located in the county.— The county clerk shall provide to the municipal clerk, in advance of an election held pursuant to this section, the names of only those voters entitled to vote in the municipal election.— The municipality shall bear the reasonable cost of preparation of the voter lists, signature rosters and voter registration in electronic format and all other costs of administering municipal officer and special elections held pursuant to this section.~~

~~I.— The secretary of state shall issue the proclamation calling for an election pursuant to this section in accordance with the provisions of Section 1-22-4 NMSA 1978.— The municipal clerk shall publish the proclamation in accordance with the schedule and procedures provided in Subsection D of Section 1-22-4 NMSA 1978.— Each county clerk shall post the entire proclamation on the county clerk's~~

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~~website along with a notice of which municipalities in the county are conducting elections pursuant to this section.~~

~~J. The governing body of the municipality may act in relation to the duties of the board of county commissioners set forth in Section 1-3-2 NMSA 1978 that are applicable to the conduct of an election held pursuant to this section.]~~

G. When the Municipal Code:

(1) provides for vacancies in municipal office to be filled by election at the next regular local election, the vacancies shall instead be filled by election at the next municipal officer election; or

(2) references a ballot question that may be placed on the regular local election or general election ballot, the reference shall also permit placing the ballot question on the municipal officer election ballot."

SECTION 144. Section 1-22-3.2 NMSA 1978 (being Laws 2018, Chapter 79, Section 35) is amended to read:

"1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION PROVISIONS--ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR PROCEDURES AFFECTED BY THE [LOCAL] ELECTION [ACT] CODE--PUBLIC FINANCING.--

A. Election provisions or procedures in the laws of a municipality that operate in addition to and do not conflict with the provisions of the Election Code continue in effect as long as such provisions do not conflict with the Election Code

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or until amended or repealed by the municipality. Election provisions or procedures in an ordinance or charter of a municipality that conflict with the Election Code or other applicable state or federal law are not operable and shall not be enforced. Election provisions or procedures in an ordinance or charter of a municipality that do not conflict with the Election Code shall be administered HJC→~~by the municipal clerk~~←HJC HJC→pursuant to the ordinances or charter of the municipality←HJC, unless the municipal clerk and the county clerk have signed a memorandum of understanding for the county clerk to conduct election provisions or procedures on behalf of the municipality.

[A.] B. A municipality [~~that has enacted~~] with election provisions or procedures in an ordinance or its charter that [~~are supplemental to provisions in~~] do not conflict with the Election Code shall adjust the calendar dates that implement those election provisions and procedures to accord with the schedules imposed by the [~~Local Election Act for the conduct of local or municipal officer elections~~] Election Code. At the discretion of the municipality, the adjustment of calendar dates may be done administratively, by ordinance or as otherwise provided by the charter of the municipality. The municipal clerk shall post the [~~conforming~~] adjusted dates [~~on the municipality's website~~] no later than [~~January~~] June 30 of each odd-numbered year.

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[B-] C. At the discretion of the municipality, a municipality with a charter may [change] amend its charter by ordinance or as otherwise provided by the municipality to conform its [election schedule] ordinances or charter with the requirements of [this section] the Election Code and other applicable state or federal laws related to elections.

D. In any municipality implementing public financing for its municipal elections consistent with this section and notwithstanding any provision to the contrary in the ordinances or charter of the municipality:

(1) the municipality shall require as a precondition to the receipt of public financing that a person first be qualified as a candidate;

(2) if the date in the ordinances or charter of the municipality for submitting documents to be approved for public financing is an earlier date than the filing date for declarations of candidacy provided in the Local Election Act, the municipal clerk shall accept declarations of candidacy and other candidate qualification documents from persons seeking to be approved for public financing on the date provided in the ordinances or charter of the municipality upon which the municipal clerk shall deliver to the HJC→country←HJC HJC→county←HJC clerk the candidate qualification documents of each person seeking to be approved for public financing;

(3) the county clerk shall notify the

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municipal clerk in writing no later than 5:00 p.m. on the third day following receipt of the candidate qualification documents that the certificate of registration of the candidate, the declaration of candidacy and the petition, if any, are in proper order and whether the person, based on those documents, is qualified to be a candidate;

(4) any voter may challenge the Hfl→
determination of ←Hfl candidacy Hfl→qualification by the
county clerk ←Hfl of a person seeking election to municipal
office Hfl→by the county clerk←Hfl HJC→or approval to receive
public financing by the municipal clerk←HJC for the reason that
the person does not meet the HJC→candidate qualification←HJC
requirements by filing a petition in the district court within
seven days after the deadline for the municipal clerk to
approve candidates to receive public financing. The district
court shall hear and render a decision on the matter within ten
days after the filing of the petition. The decision of the
district court may be appealed to the supreme court within five
days after the decision is rendered. The supreme court shall
hear and render a decision on the appeal forthwith; and

(5) on the day provided in the Local Election
Act to submit declarations of candidacy, any qualified person
may file a declaration of candidacy for municipal office
HJC→and other candidate qualification documents←HJC, including
a person who failed to be approved for public financing but who

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otherwise qualifies to be a candidate, but not including a person who previously sought public financing in the same election but was not qualified to be a candidate; provided that any candidate qualification requirements imposed by the municipality other than those pertinent to public financing and the date for filing a declaration of candidacy must be fulfilled by a person who submits a declaration of candidacy on the day provided in the Local Election Act HJC→."←HJC

HJC→E. Until December 31, 2019, a municipality with a population greater than one hundred thousand, based on the latest federal decennial census, shall use the provisions of this section that existed prior to the effective date of this 2019 act. After December 31, 2019, all municipalities shall use the provisions of this section as it exists on the effective date of this 2019 act."

SECTION 145. Section 1-22-3.2 NMSA 1978 (being Laws 2018, Chapter 79, Section 35, as amended by Section 144 of this act) is repealed and a new Section 1-22-3.2 NMSA 1978 is enacted to read:

"1-22-3.2. [NEW MATERIAL] MUNICIPALITIES--MUNICIPAL ELECTION PROVISIONS--ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR PROCEDURES AFFECTED BY THE ELECTION CODE--PUBLIC FINANCING.--

A. Election provisions or procedures in the laws of

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a municipality that operate in addition to and do not conflict with the provisions of the Election Code continue in effect as long as such provisions do not conflict with the Election Code or until amended or repealed by the municipality. Election provisions or procedures in an ordinance or charter of a municipality that conflict with the Election Code or other applicable state or federal law are not operable and shall not be enforced. Election provisions or procedures in an ordinance or charter of a municipality that do not conflict with the Election Code shall be administered pursuant to the ordinances or charter of the municipality, unless the municipal clerk and the county clerk have signed a memorandum of understanding for the county clerk to conduct election provisions or procedures on behalf of the municipality.

B. A municipality with election provisions or procedures in an ordinance or its charter that do not conflict with the Election Code shall adjust the calendar dates that implement those election provisions and procedures to accord with the schedules imposed by the Election Code. At the discretion of the municipality, the adjustment of calendar dates may be done administratively, by ordinance or as otherwise provided by the charter of the municipality. The municipal clerk shall post the adjusted dates no later than June 30 of each odd-numbered year.

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C. At the discretion of the municipality, a municipality with a charter may amend its charter by ordinance or as otherwise provided by the municipality to conform its ordinances or charter with the requirements of the Election Code and other applicable state or federal laws related to elections.

D. In any municipality implementing public financing for its municipal elections consistent with this section and notwithstanding any provision to the contrary in the ordinances or charter of the municipality:

(1) the municipality shall require as a precondition to the receipt of public financing that a person first be qualified as a candidate;

(2) if the date in the ordinances or charter of the municipality for submitting documents to be approved for public financing is an earlier date than the filing date for declarations of candidacy provided in the Local Election Act, the municipal clerk shall accept declarations of candidacy and other candidate qualification documents from persons seeking to be approved for public financing on the date provided in the ordinances or charter of the municipality upon which the municipal clerk shall deliver to the county clerk the candidate qualification documents of each person seeking to be approved for public financing;

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(3) the county clerk shall notify the municipal clerk in writing no later than 5:00 p.m. on the third day following receipt of the candidate qualification documents that the certificate of registration of the candidate, the declaration of candidacy and the petition, if any, are in proper order and whether the person, based on those documents, is qualified to be a candidate;

(4) any voter may challenge the candidacy of a person seeking election to municipal office by the county clerk for the reason that the person does not meet the candidate qualification requirements by filing a petition in the district court within seven days after the deadline for the municipal clerk to approve candidates to receive public financing. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(5) on the day provided in the Local Election Act to submit declarations of candidacy, any qualified person may file a declaration of candidacy for municipal office and other candidate qualification documents, including a person who failed to be approved for public financing but who otherwise

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qualifies to be a candidate, but not including a person who previously sought public financing in the same election but was not qualified to be a candidate; provided that any candidate qualification requirements imposed by the municipality other than those pertinent to public financing and the date for filing a declaration of candidacy must be fulfilled by a person who submits a declaration of candidacy on the day provided in the Local Election Act."←HJC

SECTION HJC→145 146←HJC . Section 1-22-4 NMSA 1978 (being Laws 2018, Chapter 79, Section 19) is amended to read:

"1-22-4. REGULAR LOCAL ELECTION [~~MUNICIPAL OFFICER ELECTION~~]~~--PROCLAMATION--PUBLICATION.--~~

A. Between one hundred twenty and one hundred fifty days before the next regular local election, each local government shall notify the county clerk of the county in which the primary administrative office of the local government is situate of all local government positions that are to be filled at the next regular local election. Each county clerk shall inform the secretary of state of all positions to be filled no later than one hundred twelve days before the regular local election.

~~[A.]~~ B. The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election [~~on the date prescribed by the Local Election Act~~]. The proclamation shall be issued and filed by

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the secretary of state in the office of the secretary of state ninety days preceding the date of the regular local election,

~~[B. Between one hundred twenty and one hundred fifty days before the next local election, each local government shall notify the secretary of state of all local government positions that are to be filled at the next election for that local government]~~ and upon filing the proclamation, the secretary of state shall post the proclamation and certify it to each county clerk.

C. The proclamation shall specify ~~[the]~~:

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

(2) ~~[positions on]~~ each elective office, local governing body and judicial position to be filled;

~~[(3) executive and judicial positions to be filled;~~

~~(4)]~~ (3) the date on which declarations of candidacy are to be filed;

~~[(5)]~~ (4) the date on which declarations of intent to be a write-in candidate are to be filed; and

~~[(6)]~~ (5) the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.

D. After receipt of the proclamation from the secretary of state, the county clerk shall post the entire

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proclamation on the county clerk's website and, not less than seventy-five days before the date of the election, shall publish portions of the proclamation relevant to the county at least once in a newspaper of general circulation within the county. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended, and shall specify [~~the~~]:

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

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

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

(2) for each local government situated in whole or in part in the county, each elective executive, local governing body and judicial position to be filled by voters of any precinct in the county;

~~[(4)]~~ (3) the date on which declarations of candidacy are to be filed and the date on which declarations of intent to be a write-in candidate are to be filed;

~~[(5)]~~ (4) the location, [of each polling place] days and hours for voting at the office of the county clerk;

~~[(6)]~~ (5) the location, [of each alternate voting location for early voting;

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~~(7) hours each polling place and alternate voting location will be open~~ days and hours for early voting at each alternate voting location and mobile alternate voting location;

(6) the location, date and hours for voting at each election day polling place; and

~~[(8)] (7) the date [and time of the closing of the registration books by the county]~~ certificates of registration shall be subscribed and sworn as required by law.

E. Whenever two or more members of a local governing body are to be elected at large for terms of the same length of time, the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position. Whenever two or more members of a local governing body are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall list the office with the shorter length of time first and shall designate each position with "for a term expiring ___"."

SECTION HJC→146 147←HJ. Section 1-22-7 NMSA 1978 (being Laws 2018, Chapter 79, Section 20) is amended to read:

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

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A. A candidate for a position that will be filled at a regular local election shall file a declaration of candidacy with the proper filing officer [~~during the period commencing at~~] between 9:00 a.m. and 5:00 p.m. on the seventieth day before the date of the regular local election [~~and ending at 5:00 p.m. on the same day~~].

B. A candidate shall file for only one position in the same local government but may file for a position in more than one local government [~~during a filing period~~] on the same filing day.

C. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

D. Each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy.

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

SECTION HJC→147 148←HJC. Section 1-22-8 NMSA 1978 (being Laws 2018, Chapter 79, Section 21) is amended to read:

"1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF INTENT--FORM.--In making a declaration of candidacy, the

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candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

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

_____ and was registered to vote at that place on the date of the proclamation calling this election;

I reside within and am registered to vote in the area to be ~~[represented]~~ elected to represent;

I desire to become a candidate for the office of _____ at the regular local election to be held ~~[on the date set by law]~~ in November of the year this declaration is filed;

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

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

(Signature of Declarant)

(Mailing Address)

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(Residence Address)

Subscribed and sworn to before me by _____ this
_____ day of _____, 20 _____.
_____.

(Notary Public)

My commission expires:

_____ ". "

SECTION HJC→148 149←HJC. Section 1-22-8.1 NMSA 1978

(being Laws 2018, Chapter 79, Section 22) is amended to read:

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

A. Write-in candidates shall be permitted in
regular local elections.

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

C. A person desiring to be a write-in candidate for
an office shall file with the proper filing officer a
declaration of candidacy. The declaration shall be filed
between 9:00 a.m. and 5:00 p.m. on the sixty-third day
preceding the date of the election. The county clerk shall
ensure that a declaration of candidacy filed pursuant to this
section specifies that it is for a write-in candidate.

~~[D. A write-in vote shall be counted and canvassed
only if:~~

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

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

~~E.] D.~~ At the time of filing the declaration of candidacy, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act, except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place.

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

~~G. No unopposed write-in candidate shall have an election certified unless the candidate receives at least the~~

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~~number of write-in votes equal to ten percent of the total number of ballots on which the office appears on the ballot that are cast in the local election, or one hundred.]"~~

SECTION HJC→149 150←HJC. Section 1-22-10 NMSA 1978 (being Laws 2018, Chapter 79, Section 24) is amended to read:

"1-22-10. CANDIDATE QUALIFICATION--CHALLENGES--BALLOTS.-

A. The proper filing officer shall determine whether a candidate filing a declaration of candidacy is registered to vote within the [~~local election district~~] area to be elected to represent and, if required for the office being sought, whether the candidate's nominating petition for that office has been filed with a number of signatures that is equal to or greater than the number required for that office. If the candidate is so qualified and no withdrawal of candidacy has been filed as provided in the Local Election Act, the proper filing officer shall place the candidate's name on the ballot for the position specified in the declaration of candidacy and notify each candidate in writing no later than 5:00 p.m. on the sixtieth day before the local election.

B. Any voter may challenge the candidacy of any person seeking election at the regular local election for the reason that the person does not meet the requirements for the office sought by filing a petition in the district court within seven days after the day for filing a declaration of candidacy.

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The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith.

~~[B.]~~ C. Ballots for the regular local election shall be prepared by the proper filing officer and printed in accordance with the provisions of Section 1-10-5 NMSA 1978.

D. The printed ballot shall contain the name of each person who is a candidate and the position for which the person is a candidate.

E. The ballot shall also contain all ballot questions [~~permitted by the board of county commissioners pursuant to Section 1-22-10.1 NMSA 1978~~] that are to be submitted to the voters as certified by a local governing body to the county clerk in each county in which the local government is situate [~~by the local governing body~~] and shall conform to the requirements [~~of Section 1-16-8 NMSA 1978.~~

~~G. Paper ballots shall be printed in a form in substantial compliance with the provisions of Section 1-10-12 NMSA 1978 and in compliance with the provisions of the federal Voting Rights Act of 1965, as amended.~~

~~D. A local election shall be a nonpartisan election, and the names of all candidates shall be listed on~~

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~~the ballot without party or slate designation. The order in which the names of candidates are listed on the ballot shall be determined by the secretary of state either by lot or by randomization as provided by rule.~~

~~E. Space shall be provided on each ballot for a voter to write in the name of one candidate for each position to be filled when a declaration of candidacy by a write-in candidate has been filed] for ballot questions on the regular local election ballot as provided in Chapter 1, Article 16 NMSA 1978."~~

SECTION HJC→150 151←HJC. Section 1-22-16 NMSA 1978 (being Laws 2018, Chapter 79, Section 29) is amended to read:

"1-22-16. MUNICIPAL RUNOFF ELECTIONS.--

A. All runoff elections authorized by Article 7, Section 5 of the constitution of New Mexico shall be conducted pursuant to this section as a top-two runoff election or as a ranked-choice runoff election as follows:

(1) a top-two runoff election shall be conducted on a separate ballot when the candidate receiving the most votes for an office did not receive the percentage of votes required by the laws of the municipality to be elected in the first round of voting. When ordered, the top-two runoff election shall be held following the regular local election [~~or municipal officer election~~] and allow the voter to select between the two candidates who in the first round of voting

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received the highest number of votes for an office; and

(2) a ranked-choice runoff election shall be conducted on the same ballot as the regular local election [~~or municipal officer election~~] and allow the voter to rank the candidates for an office in the order of preference for the voter.

B. If a municipality whose laws provide for top-two runoff elections is notified by the proper canvassing board that a runoff election is required following the regular local election [~~or municipal officer election~~], the top-two runoff election shall be conducted in accordance with [~~the~~] those election provisions [of the municipality's ordinance or charter that supplement the Local Election Act] and procedures in the ordinances or charter of the municipality that do not conflict with the Election Code or administrative rules issued by the secretary of state; provided that

[~~(1) in the case of~~] in a municipality in which the first round of voting is conducted at the regular local election Hfl→, ←Hfl Hfl→: ←Hfl

Hfl→(1) ←Hfl the county clerk shall perform the duties of administering the top-two runoff election [~~and~~

~~(2) in the case of a municipality in which the first round of voting is conducted at the municipal officer election, the municipal clerk shall perform the duties of administering the top-two runoff election~~Hfl→] . ; and ←Hfl

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Hf1→(2) the municipality shall reimburse the secretary of state the actual cost of conducting the runoff election.←Hf1

C. A municipality whose laws provide for a runoff election shall conduct the election in the manner provided by the municipality's ordinance or charter; provided that a municipality may by ordinance choose between conducting a top-two runoff election and a ranked-choice runoff election. The ordinance shall be filed with the secretary of state no later than [January] June 30 of the year the next regular local election [~~or municipal officer election~~] is scheduled.

D. The secretary of state shall issue rules to implement top-two and ranked-choice runoff elections."

SECTION HJC→151 152←HJC. Section 1-22-19 NMSA 1978 (being Laws 2018, Chapter 79, Section 32) is amended to read:

"1-22-19. [~~ABSENTEE~~] EARLY VOTING--~~[ALTERNATE]~~ MUNICIPAL EARLY VOTING LOCATIONS.--

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

~~B. Early voting shall be conducted in each office of the county clerk pursuant to Section 1-6-5 NMSA 1978 and at such alternate voting locations as may be established by the county clerk pursuant to the provisions of Section 1-6-5.7 NMSA 1978.~~

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6.] In a regular local election, a county clerk shall provide at least one alternate [early] voting or mobile alternate voting location in a municipality when requested by a municipality in the county; provided that the:

[1)] A. municipality elects its municipal officers at the regular local election and submits a written request to the county clerk no later than January 30 of the year of the local election;

[2)] B. alternate [early] voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the municipality and the county clerk;

[3)] C. location of the alternate [early] voting or mobile alternate voting location in the municipality conforms to the requirements for alternate [early] voting locations; and

[4)] D. municipality provides the facility and services for the alternate [early] voting or mobile alternate voting location."

SECTION HJC→152 153←HJC. Section 1-24-1 NMSA 1978 (being Laws 1989, Chapter 295, Section 1, as amended) is amended to read:

"1-24-1. SHORT TITLE--SPECIAL ELECTION ACT--APPLICATION-- [~~EXCEPTION~~] PROHIBITION--

A. Chapter 1, Article 24 NMSA 1978 may be cited as .211327.3

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the "Special Election Act".

B. Notwithstanding any state or local laws to the contrary, the provisions of the Special Election Act govern the conduct of all special elections conducted by the state or ~~[a local government, except for ballot questions printed on a general election ballot or a ballot on which local governing body members are elected pursuant to the Local Election Act]~~ any local public body.

C. No special election shall be held beginning the seventieth day prior to any statewide election and until:

(1) the one hundredth day following a general or regular local election; or

(2) the seventieth day following a major political party primary or an election to fill a vacancy in the office of united states representative."

SECTION HJC→153 154←HJC. Section 1-24-6 NMSA 1978 (being Laws 2018, Chapter 79, Section 39) is recompiled as Section 1-24-1.1 NMSA 1978 and is amended to read:

"1-24-1.1. DEFINITION.--As used in the Special Election Act, "local ~~[government]~~ public body" means:

- A. a county;
- B. a local government subject to the Local Election Act; or
- C. a special district not subject to the Local Election Act."

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SECTION HJC→154 155←HJC. Section 1-24-2 NMSA 1978 (being Laws 1989, Chapter 295, Section 2, as amended) is amended to read:

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

A. Whenever a local [~~government special election is to be called or is required by law~~] public body determines that it is necessary or desirable to conduct a special election:

(1) the governing body shall by resolution issue a public proclamation calling the election. The proclamation shall forthwith be filed with the county clerk no later than seventy days prior to the date for the special election. If the boundaries of the local public body include precincts in multiple counties, the proclamation shall forthwith be filed with each county clerk no later than seventy days prior to the election;

(2) the proclamation shall specify:

[~~(1)~~] (a) the date on which the special election will be held;

[~~(2)~~] (b) the purpose for which the special election is called; and

[~~(3)~~] (c) the text of [~~any~~] the ballot question or ballot questions to be voted on; [~~and~~

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

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~~B.]~~ (3) after filing with the county clerk or clerks the proclamation issued pursuant to ~~[Subsection A of this section]~~ this subsection, each county clerk shall post the proclamation beginning no later than sixty-seven days before the election and, beginning not less than sixty-three days before the date of the election, ~~[the]~~ each county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation within the boundaries of the local ~~[government or special district]~~ public body; provided that if the boundaries of the local public body include precincts in multiple counties that share the same newspaper of general circulation, the county clerks may jointly publish the proclamation;

(4) the posting and publication pursuant to this subsection shall also inform the public that the special election will be conducted by mailed ballot, of the date ballots will be initially mailed to voters and of the last day to register to vote or to update an existing registration in advance of the special election; and

(5) the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.

~~[G.]~~ B. Whenever [a statewide special election is to be called or is required by law] the state determines that it is necessary or desirable to conduct a special election:

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(1) the ~~[governor]~~ secretary of state shall by resolution issue a public proclamation calling the election. ~~[Whenever an election to fill a vacancy in the office of United States representative is to be called or is required by law, the governor shall by resolution issue a public proclamation calling the election pursuant to the requirements of Section 1-15-18.1 NMSA 1978.]~~ The proclamation shall forthwith be filed with the secretary of state no later than seventy-five days prior to the election;

(2) the proclamation shall specify:

~~[(1)]~~ (a) the date on which the special election will be held;

~~[(2)]~~ (b) the purpose for which the special election is called; and

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

~~[(4)]~~ (c) the text of ~~[any]~~ the ballot question or ballot questions to be voted upon; ~~[and~~

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

~~D.]~~ (3) after filing with the secretary of state the proclamation issued pursuant to ~~[Subsection C of this section is filed with the secretary of state]~~ this subsection, the secretary of state shall within five days certify the

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proclamation to each county clerk in the state; [~~Beginning not less than sixty-three days before the date of the election, the county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation;~~

~~E. For an election called pursuant to Subsection F of Section 1-15-18.1 NMSA 1978, the proclamation shall be published consistent with this subsection not less than thirty-six days before the date of the election]~~

(4) the proclamation shall be posted and published in the same manner as provided for a proposed state constitutional amendment pursuant to Section 1-16-4 NMSA 1978;

(5) the posting and publication pursuant to this subsection shall also inform the public that the special election will be conducted by mailed ballot, of the date ballots will be initially mailed to voters and of the last day to register to vote or to update an existing registration in advance of the special election; and

(6) the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended."

SECTION HJC→155 156←HJC. Section 1-24-3 NMSA 1978 (being Laws 1989, Chapter 295, Section 3, as amended) is repealed and a new Section 1-24-3 NMSA 1978 is enacted to read:

"1-24-3. [NEW MATERIAL] SPECIAL ELECTION PROCEDURES--
CONDUCT.--

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A. All special elections in this state shall be conducted absentee. Mailed ballots shall be used exclusively for voting in special elections. Except as otherwise provided in the Special Election Act, all special elections in this state shall be conducted and canvassed as provided in the Election Code.

B. Without requiring a voter to file an application to receive a ballot, the county clerk shall send a mailed ballot to every voter of the county or local public body, except a voter:

(1) who was sent a notice pursuant to Subsection C of Section 1-4-28 NMSA 1978 and who has not returned the prepaid and pre-addressed return card sent pursuant to that section and has not filed a new certificate of registration with a new address; or

(2) whose official election-related mail sent through a uniform, nondiscriminatory process was returned to the county clerk or the secretary of state as undeliverable and the voter has not communicated with the county clerk that the official election-related mail was returned as undeliverable in error or filed a certificate of registration with a new address.

C. Forty-two days before the election, the county clerk shall send to each voter of the county or local public body described in Paragraphs (1) and (2) of Subsection B of

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this section notice, sent by forwardable mail, that the voter will not be sent a ballot for the special election unless the voter updates the voter's address as provided by the Election Code or informs the county clerk that the address on the certificate of registration is valid. The notice shall include contact information for the office of the county clerk and an internet address where the voter may update the voter's address or communicate with the county clerk. The mailed ballot register shall note which voters were sent a notice pursuant to this subsection.

D. HJC→~~Twenty-two days~~←HJC HJC→Between the twenty-seventh and twenty-fifth day←HJC before the election, pursuant to Subsection B of this section, the county clerk shall send to each voter a ballot for the special election, along with a postage-paid return envelope, a notice that there will be no traditional polling places for the election, the deadline for the ballot to be received by the county clerk and a list of the times and locations of secured containers available in addition to the United States postal service for a voter to return the ballot.

E. Beginning HJC→~~twenty-one~~←HJC HJC→twenty-two←HJC days before the election, the county clerk shall issue replacement and provisional ballots as provided in the Absent Voter Act for the mailed ballot process. In addition, the county clerk shall send a ballot to any voter described in

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Paragraphs (1) and (2) of Subsection B of this section who has not previously been sent a ballot if the voter submits an application pursuant to Section 1-6-4 NMSA 1978.

F. When required by federal law, if the voter has on file with the county a valid certificate of registration that indicates that the voter is a new registrant in the state and who registered by mail without submitting the required voter identification, the county clerk shall notify the voter that the voter must submit with the mailed ballot the required documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall note on the mailed ballot register and signature roster that the applicant's mailed ballot must be returned with the required voter identification."

SECTION HJC→156 157←HJC. Section 1-24-4 NMSA 1978 (being Laws 1989, Chapter 295, Section 4) is amended to read:

"1-24-4. SPECIAL ELECTION PROCEDURES--ELECTION BOARD--RECORDS.--

A. Upon the filing in the office of the county clerk of a proclamation calling a special election, the county clerk shall appoint election boards for the special election pursuant to the provisions of Sections 1-2-6 through 1-2-18 NMSA 1978. The county clerk shall keep a log of how each person was notified and confirmation that the notice was received. Presiding judges and election judges on the election

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board for the special election shall be appointed from among those persons who served as election board members in a recent statewide election. The handling of mailed ballots returned to the county clerk in a special election shall be pursuant to the provisions of Section 1-6-14 NMSA 1978. The election board for the special election shall tally the votes for each ballot question in the special election ballot in the presence of the county clerk and any other person who may desire to be present; provided that such person does not interfere with the duties of the election board for the special election. After completion of the tally, the election board for the special election shall replace the ballots in the ballot boxes or ballot containers and lock the ballot boxes or ballot containers, and the election board for the special election shall certify for the county canvassing report the results of the special election.

B. The returns [~~and certificates~~] of the results of special elections are public documents, subject to retention and inspection [~~during the customary hours and days of business. Poll books, signature rosters and tally books may be destroyed three years after the election to which they apply. The certificate of results of the canvass of the election shall, after three years, be placed on file as a permanent record in the records center~~] pursuant to Section 1-12-69 NMSA 1978."

SECTION HJC→157 158←HJC. Section 1-24-5 NMSA 1978 (being .211327.3

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Laws 2018, Chapter 79, Section 42) is amended to read:

"1-24-5. SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION-- PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

A. The costs of conducting a special election shall be paid for by the state or local ~~[government]~~ public body calling for the election.

B. When the proclamation is issued by:

(1) the secretary of state, the state shall pay all costs of the special election, including reasonable costs incurred by each county clerk; and

(2) a local public body:

(a) unless the local public body has made appropriate arrangements with the county clerk by means of a written memorandum of understanding HJC→or has provided the county clerk with written documentation that the local public body has made arrangements for payment with an election vendor←HJC, the local public body shall deposit the estimated actual amount for all costs associated with the conduct of the special local election with the county clerk no later than forty-nine days before the special local election; and if multiple local public bodies jointly conduct a special local election, each local public body shall post a pro rata share of the estimated actual cost of conducting the special local election;

(b) a county clerk may refuse to print

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or mail ballots for a special local election if the estimated actual cost of the election has not been deposited with the county clerk no later than forty-nine days before the special local election and the local public body has not made appropriate arrangements with the county clerk by means of a written memorandum of understanding;

(c) within sixty days following the special local election, the county clerk shall provide an accounting of expenses along with a refund for any funds not expended or a bill for the remainder of the expenses to be paid by the local public body within ninety days following the special local election; and

(d) the secretary of state shall maintain current on the secretary's website guidance for calculating the estimated actual cost of a special local election.

~~[B-]~~ C. No individual, corporation, person, political action committee or other nongovernmental entity shall pay for or reimburse the state or a local ~~[government]~~ public body for the costs associated with conducting a special election. ~~[G-]~~ Upon a finding of a violation of this ~~[section]~~ subsection, the district court shall nullify the votes cast in the special election and shall void the result of the special election."

SECTION HJC→158 159←HJC. Section 22-7-1 NMSA 1978 (being .211327.3

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Laws 1977, Chapter 308, Section 1, as amended) is recompiled as Section 1-25-1 NMSA 1978 and is amended to read:

"1-25-1. SHORT TITLE.--~~[Chapter 22, Article 7]~~ Chapter 1, Article 25 NMSA 1978 may be cited as the "~~[Local School Board Member]~~ Recall Act".

SECTION HJC→159 160←HJC. Section 22-7-3 NMSA 1978 (being Laws 1977, Chapter 308, Section 3, as amended) is recompiled as Section 1-25-2 NMSA 1978 and is amended to read:

"1-25-2. DEFINITIONS.--As used in the ~~[Local School Board Member]~~ Recall Act:

A. "canvasser" means a ~~[registered voter]~~ person who circulates a petition and collects signatures;

~~[B. "date of closure" means the date on which the county clerk receives signed petitions for the recall of one or more named members;~~

~~C. "date of initiation" means the date on which the county clerk stamps the face sheet of the petition initiating the recall procedure;]~~

B. "county clerk" means:

(1) the clerk of the county in which the local jurisdiction is situate;

(2) in the case of a multicounty jurisdiction, the clerk of the county in which the primary administrative office of the local jurisdiction is situate; and

(3) the clerk of each county containing any

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precinct in which votes may be cast for or against the recall of a named official;

[D.] C. "face sheet" means the first page of a petition containing the information [~~as provided in Subsections D and E of Section 22-7-6 NMSA 1978;~~

~~E. "member" means any person elected to the local school board of a school district]~~ required in the Recall Act;

D. "filing date" means the date on which the county clerk receives signed petitions for the recall of one or more named officials;

E. "initiation date" means the date on which the district court stamps the face sheet of the petition after entering an order finding that probable cause exists to proceed with the recall process;

F. "malfeasance" means wrongful conduct that affects, interrupts or interferes with the performance of official duties; provided that if the act is discretionary, the act was performed with an improper or corrupt motive;

G. "misfeasance" means performing a legal act in an improper or illegal manner and the conduct evinces an improper or corrupt motive;

[F.] H. "named [~~member~~] official" means [~~a local school board member~~] an elected official of a local jurisdiction subject to the Recall Act and who is named on a petition [and subject to recall];

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[G.] I. "petition" means a document consisting of a completed face sheet or exact duplicate thereof and as many subsequent pages as are necessary for signatures;

[H.] J. "petitioner" means a person, group or organization initiating the petition;

~~[I. "registered voter" means any qualified elector who is registered to vote as provided in the Election Code;~~

~~J. "signature" means the name of a person as written by himself;]~~

K. "subsequent page" means the pages in a petition after the face sheet [~~arranged as provided in Subsection G of Section 22-7-6 NMSA 1978~~]; and

~~[L. "county clerk" means the clerk of the county in which the school district is situate or, in the case of a multi-county school district, the clerk of the county in which the administrative office of the school district is situate;]~~

L. "violation of oath of office" means to refuse or neglect to perform, without any just cause, any of the duties that are or shall be required by law of the named official."

SECTION HJC→160 161←HJC. Section 22-7-4 NMSA 1978 (being Laws 1977, Chapter 308, Section 4) is recompiled as Section 1-25-3 NMSA 1978 and is amended to read:

"1-25-3. [MEMBERS] RECALL--ELECTED OFFICIALS SUBJECT TO RECALL--LIMITATIONS.--~~[Any elected member of the local school board of any school district may be recalled as provided in the~~

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~~Local School Board Member Recall Act.]~~

A. An elected official of the following local jurisdictions is subject to recall pursuant to the provisions of the Recall Act:

(1) a school district, pursuant to Article 12, Section 14 of the constitution of New Mexico;

(2) a county, pursuant to Article 10, Section 9 of the constitution of New Mexico;

(3) a commission-manager municipality, pursuant to Section 3-14-16 NMSA 1978; and

(4) a home rule municipality, if the charter of the home rule municipality provides for recall of elective officers and notwithstanding any election provisions or procedures in the laws of the municipality that may conflict with the Recall Act; provided that if the recall procedures of a home rule municipality provide greater due process than the Recall Act, the recall procedures of the home rule municipality shall be utilized in place of the due process procedures of the Recall Act.

B. Recall of elected officials of the local jurisdictions listed in Subsection A of this section is subject to the following limitations:

(1) the cited grounds for recall shall be based upon acts or failures to act constituting malfeasance in office, misfeasance in office or violation of oath of office

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occurring during the current term of the named official sought to be recalled;

(2) no petition for recall of a named official shall be submitted more than once during the same term of office to which the official is elected; and

(3) an election to recall a named official shall not be conducted:

(a) later than one hundred eighty days from the end of the term for the office for which the recall of a named official is sought, in the case of any office subject to recall; and

(b) after May 1 in the calendar year in which an election is to be held for the office for which the recall of a named official is sought, in the case of a county official who is a candidate for reelection."

SECTION HJC→161 162←HJC. Section 22-7-6 NMSA 1978 (being Laws 1977, Chapter 308, Section 6, as amended) is recompiled as Section 1-25-4 NMSA 1978 and is amended to read:

"1-25-4. RECALL--PETITION.--

~~[A. A separate petition shall be initiated for each named member.]~~

A. The recall petition shall be composed of a face sheet and a subsequent page. An individual, group or organization desiring to initiate the recall process may obtain the forms from the district court.

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B. The petition shall be on eight and one-half inch by [~~fourteen~~] eleven inch paper.

C. All information written on the petition form shall be in compliance with the federal Voting Rights Act of 1965, as amended.

D. Each face sheet of a petition shall contain the following:

(1) a space for the initiation date;

(2) a notice at the top of the sheet stating: "Recall is a local decision to be funded by local money. [~~Additional~~] State funds will not be advanced to support recall.";

(3) a space for the name of the named [~~member~~] official;

(4) a space for the name of the local jurisdiction in which the named official has been elected;

[~~(4)~~] (5) a space for the name of the [~~person~~] individual, group or organization initiating the petition;

[~~(5)~~] (6) a space in which to list the specific charges [~~in~~] to support [~~of the~~] recall of the named [~~member~~] official that constitute malfeasance in office, misfeasance in office or violation of oath of office; and

[~~(6)~~] (7) a notice stating "Signatures are valid for a maximum of [~~one hundred ten~~] ninety days from [~~date of initiation~~] the initiation date."

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"1-25-5. RECALL--RESPONSIBILITIES OF PETITIONER.--

~~[A. The petitioner may obtain a face sheet form and a subsequent page form from the county clerk, or the petitioner may assemble both as provided in Section 22-7-6 NMSA 1978.~~

B.] The petitioner shall complete the following portions of the face sheet:

~~[~~(1)~~] A. name of the named [member; and] official;~~

B. name of the local jurisdiction in which the named official has been elected;

~~[~~(2)~~] C. name of the [person] individual, group or organization initiating the petition; and~~

~~[G. The petitioner shall cite the specific charges in support of the recall of the named member on the face sheet in compliance with the federal Voting Rights Act of 1965, as amended.]~~

D. the specific charges to support recall of the named official, which shall constitute [misfeasance] malfeasance in office, [malfeasance] misfeasance in office or violation of oath of office.

~~[D. The petitioner shall submit the completed face sheet to the county clerk for affixing of the initiation date.~~

~~E. The petitioner shall duplicate the completed face sheet with the initiation date affixed.~~

~~F. The petitioner shall file all petitions collected to recall the named member with the county clerk on~~

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~~the same day within one hundred ten calendar days from the initiation date.]"~~

SECTION HJC→163 164←HJC. Section 22-7-9.1 NMSA 1978 (being Laws 1987, Chapter 142, Section 2) is recompiled as Section 1-25-6 NMSA 1978 and is amended to read:

"1-25-6. RECALL--COURT HEARING.--

A. ~~[Prior to affixing the date of initiation to the completed face sheet, the county clerk shall file an application with the district court within five days from the date the completed face sheet is presented to the county clerk]~~
The petitioner shall file the completed face sheet along with a petition in the district court of the county in which the named official resides, requesting a hearing for a determination by the court of whether sufficient facts and probable cause exist to allow the petitioner to continue with the recall process. A separate face sheet and petition shall be filed for each named official.

B. Upon the filing of the application, the district court shall set a hearing date on the issue of sufficiency of the facts alleged, which hearing shall be held not more than ~~[ten]~~ fourteen days from the date the ~~[application is filed by the county clerk]~~ petitioner files the face sheet and petition. The court shall notify the ~~[petitioner at the mailing address listed on the face sheet of the time and place of the hearing.~~

~~C. Upon review of the completed face sheet together~~

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~~with affidavits submitted by the petitioner setting forth specific facts in support of the charges specified on the face sheet, the district court shall make a determination whether sufficient facts exist to allow petitioners to continue with the recall process.~~

~~D. Upon entry of an order by the court that sufficient facts exist to allow the petitioner to continue the recall process, the county clerk shall affix the date of initiation to the completed face sheet] county clerk of the date for the hearing. At the hearing, the petitioner and the named official shall each be given an opportunity to present evidence and cross-examine witnesses.~~

~~[E.] C.~~ The district court's decision is appealable by the petitioner or the named official only to the supreme court, and notice of appeal shall be filed within five days after the decision of the district court. The supreme court shall hear and render a decision on the appeal forthwith."

SECTION HJC→164 165←HJC. Section 22-7-9 NMSA 1978 (being Laws 1977, Chapter 308, Section 9, as amended) is recompiled as Section 1-25-7 NMSA 1978 and is amended to read:

"1-25-7. RECALL--DUTIES OF COUNTY CLERK.--

~~[A. The county clerk shall perform the following duties:~~

~~(1) provide standard face sheet forms to include a place for the mailing address of the petitioner,~~

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~~standard subsequent page forms and standard affidavit forms to the general public upon request;~~

~~(2) affix the initiation date to the completed face sheet only after the district court has issued an order permitting the continuation of the recall process after a hearing pursuant to Section 22-7-9.1 NMSA 1978 on the sufficiency of facts supporting the charges of malfeasance or misfeasance in office or violation of oath of office;~~

~~(3) send one copy of the completed face sheet to the named member by registered mail, return receipt requested; and~~

~~(4) keep one copy of the completed face sheet on file.~~

~~B.]~~ A. Upon receipt of completed petitions, the county clerk shall stamp the petitions with the filing date [~~of closure~~]. All completed petitions for the recall of one or more named [~~members~~] officials shall be filed with the county clerk on the same day within [~~one hundred ten calendar~~] ninety days from the date of initiation.

~~[G.]~~ B. For each petition that is accompanied by the required affidavit pursuant to the Recall Act, the county clerk shall verify the signatures on the completed petitions within [~~ten working~~] fifteen days

~~[D. Within five working days of the validation by the county clerk, the county clerk shall]~~ and determine whether

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the verified signatures meet the required minimum number.

~~[required by Section 22-7-10 NMSA 1978.~~

~~E. If the county clerk determines that sufficient signatures have not been submitted, he shall notify the petitioner at the mailing address listed on the face sheet and the named member by registered mail, return receipt requested, within three working days after the determination.~~

~~F. If the county clerk determines that sufficient signatures have been submitted, he shall do the following within three working days after the determination:~~

~~(1) notify the petitioner at the mailing address listed on the face sheet and the named member by registered mail, return receipt requested; and~~

~~(2) initiate procedures for a special recall election as provided in Section 22-7-13 NMSA 1978.]~~

C. The minimum number of verified signatures required to validate a petition is thirty-three and one-third percent of the total number of voters who voted for all candidates for the elected position currently occupied by the named official at the last election where the official was elected.

D. Within five days of making a determination whether the verified signatures meet the required minimum number, the county clerk shall notify the petitioner and the named official in writing of the determination, and if the

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county clerk determines that sufficient signatures have been submitted, the clerk shall initiate procedures for a recall election as provided in the Local Election Act; provided that the order of the district court shall serve as the proclamation calling the recall election."

SECTION HJC→165 166←HJC. Section 22-7-7 NMSA 1978 (being Laws 1977, Chapter 308, Section 7, as amended) is recompiled as Section 1-25-8 NMSA 1978 and is amended to read:

"1-25-8. RECALL--AFFIDAVIT WITH PETITION--PENALTY.--

A. When submitted to the county clerk, each petition shall have a notarized affidavit attached. The affidavit shall state that the canvasser [~~is a registered voter of the district and that the canvasser~~] circulated that particular petition and witnessed each [~~signer write his~~] signature and any other information recorded on the petition.

B. According to the best information and belief of the canvasser, the canvasser shall [~~insure~~] ensure the following:

- (1) each signature is the signature of the person whose name it purports to be;
- (2) each signer is a registered voter of the [~~county and school district~~] local jurisdiction listed on the petition;
- (3) each signature was obtained on or after the filing date [~~of initiation~~]; and

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(4) each signer had an opportunity to read the information on the completed face sheet or an exact duplicate thereof.

C. Any knowingly false statement made in the affidavit constitutes a fourth degree felony."

SECTION HJC→166 167←HJC. Section 22-7-10 NMSA 1978 (being Laws 1977, Chapter 308, Section 10, as amended) is recompiled as Section 1-25-9 NMSA 1978 and is amended to read:

"1-25-9. RECALL--SIGNATURES.--

A. No signature may be signed on the petition prior to the initiation date.

B. Signatures are valid for a maximum of [~~one hundred ten calendar~~] ninety days from the date of initiation.

C. Each signer of a recall petition shall sign but one petition [~~unless more than one member is a named member, and in that case not more than the number of recall petitions equal to the number of named members shall be signed~~] for each named official of a local jurisdiction in which the signer is registered to vote.

D. The signature shall not be counted unless the entire line is filled in full and is upon the form prescribed by the [~~Local School Board Member~~] Recall Act.

E. A signature shall be counted on a recall petition unless there is evidence presented that the person signing:

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(1) is not a registered voter of the ~~[county and of the school district]~~ local jurisdiction listed on the face sheet of the petition, and in the case of a named official serving in a districted position, is not a registered voter of that district within the local jurisdiction;

(2) has signed more than one recall petition ~~[for one]~~ page seeking to recall the same named ~~[member]~~ official or has signed one petition page more than once; or

(3) is not the person whose name appears ~~[on]~~ as a signer of the recall petition.

~~[F. The minimum number of verified signatures needed to validate a petition is thirty-three and one-third percent of the number of registered voters who voted for the school board position of the named member at the last preceding school board election.]"~~

SECTION HJC→167 168←HJC. Section 22-7-12 NMSA 1978 (being Laws 1977, Chapter 308, Section 12, as amended) is recompiled as Section 1-25-10 NMSA 1978 and is amended to read:

"1-25-10. RECALL [PETITION]--LIMITATION ON APPEALS OF VALIDITY OF RECALL PETITION.--

A. Any person filing any court action challenging a recall petition provided for in the ~~[Local School Board Member]~~ Recall Act shall do so within ~~[ten]~~ seven days after the determination of the county clerk as ~~[set forth in Section 22-7-9 NMSA 1978]~~ to whether sufficient signatures have been

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submitted. Challenges to the recall petition shall be directed to:

- (1) the validity of the signatures on the petitions; or
- (2) the determination of the county clerk as to the minimum number of signatures [~~or~~
- ~~(3) the sufficiency of the charge].~~

B. Within ten days after the filing of the action, the district court shall hear and render a decision on the matter. The decision shall be appealable only to the supreme court, and notice of appeal shall be filed within five days after the decision of the district court. The supreme court shall hear and render a decision on the appeal forthwith.

~~[B. For the purpose of an action challenging a recall petition, each petitioner filing a recall petition under the Local School Board Member Recall Act appoints the proper filing officer as his agent to receive service of process. Immediately upon receipt of process served upon the proper filing officer, that officer shall, by certified mail, return receipt requested, mail the process to the person.]"~~

SECTION HJC→168 169←HJC. Section 22-7-13 NMSA 1978 (being Laws 1977, Chapter 308, Section 13, as amended) is recompiled as Section 1-25-11 NMSA 1978 and is amended to read:

"1-25-11. [~~SPECIAL~~] RECALL--ELECTION.--

A. Except as otherwise provided in the Recall Act,

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recall elections shall be conducted and canvassed pursuant to the provisions of the Local Election Act.

~~[A.]~~ B. The date of the ~~[special]~~ recall election shall be set no later than ~~[one hundred twenty]~~ ninety days after the date of the determination by the county clerk; ~~[but in no event shall the election be held within the period of time prohibited for local government elections pursuant to Section 1-12-71 NMSA 1978]~~ provided that:

(1) the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978; and

(2) if the date of the determination by the county clerk is within ninety days but no less than forty-nine days before a statewide election, the recall election shall be the first ballot question following the election or nomination of candidates on the statewide election ballot; and if the statewide election is a political party primary or the regular local election, ballots containing only the recall ballot question shall be available to voters who do not otherwise qualify to vote in the statewide election.

~~[B.]~~ C. The question to be submitted to the voters at the ~~[special]~~ recall election shall be whether the named ~~[member]~~ official shall be recalled

~~[G.] A special recall election may be held in conjunction with a regular or local special election.~~

~~D. Except as otherwise provided in the Local School~~

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~~Board Member Recall Act, special recall elections in a school district shall be conducted pursuant to the provisions of the Local Election Act.~~

~~E. The ballot shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall present the voter the choice of voting "for the removal of the named member" or "against the removal of the named member"] and shall present the voter the choice of voting "for the removal of" the named official or "against the removal of" the named official. The ballot or ballot question shall be in compliance with the federal Voting Rights Act of 1965, as amended."~~

SECTION HJC→169 170←HJC Section 22-7-5 NMSA 1978 (being Laws 1977, Chapter 308, Section 5, as amended) is recompiled as Section 1-25-12 NMSA 1978 and is amended to read:

"1-25-12. RECALL--EXPENSES.--Following a decision of the district court, if the county clerk proceeds to initiate proceedings for a recall election as a special local election, the local [school board] jurisdiction shall ensure [the] payment of the cost of [a special] the recall election [and any costs incurred by the county clerk in carrying out his duties] as provided in the [Local School Board Member Recall] Special Election Act."

SECTION HJC→170 171←HJC. Section 22-7-14 NMSA 1978 (being Laws 1977, Chapter 308, Section 14) is recompiled as Section 1-25-13 NMSA 1978 and is amended to read:

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"1-25-13. RECALL--VACANCY.--

A. The vacancy created by a recalled [~~member~~] official shall be filled as provided [~~in Section 77-4-6 NMSA 1953~~] by law for vacancies in office for the local jurisdiction.

B. Under no circumstances may a recalled [~~member~~] official be appointed to fill any vacancy for the remainder of the term of office for which [~~he~~] the recalled official was elected and from which the official was recalled."

SECTION HJC→171 172←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections HJC→171 through 176←HJC HJC→172 through 177←HJC of this act may be cited as the "Nonpartisan Judicial Retention Act"."

SECTION HJC→172 173←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] JUDICIAL RETENTION--ELIGIBILITY FOR RETENTION--DEFINITIONS.--

A. A justice of the supreme court, judge of the court of appeals, district court judge or metropolitan court judge is eligible for nonpartisan judicial retention after the justice or judge has first been elected to that position in a partisan election.

B. In the last year of the term of office for the position to which an eligible justice or eligible judge was

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elected in a partisan election or by a previous nonpartisan retention election, the eligible justice or judge desiring to continue to serve in that position shall be subject to a nonpartisan judicial retention election as provided in the Nonpartisan Judicial Retention Act.

C. Declarations of candidacy for nonpartisan judicial retention for the supreme court, court of appeals, district court or metropolitan court shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election.

D. Each declaration of candidacy for nonpartisan judicial retention shall be delivered for filing in person by the eligible justice or judge therein named or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy for nonpartisan judicial retention.

E. As used in the Nonpartisan Judicial Retention Act, "eligible justice" or "eligible judge" means a justice or judge who has been elected to that position in a partisan election."

SECTION HJC→173 174←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] JUDICIAL RETENTION--SUPREME COURT JUSTICES.--

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A. Each eligible justice of the supreme court shall be subject to retention or rejection at the general election in the last year of the eight-year term of office for the position in which the justice is serving.

B. Terms of office for positions on the supreme court shall be staggered so that at least one term of office shall expire each even-numbered year; provided that no more than two terms of office shall expire in the same year.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving justices of the supreme court and the year in which the term of office for each position on the supreme court expires."

SECTION HJC→174 175←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] JUDICIAL RETENTION--APPEALS COURT JUDGES.--

A. Each eligible judge of the court of appeals shall be subject to retention or rejection at the general election in the last year of the eight-year term of office for the position in which the judge is serving.

B. Terms of office for positions on the court of appeals shall be staggered so that at least two terms of office shall expire each even-numbered year; provided that no more than three terms of office shall expire in the same year.

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C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of the court of appeals and the year in which the term of office for each position on the court of appeals expires."

SECTION HJC→175 176←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] JUDICIAL RETENTION--DISTRICT COURT JUDGES.--

A. Each eligible district court judge shall be subject to retention or rejection at the general election in the last year of the six-year term of office for the position in which the judge is serving.

B. Terms of office for positions on the district court in each judicial district shall be staggered, as follows:

(1) the term of office for division 1 and for every third division number thereafter shall expire in 2020 and every six years thereafter;

(2) the term of office for division 2 and for every third division number thereafter shall expire in 2022 and every six years thereafter; and

(3) the term of office for division 3 and for every third division number thereafter shall expire in 2024 and every six years thereafter.

C. The administrative office of the courts shall

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maintain current on its website a list of the names of the currently serving judges of each judicial district and the year in which the term of office for each position expires.

D. As used in this section, "division" means the divisions established pursuant to Section 34-6-18 NMSA 1978."

SECTION HJC→176 177←HJC. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] JUDICIAL RETENTION--METROPOLITAN COURT JUDGES.--

A. Each eligible metropolitan court judge shall be subject to retention or rejection at the general election in the last year of the four-year term of office for the position in which the judge is serving.

B. Terms of office for positions on each metropolitan court shall be staggered, as follows:

(1) the term of office for division 1 and for every second division number thereafter shall expire in 2022 and every four years thereafter; and

(2) the term of office for division 2 and for every second division number thereafter shall expire in 2024 and every four years thereafter.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of the metropolitan court and the year in which the term of office for each position expires.

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D. As used in this section, "division" means the divisions established pursuant to Subsection B of Section 34-8A-4 NMSA 1978."

SECTION HJC→177 178←HJC. Section 3-1-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-1-2, as amended) is amended to read:

"3-1-2. DEFINITIONS.--As used in the Municipal Code:

A. "acquire" or "acquisition" means purchase, construct, accept or any combination of purchasing, constructing or accepting;

B. "business" means any person, occupation, profession, trade, pursuit, corporation, institution, establishment, utility, article, commodity or device engaged in making a profit, but does not include an employee;

C. "census" means any enumeration of population of a municipality conducted under the direction of the government of the United States, the state of New Mexico or the municipality;

D. "county" means the county in which the municipality or land is situated;

E. "district court" means the district court of the district in which the municipality or land is situated;

F. "governing body" means the city council or city commission of a city, the board of trustees of a town or village, the council of incorporated counties and the board of

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county commissioners of H class counties;

G. "municipal" or "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

H. "municipal utility" means sewer facilities, water facilities, gas facilities, electric facilities, generating facilities or any interest in jointly owned generating facilities owned by a municipality and serving the public. A municipality that owns both electric facilities and any interest in jointly owned generating facilities may, by ordinance, designate such interest in jointly owned generating facilities as part of its electric facilities. Generating facilities shall be considered as part of a municipality's electric facilities unless the municipality designates, by ordinance, the generating facilities as a separate municipal utility, such designation being conclusive subject to any existing property rights or contract rights;

I. "public ground" means any real property owned or leased by a municipality;

J. "publish" or "publication" means printing in a newspaper that maintains an office in the municipality and is of general circulation within the municipality or, if such newspaper is a nondaily paper that will not be circulated to the public in time to meet publication requirements or if there

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is no newspaper that maintains an office in the municipality and is of general circulation within the municipality, then "publish" or "publication" means posting in six public places within the municipality on the first day that publication is required in a newspaper that maintains an office in the municipality and is of general circulation within the municipality. One of the public places where posting shall be made is the office of the municipal clerk, who shall maintain the posting during the length of time necessary to comply with the provisions relating to the number of times publication is required in a newspaper of general circulation within the municipality. The municipal clerk may, in addition to posting, publish one or more times in a newspaper of general circulation in the municipality;

K. "qualified elector" means any person ~~[whose affidavit of voter registration has been filed by the county clerk, who is registered to vote in a general election precinct established by the board of county commissioners that is wholly or partly within the municipal boundaries and]~~ who is a resident of the municipality and is registered to vote under the provisions of the Election Code. Persons who would otherwise be qualified electors if land on which they reside is annexed to a municipality shall be deemed to be qualified electors:

- (1) upon the effective date of the municipal

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ordinance effectuating the terms of the annexation as certified by the board of arbitration pursuant to Section 3-7-10 NMSA 1978;

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

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

L. "revenue producing project" means any municipally owned self-liquidating projects that furnish public services to a municipality and its citizens, including but not necessarily limited to public buildings; facilities and equipment for the collection or disposal of trash, refuse or garbage; swimming pools; golf courses and other recreational facilities; cemeteries or mausoleums or both; airports; off-street parking garages; and transportation centers, which may include but are not limited to office facilities and customary terminal facilities for airlines, trains, monorails, subways, intercity and intracity buses and taxicabs [~~but~~]. "Revenue producing [~~facilities~~] project" does not mean a municipal utility as defined in Subsection H of this section;

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M. "street" means any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the municipality;

N. "warrant" means a warrant, check or other negotiable instrument issued by a municipality in payment for goods or services acquired by the municipality or for the payment of a debt incurred by the municipality;

O. "mayor" means the chief executive officer of municipalities having the mayor-council form of government. In municipalities having other forms of government, the presiding officer of the governing body and the official head of the government, without executive powers, may be designated mayor by the governing body. Wherever the Municipal Code requires an act to be performed by the mayor with the consent of the governing body, in municipalities not having the mayor-council form of government, the act shall be performed by the governing body;

P. "generating facility" means any facility located within or outside the state necessary or incidental to the generation or production of electric power and energy by any means and includes:

(1) any facility necessary or incidental to the acquisition of fuel of any kind for the production of electric power and energy, including the acquisition of fuel deposits, the extraction of fuel from natural deposits, the

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conversion of fuel for use in another form, the burning of fuel in place and the transportation and storage of such fuel; and

(2) any facility necessary or incidental to the transfer of the electric power and energy to the municipality, including without limitation step-down substations or other facilities used to reduce the voltage in a transmission line in order that electric power and energy may be distributed by the municipality to its retail customers;

Q. "jointly owned generating facility" means any generating facility in which a municipality owns any undivided or other interest, including without limitation any right to entitlement or capacity; and

R. "joint participant" means any municipality in New Mexico or any other state; any public entity incorporated under the laws of any other state having the power to enter into the type of transaction contemplated by the Municipal Electric Generation Act; the state of New Mexico; the United States; Indian tribes; and any public electric utility, investor-owned electric utility or electric cooperative subject to general or limited regulation by the [~~New Mexico~~] public [~~utility~~] regulation commission or a similar commission of any other state."

SECTION HJC→178 179←HJC. Section 3-2-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-3, as amended) is amended to read:

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"3-2-3. URBANIZED TERRITORY--INCORPORATION LIMITED
WITHIN URBANIZED TERRITORY.--

A. Urbanized territory is that territory within the same county and within five miles of the boundary of any municipality having a population of five thousand or more persons and that territory within the same county and within three miles of a municipality having a population of less than five thousand persons, except that territory in a class B county with a population between ninety-five thousand and ninety-nine thousand five hundred, based on the 1990 federal decennial census, declared by an ordinance of the board of county commissioners to be a traditional historic community shall not be considered urbanized territory and shall not be annexed by a municipality unless it is considered for annexation pursuant to a petition requesting annexation signed by a majority of the [~~registered~~] qualified electors within the traditional historic community.

B. No territory within an urbanized territory shall be incorporated as a municipality unless the:

(1) municipality or municipalities causing the urbanized territory approve, by resolution, the incorporation of the territory as a municipality;

(2) residents of the territory proposed to be incorporated have filed with the municipality a valid petition to annex the territory proposed to be incorporated and the

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municipality fails, within one hundred twenty days after the filing of the annexation petition, to annex the territory proposed to be incorporated; or

(3) residents of the territory proposed to be annexed conclusively prove that the municipality is unable to provide municipal services within the territory proposed to be incorporated within the same period of time that the proposed municipality could provide municipal service.

C. A traditional historic community may become incorporated even though it is located within what is defined as urbanized territory pursuant to Subsection A of this section, by following the procedures set forth in Sections 3-2-5 through 3-2-9 NMSA 1978."

SECTION HJC→179 180←HJC. Section 3-7-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-7-1, as amended by Laws 1995, Chapter 170, Section 2 and also by Laws 1995, Chapter 211, Section 1) is amended to read:

"3-7-1. METHODS OF ANNEXATION.--

A. There shall be three methods of annexing territory to a municipality:

- (1) the arbitration method as provided in Sections 3-7-5 through 3-7-10 NMSA 1978;
- (2) the boundary commission method as provided in Sections 3-7-11 through 3-7-16 NMSA 1978; and
- (3) the petition method as provided in Section

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3-7-17 NMSA 1978.

B. Territory may be annexed to a municipality by any one of the three methods of annexation provided for in Sections 3-7-5 through 3-7-18 NMSA 1978 except where limitations of annexation are provided by law. The provisions of this section apply to annexations of all municipalities except those that are otherwise specifically provided by law. The arbitration method of annexation may be used for municipal annexation of a traditional historic community only upon petition of a majority of the [registered] qualified electors of the territory within the traditional historic community."

SECTION HJC→180 181←HJC. Section 3-7-1.1 NMSA 1978 (being Laws 1995, Chapter 170, Section 5 and Laws 1995, Chapter 211, Section 4) is amended to read:

"3-7-1.1. TRADITIONAL HISTORIC COMMUNITY--
QUALIFICATIONS--ANNEXATION RESTRICTIONS.--

A. To qualify as a traditional historic community, an area shall:

(1) be an unincorporated area of a class B county with a population between ninety-five thousand and ninety-nine thousand five hundred, based on the 1990 federal decennial census;

(2) be an identifiable village, community, neighborhood or district that can be documented as having existed for more than one hundred years;

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(3) include structures or landmarks that are associated with the identity of the specific village, community, neighborhood or district seeking designation as a traditional historic community;

(4) have a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity; and

(5) be declared a traditional historic community by an ordinance of the board of county commissioners of the county in which the petitioning village, community, neighborhood or district is located.

B. A traditional historic community may be annexed by a municipality only by petition of a majority of the [registered] qualified electors of the territory within the traditional historic community proposed to be annexed by the municipality or by the arbitration method of annexation only upon petition of a majority of the [registered] qualified electors of the territory within the traditional historic community."

SECTION HJC→181 182←HJC. Section 3-14-16 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-16, as amended) is amended to read:

"3-14-16. COMMISSION--MANAGER--RECALL--ELECTION
[BALLOT--EFFECT--FILLING VACANCIES].--

A. In any commission-manager municipality, any
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elective [~~officer~~] executive or commissioner is subject to a recall election for malfeasance [~~or~~] in office, misfeasance in office or a violation of [~~the~~] oath of office based upon acts or failures to act occurring during the current term of the official sought to be recalled.

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

~~G. If the district court determines that probable cause for the recall exists, the recall petition may be circulated. The recall petition shall cite the grounds of malfeasance or misfeasance in office or violation of the oath of office by the official concerned. The cited grounds shall be based upon acts or failures to act occurring during the current term of the official sought to be recalled. The grounds for recall in the petition shall be as found by the district court in its finding of probable cause. The recall~~

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~~petition shall be signed by the qualified electors in a number more than twenty percent of the average number of voters who voted at the previous four regular municipal elections or more than twenty percent of the number of voters who voted at the previous regular municipal election, whichever is the greater.~~

~~D. The municipal clerk shall verify that the persons who signed the petition are qualified electors in the district and that the petition contains the proper number of signatures. If the municipal clerk has so verified the petition, the commission shall call a special election unless the regular municipal election occurs within sixty days, in which case the qualified electors shall vote on the recall at the regular election. In either case, there shall be a special ballot containing the name of the officer, the title of the office and the dates of the beginning and termination of the officer's official term. Below the name of the officer shall be two phrases, "For the recall" and "Against the recall", one below the other with a space after each for placing a cross where desired. If a majority of the votes cast favor recall and the number of votes cast favoring a recall are equal to or more than the number the officer received when the officer was a candidate for office, the officer who is the subject of recall is recalled from the office and the office in question is declared vacant.~~

~~E. If an officer is recalled, the officer shall not~~

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~~be eligible for reelection until the term for which the officer was originally elected has expired.~~

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

~~G. A vacancy created by a recall election shall be filled in the same manner as other vacancies on the commission are filled.]~~ Recall of an elective executive or commissioner in a commissioner-manager municipality shall be conducted pursuant to the provisions of the Recall Act.

B. If all commissioners are recalled at the same election, [~~the municipal clerk or, if there is no municipal clerk~~] the district court shall [~~within three days, call~~] order an election [~~as provided in Section 3-14-8 NMSA 1978 for the election of five commissioners~~]."

SECTION HJC→182 183←HJC. Section 3-21-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-1, as amended by Laws 2007, Chapter 46, Section 3 and by Laws 2007, Chapter 270, Section 1) is amended to read:

"3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

A. For the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning authority and may regulate and restrict within its jurisdiction the:

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- (1) height, number of stories and size of buildings and other structures;
- (2) percentage of a lot that may be occupied;
- (3) size of yards, courts and other open space;
- (4) density of population; and
- (5) location and use of buildings, structures and land for trade, industry, residence or other purposes.

B. The county or municipal zoning authority may:

- (1) divide the territory under its jurisdiction into districts of such number, shape, area and form as is necessary to carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978; and
- (2) regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each district. All such regulations shall be uniform for each class or kind of buildings within each district, but regulation in one district may differ from regulation in another district.

C. All state-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones

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for single-family dwellings.

D. A board of county commissioners of the county in which the greatest amount of the territory of the petitioning village, community, neighborhood or district lies may declare by ordinance that a village, community, neighborhood or district is a "traditional historic community" upon petition by twenty-five percent or more of the ~~[registered]~~ qualified electors of the territory within the village, community, neighborhood or district requesting the designation. The number of ~~[registered]~~ qualified electors shall be based on county records as of the date of the last general election.

E. Any village, community, neighborhood or district that is declared a traditional historic community shall be excluded from the extraterritorial zone and extraterritorial zoning authority of any municipality whose extraterritorial zoning authority extends to include all or a portion of the traditional historic community and shall be subject to the zoning jurisdiction of the county in which the greatest portion of the traditional historic community lies.

F. Zoning authorities, including zoning authorities of home rule municipalities, shall accommodate multigenerational housing by creating a mechanism to allow up to two kitchens within a single-family zoning district, such as conditional use permits.

G. For the purpose of this section,

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"multigenerational" means any number of persons related by blood, common ancestry, marriage, guardianship or adoption."

SECTION HJC→183 184←HJC. Section 3-30-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-1) is repealed and a new Section 3-30-1 NMSA 1978 is enacted to read:

"3-30-1. [NEW MATERIAL] BOND ELECTIONS--FINDINGS--
QUALIFIED ELECTORS.--

A. The legislature finds that the provisions of Article 9, Section 12 of the constitution of New Mexico regarding nonresident municipal electors violate the rights of property owners who are not qualified electors of the county where such city, town or village is situated compared to nonresident property owners who are qualified electors of the county where such city, town or village is located, and further finds that providing voting rights based on property ownership violates the franchise provisions in Article 7, Section 1 of the constitution of New Mexico.

B. Voting for all purposes in all public elections in a municipality shall be based exclusively on voter registration by qualified electors of the municipality as provided in the Municipal Code and Election Code."

SECTION HJC→184 185←HJC. Section 3-30-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-6, as amended) is amended to read:

"3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--

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SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

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

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

C. The question shall state the purpose for which the bonds are to be issued and the amount of the issue. If bonds are to be issued for more than one purpose, a separate question shall be submitted to the voter for each purpose to be voted upon. The ballots shall contain words indicating the purpose of the bond issue and a place for a vote "For . . . (designate type) bonds" and "Against . . . (designate type) bonds" for each bond issue. The ballots shall be deposited in a separate ballot box unless voting machines are used."

SECTION HJC→185 186←HJC. Section 3-33-14.1 NMSA 1978 (being Laws 2001, Chapter 312, Section 5) is amended to read:

"3-33-14.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY .211327.3

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TAX--LIMITATIONS.--

A. If in connection with the creation of the improvement district the governing body determines that it is in the best interest of the municipality to finance the district improvements by the imposition of an improvement district property tax and the issuance of improvement district general obligation bonds, the governing body shall enact an ordinance making the determination and provide in the ordinance the improvement district property tax rate to be imposed; the date, which may be a predetermined date or a date to be established in the future after completion of the improvements, of commencement of the tax; the amount of the bonds to be issued to finance the improvements; and any other matters the governing body deems necessary or appropriate. The governing body shall call an election within the improvement district for the purpose of authorizing the governing body to issue general obligation bonds, the proceeds of the sale of which shall be used for constructing the improvements for which the district was created and to impose improvement district property taxes on all taxable property within the district for the purpose of paying the principal, debt service and other expenses incidental to the issuance and sale of the bonds. The ~~[ordinance shall also include procedures for the conduct of the election based upon the size of the improvement district and the number of voters entitled to vote]~~ election shall be

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conducted as prescribed by the Local Election Act and pursuant to the requirements of the property tax division of the taxation and revenue department.

B. If at the election described in Subsection A of this section the property tax imposition and the issuance of improvement district general obligation bonds are approved by a majority of the voters voting on the issues, the governing body shall impose the tax at a rate sufficient to pay the debt service on the bonds and retire them at maturity.

C. Imposition and collection of the improvement district property tax authorized in this section shall be made at the same time and in the same manner as impositions and collections of property taxes for use by municipalities and counties are made.

D. Bonds issued by the governing body for payment of the specified improvement district improvements shall be sold at a price that does not result in a net effective interest rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds may be sold at public or private sale and may be in denominations that the governing body determines.

E. The form and terms of the bonds, including a final maturity of thirty years and provisions for their payment and redemption, shall be as determined by the governing body. The bonds shall be executed in the name of and on behalf of the

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improvement district by the mayor and clerk of the municipality. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

F. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to this section, the governing body shall annually impose a property tax on all taxable property in the district in an amount sufficient to produce a sum equal to the principal and interest on all bonds as they mature.

G. The bonds authorized in this section are general obligation bonds of the district, and the full faith and credit of the district are pledged to the payment of the bonds. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in Chapter 3, Article 33 NMSA 1978.

H. All bonds issued by an improvement district shall be fully negotiable and constitute negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code. If lost or completely destroyed, any bond may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing to the satisfaction of the governing body:

- (1) proof of ownership;
- (2) proof of loss or destruction;

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(3) a surety bond in twice the face amount of the bond and coupons; and

(4) payment of the cost of preparing and issuing the new bond and coupons.

I. The governing body may in any proceeding authorizing improvement district bonds provide for the initial issuance of one or more bonds aggregating the amount of the entire issue or may make provision for installment payments of the principal amount of any bond as it may consider desirable.

J. The governing body may issue bonds to be denominated refunding bonds, for the purpose of refunding any of the general obligation bonded indebtedness of the improvement district. Whenever the governing body deems it expedient to issue refunding bonds, it shall adopt an ordinance setting out the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the governing body and the amount of refunding bonds that the governing body deems necessary and advisable to issue. The ordinance shall fix the form of the bonds; the rate or rates of interest of the bonds, but the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates; and the place or places of payment within or without the state of .211327.3

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both principal and interest. Refunding bonds when issued, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be negotiable in form and shall bear the signature or the facsimile signature of the mayor and clerk of the municipality. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold as directed by the governing body, and the proceeds of the sale shall be applied only to the purpose for which the bonds were issued and the payment of any incidental expenses.

K. The principal amount of improvement district general obligation bonds that may be issued by the governing body for any improvement district shall not exceed twenty-five percent of the final estimated value of properties in the district after completion of the projects to be financed with the improvement district general obligation bonds and after development of the properties in the improvement district in accordance with their planned use, as determined by the governing body with the assistance of the engineer and other qualified professionals.

L. In connection with an improvement district project to be financed with the proceeds of improvement district general obligation bonds issued pursuant to this section, a property owner subject to the improvement district property tax or the governing body may enter into contracts to

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design, engineer, finance, construct or acquire a project with contractors and professionals, on such terms and with such persons as a property owner subject to the improvement district property tax or the governing body determines to be appropriate, without following the procedures or meeting the requirements of the Procurement Code or the requirements of Sections 6-15-1 through 6-15-22 NMSA 1978."

SECTION HJC→186 187←HJC. Section 3-52-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-53-3, as amended) is amended to read:

"3-52-3. AUTHORIZATION.--

A. A municipality may invoke the authority contained in the Municipal Transit Law on finding all of the following state of facts to exist:

- (1) general transportation of persons is necessary and convenient;
- (2) privately owned public transportation facilities in operation are inadequate;
- (3) it is impossible for existing franchise operators to render necessary service with adequate resulting return on the investment of capital; and
- (4) assignment of the existing franchise by the holder or release ~~[thereof]~~ of the existing franchise and granting of a new franchise by the city will not afford adequate service.

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Such finding, if made, shall be by resolution adopted by the governing body on the affirmative recorded vote of at least two-thirds of the elected members of the governing body.

[Such] The resolution shall be published in full in a daily newspaper of general circulation in the municipality. It shall not take effect until thirty days after the publication. If within the thirty days of the publication a petition signed by qualified voters in number equal to twenty percent of the number of voters at the preceding city election on which members of the governing body were elected asks that the resolution in question be submitted to a vote of the people for adoption or rejection, the measure shall not take effect until an election is held as petitioned. The [city] governing body may then rescind the resolution or, in its discretion, call an election within ninety days, at which time the proposition shall be submitted to the voters; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978.

The governing body shall provide for the election [~~in the same manner as for an election at which members of the governing body are chosen~~] pursuant to the provisions of the Local Election Act. If a majority of the votes cast at such election are against the measure, it shall be void. If a majority of the votes cast favor the measure, the governing body may proceed to acquire and operate a transit system as provided in the Municipal Transit Law. If a majority of those voting on

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the proposition disapprove the proposition, the matter may not again be submitted by the governing body until the next election at which city commissioners are chosen.

B. Any transit department so established is declared to be a public utility."

SECTION HJC→187 188←HJC. Section 4-33-3 NMSA 1978 (being Laws 1947, Chapter 196, Section 3, as amended) is amended to read:

"4-33-3. CONTEST--NOTICE OF ELECTION.--Immediately upon the filing of [~~such~~] a petition under Section 4-33-2 NMSA 1978, it shall be the duty of the board of county commissioners with [~~whom such~~] which the petition is filed to cause a notice to be published in some newspaper [~~or newspapers~~] of general circulation in each county affected. Within thirty [~~(30)~~] days after the publication of [~~such~~] the notice, but not thereafter, any resident of either of the counties affected, on behalf of [~~himself~~] the resident and all others similarly situated, may bring an action in the district court of the county in which [~~such~~] the area proposed to be annexed is located, against any one or more of the signers of the petition, alleging that the petition has not been executed by the requisite number of signers or that the [~~description of the~~] area to be annexed is not accurately described or that the conditions described in Section [~~1 (15-3305) hereof~~] 4-33-1 NMSA 1978 do not exist.

The judge, after hearing, shall make a determination as

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to whether the allegations of the petition are well taken. If [he] the judge shall determine that the allegations of the petition are well taken, [he] the judge shall enter an order [and]. If the [~~same be~~] order is not stayed, it shall be the duty of the board of county commissioners to call an election to be held within [30] ninety days within the county of the area proposed to be annexed; [and] provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978. The county clerk shall cause a notice of election to be published two [~~2~~] times in a newspaper of general circulation in [~~said~~] the county, the last publication thereof to be at least seven [~~7~~] days before the date [~~set for~~] of the election. [~~Such~~] The notice shall specify [~~the polling places, which polling places shall be not fewer than there were in said county at the last general election~~] whether the proposed annexation shall appear as a ballot question in a statewide election or specify the date a special election will be held as prescribed in the Election Code. At [~~such~~] the election, all qualified electors who reside within [~~said~~] the county shall be entitled to vote [~~provided, however, that this Act shall not apply in any case where a petition has been filed with any board of county commissioners under Chapter 196 of New Mexico Session Laws of 1947 in accordance with the requirements of said Act of 1947, and where such a petition has been filed prior to the effective date of this Act, the election shall be~~

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~~held under the provisions of Chapter 196, New Mexico Session Laws of 1947]."~~

SECTION HJC→188 189←HJC. Section 4-48A-6 NMSA 1978 (being Laws 1978, Chapter 29, Section 6, as amended) is amended to read:

"4-48A-6. BOARD OF TRUSTEES--TERMS--VACANCIES--REMOVAL.-

A. Subject to the requirements of Section 4-48A-3 NMSA 1978, the board of trustees of a special hospital district shall consist of the greater of five members or a number of members equal to the number of counties which agree to form a special hospital district. In the case of a special hospital district:

(1) [~~in the case of a special hospital district~~] included wholly within a county, the members shall be elected at large or from single-member districts as provided in the Special Hospital District Act; or

(2) [~~in the case of a special hospital district~~] that includes all or a portion of two or more counties, one member of the board shall be elected from each subdistrict by the qualified electors who reside in that subdistrict and the remainder shall be elected at large by the qualified electors who reside in the special hospital district.

B. Members shall be elected as follows:

(1) for the purposes of the first election of

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a board of trustees, the board of county commissioners shall designate in its proclamation five positions to be filled so that:

(a) two members shall be elected for an initial term of two years; and

(b) [~~two~~] three members shall be elected for an initial term of four years [~~and~~

~~(c) one member shall be elected for an initial term of five years].~~

Thereafter, all members shall be elected for [~~five-year~~] four-year terms; and

(2) for the purposes of staggering the terms of any nonstaggered terms of a board of trustees elected under the provisions of the Special Hospital District Act, the board of county commissioners may call an election to provide for five positions to be filled so that:

(a) two members shall be elected for an initial term of two years; and

(b) [~~two~~] three members shall be elected for an initial term of four years [~~and~~

~~(c) one member shall be elected for an initial term of five years].~~

Thereafter, all members shall be elected for [~~five-year~~] four-year terms.

C. Vacancies on the board of trustees created by a

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member elected from a subdistrict or a single-member district shall be filled by the board of county commissioners of the county in which the subdistrict or single-member district is located, and vacancies created by a member elected at large shall be filled by the remaining members of the board of trustees for the remainder of the unexpired term of the member creating the vacancy.

D. Members of the board of trustees shall be suspended or removed from office only as provided in Sections 10-4-1 through 10-4-29 NMSA 1978 or as provided in Section [~~4-8A-7~~] 4-48A-7 NMSA 1978."

SECTION HJC→189 190←HJC. Section 5-5-3 NMSA 1978 (being Laws 1959, Chapter 300, Section 3, as amended) is amended to read:

"5-5-3. DEFINITIONS.--As used in the Joint City-County Building Law, the following words or phrases shall be defined as follows:

A. "city" means any incorporated city, town or village [~~which~~] that is a county seat in the state of New Mexico, whether incorporated or governed under a general act, special act or special charter of any type and includes any combination of such cities, towns or villages located in adjacent counties;

B. "council" or "city council" means the city council, city commission, board of commissioners, board of

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trustees or other governing body of a city in which the legislative powers of the city are vested. "Councilmen" means the [~~aldermen or other~~] members of the council;

C. "county" means any county or combination of adjacent counties in the state of New Mexico;

D. "board" means the board of county commissioners. "Commissioners" or "county commissioners" means the members of a board;

E. "municipality" means a city or county;

F. "governing body" means a council or board;

G. "building" means any building for use as a county courthouse, city hall, jail, regional jail, library, museum, utility office, garage for housing county and city vehicles, transportation office, communications office, maintenance shop, warehouse, cafeteria and restaurant facilities for county and city personnel, sheriff's office, police station, fire station, records office and administration building and for similar uses, or any combination thereof, to be acquired and jointly owned by a county and a city as tenants in common;

H. "site" means land and any estate, interest or right therein on which to locate a building. Any building site may include landscaped grounds and off-street parking facilities, including [~~but not limited to~~] improved or unimproved parking lots and buildings erected above or below

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the surface of the land for the accommodation of parked motor and other vehicles;

I. "acquisition" or "acquire" means the acquisition by purchase, construction, installation, reconstruction, condemnation, lease, rent, gift, grant, endowment, bequest, devise, contract and other acquisition as may be deemed necessary or desirable by the board and council, or any combination thereof;

J. "improvement" or "improve" means the extension, betterment, alteration, reconstruction, repair and other improvement as may be deemed necessary or desirable by the board and council, or any combination thereof;

K. "equipment" or "equip" means furnishing all necessary or desirable, related or appurtenant, facilities, or any combination thereof;

L. "project" means any building site therefor, structure, facility and undertaking of any kind ~~[which]~~ that a county and a city are authorized by the Joint City-County Building Law to acquire, improve, equip, maintain and operate. A project may consist of any kind or all kinds of personal and real property, including ~~[but not limited to]~~ land, improvements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith and every estate, interest and right therein, legal or equitable, including terms for years, or any combination thereof;

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M. "disposition" or "dispose" means the sale, lease, exchange, transfer, assignment and other disposition as may be deemed necessary or desirable by the board and council, or any combination thereof;

N. "federal government" means the United States or any federal agency, instrumentality or corporation;

O. "state" means the state of New Mexico or, except where the subject matter or context is repugnant thereto, any state agency, instrumentality or corporation;

~~[P. "elector" of a municipality means a registered and qualified elector thereof;~~

~~Q.]~~ P. "publication" or "publish" means publication once a week for at least three consecutive weeks commencing at least twenty days prior to the election in any newspaper published in a county;

~~[R.]~~ Q. for the purpose of computing any period of time prescribed in the Joint City-County Building Law, including ~~[but not limited to]~~ publications, the day of the first publication, other act or designated time shall be excluded and the day of the last publication, other act or designated time shall be included; and

~~[S.]~~ R. whenever such construction is applicable, words used in the Joint City-County Building Law importing singular or plural number may be construed so that one number includes both; words importing masculine gender shall be

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construed to apply to the feminine gender as well; and the word "person" may extend to and include a firm and corporation, except in any reference to any election; provided, however, that these rules of construction shall not apply to any part of that law containing express provisions excluding such construction or where the subject matter or context is repugnant thereto."

SECTION HJC→190 191←HJC. Section 5-5-9 NMSA 1978 (being Laws 1959, Chapter 300, Section 9, as amended) is amended to read:

"5-5-9. LIMITATIONS UPON INCURRING DEBTS.--No general obligation bonds or other evidences of indebtedness, the payment of which is secured wholly or in part by a pledge of any proceeds of general ad valorem property taxes or to which the full faith and credit of a municipality are pledged, shall be issued, except as follows:

A. a county shall so borrow money only for the purpose of erecting necessary public buildings in connection with any project, and in any such case only after the proposition to create such debt shall have been submitted at a general or special election to the [registered] qualified electors of the county and approved by a majority of those voting thereon;

B. a city shall so contract any such debt only by an ordinance [which] that shall be irrevocable until the

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indebtedness therein provided for shall have been fully paid or discharged and ~~which~~ that shall specify the purposes to which the funds to be raised shall be applied. No such debt shall be created unless the question of incurring the ~~same~~ debt shall, at a regular election for councilmen or other officers of ~~such~~ the city, have been submitted to a vote of the ~~registered~~ qualified electors thereof and a majority of those voting on the question shall have voted in favor of creating ~~such~~ the debt; and

C. no municipality shall ever become indebted to an amount in the aggregate, including existing indebtedness, exceeding four ~~percentum~~ percent on the value of the taxable property within ~~such~~ the municipality as shown by the last preceding assessment for state or county taxes, but excluding debts contracted by a city for the construction or purchase of a system for supplying water or of a sewer system for ~~such~~ the city; and all bonds or obligations issued in excess of ~~such~~ that amount shall be void."

SECTION HJC→191 192←HJC. Section 5-11-2 NMSA 1978 (being Laws 2001, Chapter 305, Section 2, as amended) is amended to read:

"5-11-2. DEFINITIONS.--As used in the Public Improvement District Act:

A. "allowable base" means the sum of the appraised value, not including the value of public infrastructure

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improvements, of:

(1) taxable property in a district that is owned by persons other than the applicant or the applicant's related entities;

(2) commercial, industrial or retail property in a district that is owned by the applicant or the applicant's related entities for which a certificate of completion has been issued; and

(3) all other taxable property in a district not described in Paragraphs (1) and (2) of this subsection, to the extent that its appraised value is less than or equal to the appraised value of property described in Paragraph (1) of this subsection;

B. "applicant" means a person that applies for the formation of a district pursuant to the Public Improvement District Act;

C. "clerk" means the clerk of the municipality or county, or any person appointed by the district board to be the district clerk pursuant to Section 5-11-6 NMSA 1978;

D. "county" means a county that forms a public improvement district pursuant to the Public Improvement District Act in an unincorporated area or in an incorporated area with the municipality's consent;

E. "debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at

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maturity or prior redemption; the fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds; and the costs of credit enhancement or liquidity support;

F. "development agreement" means an agreement between a property owner or developer and the county, municipality or district, concerning the improvement of specific property within the district, which agreement may be used to establish obligations of the owner or developer, the county or municipality or the district concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within a district;

G. "district" means a public improvement district formed pursuant to the Public Improvement District Act by a municipality or by a county in an unincorporated area or in an incorporated area with the municipality's consent;

H. "district board" means the board of directors of the district, which shall be composed of members of the governing body, ex officio, or, at the option of the governing body, five directors appointed by the governing body of the municipality or county in which the district is located, until replaced by elected directors, which shall occur not later than six years after the date on which the resolution establishing the district is enacted, as provided in Section 5-11-9 NMSA

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1978;

I. "election" means an election held in compliance with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and pursuant to the provisions of the Local Election Act;

J. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas. "Enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Public Improvement District Act;

K. "general plan" means the general plan described in Section 5-11-3 NMSA 1978, as the plan may be amended from time to time;

L. "governing body" means the body or board that by law is constituted as the governing body of the municipality or county in which the public improvement district is located;

M. "municipality" means an incorporated city, village or town;

N. "owner" means:

(1) the person who is listed as the owner of real property in the district on the current property tax

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assessment roll in effect at the time that the action, proceeding, hearing or election has begun. For purposes of voting in elections held pursuant to the Public Improvement District Act, when the owner of record title is a married person, only one spouse in whose name title is held may vote at such election. Where record title is held in more than one name, each owner may vote the number of fractions of acres represented by the owner's legal interest or proportionate share of and in the lands within the district;

(2) the administrator or executor of an estate holding record title to land within the district;

(3) the guardian of a minor or incompetent person holding record title to land within the district, appointed and qualified under the laws of the state;

(4) an officer of a corporation holding record title to land within the district, which officer has been authorized by resolution of the corporation's board of directors to act with respect to such land;

(5) the general partner of a partnership holding record title to land within the district;

(6) the trustee of a trust holding record title to land within the district; or

(7) the manager or member of a limited liability company holding record title to land within the district who has been authorized to represent the company;

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O. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association;

P. "public infrastructure improvements" means all improvements listed in this subsection and includes both on-site improvements and off-site improvements that directly or indirectly benefit the district. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances. "Public infrastructure improvements" includes:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

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(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(6) pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

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(16) equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

(17) inspection, construction management and program management costs;

Q. "public infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of public infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for public infrastructure, including facilities owned, leased or installed by an owner;

(3) acquiring interests in real property or water rights for public infrastructure, including interests of an owner;

(4) establishing, maintaining and replenishing reserves in order to secure payment of debt service on bonds;

(5) funding and paying from bond proceeds interest accruing on bonds for a period not to exceed three years from their date of issuance;

(6) funding and paying from bond proceeds fiscal, financial and legal consultant fees, trustee fees,

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discount fees, district formation and election costs and all costs of issuance of bonds issued pursuant to the Public Improvement District Act, including [~~but not limited to~~] fees and costs for bond counsel, financial advisors, consultants and underwriters, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs and printing costs;

(7) providing for the timely payment of debt service on bonds or other indebtedness of the district;

(8) refinancing any outstanding bonds with new bonds, including through the formation of a new public improvement district; and

(9) incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this subsection;

R. "related entities" means two or more entities that are owned in an amount greater than fifty percent by the same person, either directly or through one or more persons;

~~[S. "resident qualified elector" means a person who resides within the boundaries of a district or proposed district and who is qualified to vote in the general elections held in the state pursuant to Section 1-1-4 NMSA 1978;~~

~~F.]~~ S. "special levy" means a levy imposed against real property within a district that may be apportioned according to direct or indirect benefits conferred upon

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affected real property, as well as acreage, front footage, the cost of providing public infrastructure for affected real property, or other reasonable method, as determined by the governing body or district board, as applicable; and

[U.] T. "treasurer" means the treasurer of the governing body or the person appointed by the district board as the district treasurer pursuant to Section 5-11-6 NMSA 1978."

HJC→~~SECTION 192. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6, as amended) is amended to read:~~

~~"5-11-6. ORDER FORMING DISTRICT--DETERMINATION--
ELECTION.--"~~

~~A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general plan and then ordering that a formation determination be conducted and an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex~~

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~~officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.~~

~~B. Before submitting the question of formation of the district to the qualified electors of the proposed district, a formation [election] determination shall [include] be conducted among the owners unless a petition is presented to the governing body pursuant to Subsection [I] F of Section 5-11-7 NMSA 1978. In the formation determination, each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district. The right to vote on the question of formation of the district shall not be assigned or delegated to the property owners signing a petition submitted to the governing body for formation of a district or related entities of such property owners.~~

~~C. Should the formation determination by the owners result in an affirmative vote, the question shall also be submitted to a vote of the [resident] qualified electors of the proposed district. The conduct of a formation election shall~~

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~~meet the requirements of Section 5-11-7 NMSA 1978."~~

~~SECTION 193. Section 5-11-7 NMSA 1978 (being Laws 2001, Chapter 305, Section 7) is amended to read:~~

~~"5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--"~~

~~A. Any election pursuant to the Public Improvement District Act shall be a nonpartisan election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation in the municipality or county, or, if there is no newspaper so circulated in the municipality, in a newspaper of general circulation in the county in which the municipality is located once a week for two consecutive weeks before the election] conducted and canvassed pursuant to the provisions of the Local Election Act. In addition to those matters required for notice as provided in the Election Code, the notice of election shall state:~~

~~{(1) the place of holding the election and provisions for voting by mail, if any;~~

~~(2) the hours during the day, not less than six, in which the polls will be open;~~

~~(3)] (1) if the election is a formation election, the boundaries of the proposed district;~~

~~{(4)} (2) if the election is a bond election;~~

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~~the amount of bonds to be authorized for the district, the maximum rate of interest to be paid on the bonds and the maximum term of the bonds, not exceeding thirty years;~~

~~[(5)] (3) if the election is a property tax levy election pursuant to Section [19 of the Public Improvement District Act] 5-11-19 NMSA 1978, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;~~

~~[(6)] (4) that a general plan is on file with the clerk;~~

~~[(7)] (5) the purposes for which the property taxes or the special levies will be imposed, and the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, special levies, district revenues or bond proceeds; and~~

~~[(8)] (6) that the imposition of property taxes or special levies will result in a lien for the payment thereof on property within the district.~~

~~B. The district board or, in the case of a formation election, the governing body, shall determine the date of the election [and the polling places for the election and may consolidate county precincts. The district board or governing body may establish provisions for voting by mail.~~

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~~C. Voter lists shall be used to determine the resident qualified electors. If the district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at those precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

~~D. For all elections held pursuant to the Public Improvement District Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed district and stating the area of land in acres owned by the prospective elector. Precinct board members may administer oaths or take all affirmations for these purposes} by passing a resolution placing the ballot question on a regular local election or general election ballot or by adopting a proclamation calling for a special election.~~

~~{E.} C. Except as otherwise provided by this section, the election shall comply with the {general election laws of this state} Local Election Act. The ballot material provided to each voter shall include:~~

~~(1) for a formation election, an impartial description of the district improvements contemplated and a brief description of arguments for and against the formation of~~

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~~the district, if any;~~

~~(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain but not necessarily all public infrastructure improvements and services that may be needed or desirable within the district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and [resident] qualified electors; and~~

~~(3) for a formation election, the ballot, which shall pose the question to be voted upon as "district, yes" and "district, no"; for a bond election, "bonds, yes" and "bonds, no"; for a property tax election, if no tax is in place, "property tax, yes" and "property tax, no"; and for an election to change an existing maximum or eliminate an existing tax, "tax change, yes" and "tax change, no", specifying the type of tax to which the proposed change pertains.~~

~~[F. The governing body or, if after formation, the district board, may provide for the returns of the election to~~

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~~be made in person or by mail.~~

~~G. Within thirty days after an election, the governing body, or if after formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors.]~~

~~D. At least a ~~[three-fourths]~~ three-fourths¹ majority of the votes cast at the election shall be required for formation, issuing the bonds, imposing the tax or special levy or changing the tax or special levy. [The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.] Failure of a required majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election.~~

~~[H.] E. If a person listed on the assessment roll is no longer the owner of land in the district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner for the purposes of the Public Improvement District Act.~~

~~[I.] F. Notwithstanding any other provision of the Public Improvement District Act, if a petition for formation is signed by owners of all of the land in the district described~~

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~~in the petition and is approved by the municipality or county, the municipality or county may waive any or all requirements of posting, publication, mailing, notice, hearing and owner [election] determination. On receipt of such a petition, and after approval by an election of [resident] qualified electors, if any, the municipality or county shall declare the district formed without being required to comply with the provisions of the Public Improvement District Act for posting, publication, mailing, notice, hearing or owner [election] determination.~~

~~[J.] C. If no person [has] is registered to vote within the district within [fifty] seventy days immediately preceding any scheduled election date, [any] the election required to be held pursuant to the Public Improvement District Act shall be [held by vote of the owners. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.~~

~~K. In any election held pursuant to the Public Improvement District Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes to which he is entitled as an owner and shall not be entitled to an additional vote as a result of residing within the district] canceled. Under such circumstances, when the~~

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~~question is on the formation of the district, the results of the formation determination of the owners shall prevail. When the question is on any other allowable action otherwise requiring a vote of the qualified electors, the owners shall make a determination in the same manner as the formation determination was conducted, the result of which shall prevail."~~

~~SECTION 194. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:~~

~~"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--~~

~~A. The governing body, at its option, may authorize the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve [four-year] the longer terms and which shall serve [six-year] the shorter terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the~~

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~~vacancy, who shall hold office for the remainder of the unexpired term until a successor is appointed or elected.~~

~~{B. A director may be a director of more than one district.~~

~~G.] B. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an election of new directors by majority vote of the qualified electors and owners."~~

~~SECTION 195. Section 5-11-13 NMSA 1978 (being Laws 2001, Chapter 305, Section 13) is amended to read:~~

~~"5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL PLAN.--~~

~~A. After the formation election, an area may be deleted from the district only following a hearing on notice to the owners of land in the district given in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners and voter approval by the {owners and resident} qualified electors as provided in Sections {6 and 7 of the Public Improvement District Act} 5-11-6 and 5-11-7 NMSA 1978. Lands within the district that are subject to the lien of property taxes, special levies or other charges imposed~~

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~~pursuant to the Public Improvement District Act shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.~~

~~B. At any time after adoption of a resolution creating a district, an area may be added to the district upon [the approval of] a determination by the owners of land in the proposed addition area and the [resident] approval of the qualified electors residing therein, as well as a determination by the owners of land in the district and approval of the [resident] qualified electors of the district, in the same manner as required for the formation of a district.~~

~~C. The district board, following a hearing on notice to the owners of real property located in the district given in the manner prescribed for the formation hearing, may amend the general plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. No election shall be required solely for the purposes of this subsection."~~

~~SECTION 196. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:~~

~~"5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--
EXCEPTION.--"~~

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~~A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order and call a general obligation bond election to submit to the [owners and] qualified electors the question of authorizing the district to issue general obligation bonds of the district to provide money for any public infrastructure purposes consistent with the general plan. The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election shall be held pursuant to the provisions of the Local Election Act and may be held in conjunction with the formation election.~~

~~B. If general obligation bonds are approved at an election, the district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.~~

~~C. Bonds may be sold in a public offering or in a negotiated sale.~~

~~D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their~~

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~~numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any obligations secured thereby.~~

~~E. Subject to the election requirements of this~~

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~~section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.~~

~~F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."~~←HJC

HJC→SECTION 193. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6, as amended) is amended to read:

"5-11-6. ORDER FORMING DISTRICT--FORMATION
DETERMINATION--ELECTION.--

A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general

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plan and then ordering that a formation determination be conducted and an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.

B. Before submitting the question of formation of the district to the qualified electors of the proposed district, a formation [election] determination shall [include] be conducted by the governing body among the owners unless a petition is presented to the governing body pursuant to Subsection [F] F of Section 5-11-7 NMSA 1978. In the formation determination, each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district. [The right to vote on the question of formation of the district shall not be assigned or delegated to the property owners signing a petition submitted to the governing body for formation of a district or

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~~related entities of such property owners.]~~

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The governing body or the district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations made by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

D. Should the formation determination by the owners result in a three-fourths' majority vote in favor of formation, the question shall also be submitted to a vote of the [resident] qualified electors of the proposed district. The conduct of a formation election by qualified electors shall meet the requirements of Section 5-11-7 NMSA 1978.

E. The right of the qualified electors to vote on the question of formation of the district shall not be assigned or delegated to the property owners, or related entities of the property owners, signing a petition submitted to the governing body for formation of a district."←HJC

HJC→SECTION 194. Section 5-11-7 NMSA 1978 (being Laws 2001, Chapter 305, Section 7) is amended to read:

"5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

A. Any election by qualified electors pursuant to the Public Improvement District Act shall be a nonpartisan

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election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation in the municipality or county, or, if there is no newspaper so circulated in the municipality, in a newspaper of general circulation in the county in which the municipality is located once a week for two consecutive weeks before the election] conducted and canvassed pursuant to the provisions of the Election Code. In addition to those matters required for notice as provided in the Local Election Act, the notice of election shall state:

[~~(1)~~] the place of holding the election and provisions for voting by mail, if any;

~~(2)~~ the hours during the day, not less than six, in which the polls will be open;

~~(3)~~ (1) if the election is a formation election, the boundaries of the proposed district;

[~~(4)~~] (2) if the election is a bond election, the amount of bonds to be authorized for the district, the maximum rate of interest to be paid on the bonds and the maximum term of the bonds, not exceeding thirty years;

[~~(5)~~] (3) if the election is a property tax levy election pursuant to Section [19 of the Public Improvement

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~~District Act~~ 5-11-19 NMSA 1978, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

~~[(6)]~~ (4) that a general plan is on file with the clerk;

~~[(7)]~~ (5) the purposes for which the property taxes or the special levies will be imposed, and the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, special levies, district revenues or bond proceeds; and

~~[(8)]~~ (6) that the imposition of property taxes or special levies will result in a lien for the payment thereof on property within the district.

B. The district board or, in the case of a formation election, the governing body, shall determine the date of the election ~~[and the polling places for the election and may consolidate county precincts. The district board or governing body may establish provisions for voting by mail.]~~

~~G. Voter lists shall be used to determine the resident qualified electors. If the district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at those precincts~~

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~~shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

~~D. For all elections held pursuant to the Public Improvement District Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed district and stating the area of land in acres owned by the prospective elector. Precinct board members may administer oaths or take all affirmations for these purposes] by passing a resolution to place the ballot question on a regular local election or general election ballot or by adopting a proclamation calling for a special election.~~

~~[E.] C.~~ Except as otherwise provided by this section, the election shall comply with the ~~[general election laws of this state]~~ Local Election Act. The ballot material provided to each ~~[voter]~~ qualified elector shall include:

(1) for a formation election, an impartial description of the district improvements contemplated and a brief description of arguments for and against the formation of the district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each elector

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to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain but not necessarily all public infrastructure improvements and services that may be needed or desirable within the district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and [resident] qualified electors; and

(3) for a formation election, the ballot, which shall pose the question to be voted upon as "district, yes" and "district, no"; for a bond election, "bonds, yes" and "bonds, no"; for a property tax election, if no tax is in place, "property tax, yes" and "property tax, no"; and for an election to change an existing maximum or eliminate an existing tax, "tax change, yes" and "tax change, no", specifying the type of tax to which the proposed change pertains.

~~[F. The governing body or, if after formation, the district board, may provide for the returns of the election to be made in person or by mail.~~

~~G. Within thirty days after an election, the governing body, or if after formation, the district board, shall meet and canvass the returns, determining the number of~~

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~~votes properly cast by owners and resident qualified electors.]~~

D. At least a ~~[three-fourths]~~ three-fourths' majority of the votes cast by qualified electors at the election shall be required for formation, issuing the bonds, imposing the tax or special levy or changing the tax or special levy. ~~[The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.]~~ Failure of a required majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election.

~~[H.]~~ E. If a person listed on the assessment roll is no longer the owner of land in the district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner for the purposes of the Public Improvement District Act.

~~[I.]~~ F. Notwithstanding any other provision of the Public Improvement District Act, if a petition for formation is signed by owners of all of the land in the district described in the petition and is approved by the municipality or county, the municipality or county may waive any or all requirements of posting, publication, mailing, notice, hearing and owner

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[election] determination. On receipt of such a petition, and after approval by an election of [~~resident~~] qualified electors, if any, the municipality or county shall declare the district formed without being required to comply with the provisions of the Public Improvement District Act for posting, publication, mailing, notice, hearing or owner [election] determination.

[J-] G. If no person [~~has~~] is registered to vote within the district or proposed district areas within [~~fifty~~] seventy days immediately preceding any scheduled election date, [~~any~~] the election required to be held pursuant to the Public Improvement District Act shall be [~~held by vote of the owners.~~ Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.

K. ~~In any election held pursuant to the Public Improvement District Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes to which he is entitled as an owner and shall not be entitled to an additional vote as a result of residing within the district]~~ canceled. Under such circumstances, when the question is on the formation of the district, the results of the formation determination of the owners shall prevail, unless the formation determination was waived by the governing body

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pursuant to Subsection F of this section. To the extent allowable by the constitution of New Mexico, when the question is on any other allowable action otherwise requiring a vote of the qualified electors, the owners or the owners of the proposed district areas shall make a determination, the result of which shall prevail."←HJC

HJC→SECTION 195. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:

"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

A. The governing body, at its option, may authorize the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve [~~four-year~~] the longer terms and which shall serve [~~six-year~~] the shorter terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the vacancy, who shall hold office for the remainder of the

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unexpired term until a successor is appointed or elected.

~~[B. A director may be a director of more than one district.]~~

~~G.]~~ B. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an election of new directors by majority vote of the qualified electors ~~[and owners]~~ or if the election is canceled pursuant to Subsection G of Section 5-11-7 NMSA 1978, an owner's determination conducted by ballot shall decide the new directors."←HJC

HJC→SECTION 196. Section 5-11-13 NMSA 1978 (being Laws 2001, Chapter 305, Section 13) is amended to read:

"5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL PLAN.--

A. ~~[After the formation election]~~ Following formation of the district, an area may be deleted from the district only following a hearing on notice to the owners of land in the district given in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners and voter approval by the ~~[owners and resident]~~ qualified electors as provided in ~~[Sections 6 and 7 of the Public Improvement~~

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~~District Act]~~ the local Election Act and the Public Improvement District Act. Lands within the district that are subject to the lien of property taxes, special levies or other charges imposed pursuant to the Public Improvement District Act shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.

B. ~~[At any time after adoption of a resolution creating a]~~ Following formation of the district, an area may be added to the district upon [the approval of] a determination by the owners of land in the proposed addition area and the [resident] approval of the qualified electors residing therein, as well as a determination by the owners of land in the district and approval of the [resident] qualified electors [in the same manner as required for the formation of a district] of the district, as provided in the Local Election Act and the Public Improvement District Act.

C. The district board, following a hearing on notice to the owners of real property located in the district given in the manner prescribed for the formation hearing, may amend the general plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan.

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No election shall be required solely for the purposes of this subsection."←HJC

HJC→SECTION 197. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:

"5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--
EXCEPTION.--

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order ~~[and call]~~ that the question of authorizing the issuance of general obligation bonds to provide money for public infrastructure purposes consistent with the general plan be presented to the owners for a determination and that a general obligation bond election be called to submit the question to the [owners and] qualified electors. [the question of authorizing the district to issue general obligation bonds of the district to provide money for any public infrastructure purposes consistent with the general plan.] The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election shall be held pursuant to the provisions of the Local Election Act and may be held in conjunction with the formation election.

B. If general obligation bonds are approved by a determination of the owners and approved at an election, the

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district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.

C. Bonds may be sold in a public offering or in a negotiated sale.

D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on

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all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any obligations secured thereby.

E. Subject to the determination and election [requirements] provisions of this section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No determination or election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."←HJC

SECTION HJC→197 198←HJC. Section 5-11-23 NMSA 1978

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(being Laws 2001, Chapter 305, Section 23) is amended to read:

"5-11-23. DISTRICT TAXES--ANNUAL FINANCIAL ESTIMATE--
ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL
GOVERNMENT DIVISION.--

A. All property taxes for the operation and maintenance expenses of the district shall not exceed an amount equal to three dollars (\$3.00) per one thousand dollars (\$1,000) of net taxable value for all real and personal property in the district, unless a higher rate is approved by a vote of the [~~resident~~] qualified electors [~~and owners~~] voting at an election conducted pursuant to the provisions of the Local Election Act not less than three years after the date of the formation of the district.

B. Once approved at an election or, in the case of a special levy, by resolution of the district board, the maximum rate of a property tax shall remain in effect until increased or decreased at a subsequent election, and the maximum rate of a special levy shall remain in effect until increased or decreased by resolution of the district board at a subsequent hearing.

C. If a maximum property tax rate is in effect, the district board, on petition of twenty-five percent of the [~~resident~~] qualified electors, or by the owners of twenty-five percent of the land area of the district, shall call an election pursuant to the provisions of the Local Election Act

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to reduce the maximum tax rate but not below the lesser of that rate determined by the district board to be necessary to maintain the district's facilities and improvements where the tax was authorized for operation and maintenance, or the actual rate then in effect, but in no event shall the rate be reduced below the rate necessary to satisfy the district's obligations in connection with any outstanding bonds issued pursuant to the Public Improvement District Act.

D. If a maximum special levy is in effect, the district board, on petition of twenty-five percent of the [resident] qualified electors, or by the owners of twenty-five percent of the land area of the district, shall hold a hearing to determine whether to reduce the maximum special levy but not below the lesser of that rate determined by the district board to be necessary to maintain the district's facilities and improvements, where the special levy was authorized for operation and maintenance, or the actual rate then in effect, but in no event shall the rate be reduced below the rate necessary to satisfy the district's obligations in connection with any outstanding bonds issued pursuant to the Public Improvement District Act.

E. Upon presentation to the district board of a petition signed by the owners of a majority of the property in the district, the district board shall adopt a resolution to reduce or eliminate the portion of the tax or special levy,

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beginning the next fiscal year, required for one or more services or enhanced services specified in the petition. Signatures on a petition to reduce or eliminate a tax or special levy shall be valid for a period of sixty days.

F. When levying property tax or imposing a special levy, the district board shall make annual statements and estimates of the operation and maintenance expenses of the district, the costs of public improvements to be financed by the taxes or special levy and the amount of all other expenditures for public infrastructure improvements and enhanced services proposed to be paid from the taxes or special levy and of the amount to be raised to pay general obligation bonds of the district or special levy bonds, all of which shall be provided for by the levy and collection of property taxes on the net taxable value of the real property in the district or by the imposition and collection of special levies. The district board shall file the annual statements and estimates with the clerk. The district board shall publish a notice of the filing of the estimate, shall hold hearings on the portions of the estimate not relating to debt service on general obligation bonds or special levy bonds and shall adopt a budget. The district board, on or before the date set by law for certifying the annual budget of the municipality or county, shall fix, levy and assess the amounts to be raised by property taxes or special levies of the district and shall cause

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certified copies of the order to be delivered to the local government division of the department of finance and administration. All statutes relating to the levy and collection of property taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes, apply to district property taxes and to special levies, except to the extent that the district board has provided for other imposition, collection and foreclosure procedures in connection with special levies."

SECTION HJC→198 199←HJC. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

"5-15-3. DEFINITIONS.--As used in the Tax Increment for Development Act:

A. "base gross receipts taxes" means:

(1) the total amount of gross receipts taxes collected within a tax increment development district, as estimated by the governing body that adopted a resolution to form that district, in consultation with the taxation and revenue department, in the calendar year preceding the formation of the tax increment development district or, when an area is added to an existing district, the amount of gross receipts taxes collected in the calendar year preceding the effective date of the modification of the tax increment development plan and designated by the governing body to be available as part of the gross receipts tax increment; and

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(2) any amount of gross receipts taxes that would have been collected in such year if any applicable additional gross receipts taxes imposed after that year had been imposed in that year;

B. "base property taxes" means:

(1) the portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax on the assessed value of taxable property within the tax increment development area last certified for the year ending immediately prior to the year in which a tax increment development plan is approved for the tax increment development area, or, when an area is added to an existing tax increment development area, "base property taxes" means that portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax upon the assessed value of taxable property within the tax increment development area on the date of the modification of the tax increment development plan and designated by the governing body to be available as part of the property tax increment; and

(2) any amount of property taxes that would have been collected in such year if any applicable additional property taxes imposed after that year had been imposed in that year;

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C. "county option gross receipts taxes" means gross receipts taxes imposed by counties pursuant to the County Local Option Gross Receipts Taxes Act and designated by the governing body of the county to be available as part of the gross receipts tax increment;

D. "district" means a tax increment development district;

E. "district board" means a board formed in accordance with the provisions of the Tax Increment for Development Act to govern a tax increment development district;

F. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas; provided that "enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Tax Increment for Development Act;

G. "governing body" means the city council or city commission of a city, the board of trustees or council of a town or village or the board of county commissioners of a county;

H. "gross receipts tax increment" means the gross

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receipts taxes collected within a tax increment development district in excess of the base gross receipts taxes collected for the duration of the existence of a tax increment development district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

I. "gross receipts tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a gross receipts tax increment;

J. "local government" means a municipality or county;

K. "municipal option gross receipts taxes" means those gross receipts taxes imposed by municipalities pursuant to the Municipal Local Option Gross Receipts Taxes Act and designated by the governing body of the municipality to be available as part of the gross receipts tax increment;

L. "municipality" means an incorporated city, town or village;

M. "owner" means a person owning real property within the boundaries of a district;

N. "person" means an individual, corporation, association, partnership, limited liability company or other legal entity;

O. "project" means a tax increment development

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project;

P. "property tax increment" means all property tax collected on real property within the designated tax increment development area that is in excess of the base property tax until termination of the district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

Q. "property tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a property tax increment;

R. "public improvements" means on-site improvements and off-site improvements that directly or indirectly benefit a tax increment development district or facilitate development within a tax increment development area and that are dedicated to the governing body in which the district lies. "Public improvements" [~~include~~] includes:

(1) sanitary sewage systems, including collection, transport, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or

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fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

(6) pedestrian and transit facilities, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

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(14) school sites and facilities with the consent of the governing board of the public school district for which the facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personal property related to the items listed in this subsection;

(17) inspection, construction management, planning and program management and other professional services costs incidental to the project;

(18) workforce housing; and

(19) any other improvement that the governing body determines to be for the use or benefit of the public;

~~[S. "resident qualified elector" means a person who resides within the boundaries of a tax increment development district or proposed tax increment development district, and who is qualified to vote in the general elections held in the state pursuant to Section 1-1-4 NMSA 1978;~~

~~F.]~~ S. "state gross receipts tax" means the gross receipts tax imposed pursuant to the Gross Receipts and Compensating Tax Act, but does not include that portion distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47

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NMSA 1978;

[U-] T. "sustainable development" means land development that achieves sustainable economic and social goals in ways that can be supported for the long term by conserving resources, protecting the environment and ensuring human health and welfare using mixed-use, pedestrian-oriented, multimodal land use planning;

[V-] U. "tax increment development area" means the land included within the boundaries of a tax increment development district;

[W-] V. "tax increment development district" means a district formed for the purposes of carrying out tax increment development projects;

[X-] W. "tax increment development plan" means a plan for the undertaking of a tax increment development project;

[Y-] X. "tax increment development project" means activities undertaken within a tax increment development area to enhance the sustainability of the local, regional or statewide economy; to support the creation of jobs, schools and workforce housing; and to generate tax revenue for the provision of public improvements and may include:

(1) acquisition of land within a designated tax increment development area or a portion of that tax increment development area;

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(2) demolition and removal of buildings and improvements and installation, construction or reconstruction of streets, utilities, parks, playgrounds and improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(3) installation, construction or reconstruction of streets, water utilities, sewer utilities, parks, playgrounds and other public improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(4) disposition of property acquired or held by a tax increment development district as part of the undertaking of a tax increment development project at the fair market value of such property for uses in accordance with the Tax Increment for Development Act;

(5) payments for professional services contracts necessary to implement a tax increment development plan or project;

(6) borrowing to purchase land, buildings or infrastructure in an amount not to exceed the revenue stream that may be derived from the gross receipts tax increment or the property tax increment estimated to be received by a tax increment development district; and

(7) grants for public improvements essential to the location or expansion of a business;

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[Z.] Y. "taxing entity" means the governing body of a political subdivision of the state, the gross receipts tax increment or property tax increment of which may be used for a tax increment development project; and

[AA.] Z. "workforce housing" means decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations that are affordable for persons or families earning less than eighty percent of the median income within the county in which the tax increment development project is located; provided that an owner-occupied housing unit is affordable to a household if the expected sales price is reasonably anticipated to result in monthly housing costs that do not exceed thirty-three percent of the household's gross monthly income; provided that:

(1) determination of mortgage amounts and payments [~~are~~] is to be based on down payment rates and interest rates generally available to lower- and moderate-income households; and

(2) a renter-occupied housing unit is affordable to a household if the unit's monthly housing costs, including rent and basic utility and energy costs, do not exceed thirty-three percent of the household's gross monthly income."

HJC → ~~SECTION 199. Section 5-15-8 NMSA 1978 (being Laws 2006, Chapter 75, Section 8) is amended to read:~~

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~~"5-15-8. ELECTION.--~~

~~A. The election procedures set forth in this section shall be used for:~~

~~(1) formation of a new tax increment development district;~~

~~(2) election of a district board member;~~

~~(3) adoption of a property tax levy by a tax increment development district;~~

~~(4) use of property tax increment financing by a tax increment development district; or~~

~~(5) issuing of property tax increment bonds to be repaid by funds raised by property tax increments.~~

~~B. An election may be waived and a tax increment development district shall be formed upon the governing body's adoption of a resolution to form a tax increment development district if a petition is presented to a governing body in accordance with the Tax Increment for Development Act and if the petition contains the signatures of all owners of the real property within the proposed tax increment development area and states that the owners waive the right to an election.~~

~~C. An election pursuant to the Tax Increment for Development Act shall be a nonpartisan election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election.~~

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~~Notice shall also be published in a newspaper of general circulation once each week for two consecutive weeks before the election in the municipality or county in which the proposed district is located} conducted and canvassed pursuant to the provisions of the Local Election Act.~~

~~D. In addition to the notice requirements in the Election Code, the notice shall state:~~

~~{(1) the place of holding the election and provisions for voting by mail, if any;~~

~~(2) the hours during the day during which the polls will be open;~~

~~{(3)} (1) if the election is a formation election, the boundaries of the proposed tax increment development district;~~

~~{(4)} (2) if the election is a bond election, the purpose for which the bonds are to be issued and the amount of the issue;~~

~~{(5)} (3) if the election is a property tax levy election, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;~~

~~{(6)} (4) that an approved tax increment development plan is on file with the clerk of the governing~~

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body;

~~[(7)] (5) the purposes for which property taxes will be imposed and for which the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, bond proceeds or other revenues of the tax increment development district; and~~

~~[(8)] (6) that the imposition of property taxes will result in a lien for the payment on property within the district.~~

~~E. The district board, or, in the case of a formation election, the governing body, shall determine the date of the election, [and the polling places for the election and may consolidate county precincts. The district board or the governing body may establish provisions for voting by mail.~~

~~F. Voter lists shall be used to determine the resident qualified electors. If a district or proposed district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at these precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

~~G. For an election held pursuant to the Tax Increment for Development Act, a prospective elector who is not~~

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~~a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed or existing district and stating the area of land in acres owned by the prospective elector. If the prospective elector is not an individual, the affidavit shall provide that the individual casting the vote is the designated representative of the corporation, association, partnership, limited liability company or other legal entity entitled to vote in the election. Precinct board members may administer oaths or accept affirmations for those purposes.~~

~~H. Except as otherwise provided by this section, the election] which shall comply with the [general election laws of the state] provisions of the Local Election Act. The ballot material provided to each voter shall include:~~

~~(1) for a formation election, an impartial description of the tax increment development plan and a brief description of arguments for and against the formation of the tax increment development district, if any;~~

~~(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each [resident] qualified elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for~~

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~~and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain, but not necessarily all, public improvements that may be needed or desirable within the tax increment development district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and [resident] qualified electors;~~

~~(3) for an election concerning the use of property tax increment financing, an impartial description of the estimated increment to be generated over the life of the project and the nature and extent of the public improvements to be constructed and maintained using such financing;~~

~~(4) for a formation election, the question to be voted upon as "district, yes" and "district, no";~~

~~(5) for a property tax imposition election, the question to be voted upon as "property tax, yes" and "property tax, no";~~

~~(6) for an election to change an existing maximum tax or eliminate an existing tax, the question to be voted upon as "tax change, yes" and "tax change, no" and shall specify the type of tax to which the proposed change pertains;~~
~~and~~

~~(7) for an election concerning the use of~~

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~~property tax increment bonds, the ballot shall pose the question to be voted upon as "bonds, yes" and "bonds, no".~~

~~[I. The governing body or, if after district formation, the district board, may provide for the returns of the election to be made in person or by mail.~~

~~J. Within thirty days after an election, the governing body, or if after district formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors. A majority of the votes cast at the election shall be required. The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.]~~

~~F. Failure of a majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election; provided that an election on the same question shall not be held within one year of the failure of a majority to vote in favor of that question.~~

~~[K.] G. If a person transfers real property located in a district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner of the real property for the purposes of the Tax~~

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~~Increment for Development Act.~~

~~[L.] H. If there are no persons registered to vote within a district or proposed district within [fifty] seventy days immediately preceding a scheduled election date, an election required to be held pursuant to the Tax Increment for Development Act shall be [held by vote of] canceled and a determination made by the owners of property within the district or proposed district in lieu of an election. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.~~

~~[M. In an election held pursuant to the Tax Increment for Development Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner and shall not be entitled to an additional vote as a result of residing within the district.]"~~

~~SECTION 200. Section 5-15-9 NMSA 1978 (being Laws 2006, Chapter 75, Section 9, as amended) is amended to read:~~

~~"5-15-9. FORMATION OF A DISTRICT.--~~

~~A. If the formation of the tax increment development district is approved by a majority of the voters~~

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~~casting votes at the election, or if [an election is held by
vote of] a determination is made by the owners of property
within the district or proposed district in lieu of an
election, the governing body shall deliver a copy of the
resolution ordering formation of the tax increment development
district to each of the following persons or entities:~~

~~(1) the county assessor, the county treasurer
and the clerk of the county in which the district is located;~~

~~(2) the school district within which any
portion of the property located within a tax increment
development area lies;~~

~~(3) any other taxing entities within which any
portion of the property located within a tax increment
development area lies;~~

~~(4) the taxation and revenue department;~~

~~(5) the local government division of the
department of finance and administration; and~~

~~(6) the director of the legislative finance
committee.~~

~~B. A notice of the formation showing the number and
date of the resolution and giving a description of the land
included in the district shall be recorded with the clerk of
the county in which the district is located.~~

~~C. A tax increment development district shall be a~~

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~~political subdivision of the state, separate and apart from a municipality or county."~~

~~SECTION 201. Section 5-15-10 NMSA 1978 (being Laws 2006, Chapter 75, Section 10, as amended) is amended to read:~~

~~"5-15-10. GOVERNANCE OF THE DISTRICT.--~~

~~A. Following formation of a tax increment development district, a district board shall administer in a reasonable manner the implementation of the tax increment development plan as approved by the governing body.~~

~~B. The district shall be governed by the governing body that adopted a resolution to form the district or by a five-member board composed of four members appointed by that governing body; provided, however, that the fifth member of the five-member board is the secretary of finance and administration or the secretary's designee with full voting privileges.~~

~~C. Two of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term [of] to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve [four-year] the longer terms and which shall serve [six-year] the shorter terms. If a vacancy occurs on the district board~~

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~~because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected.~~

~~{D. A director may be a director of more than one district.~~

~~E.] D. In the case of an appointed board of directors that is not the governing body, at the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of {owners and} qualified {resident} electors in accordance with the Local Election Act and the Tax Increment for Development Act. {Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.}~~" ←HJC

HJC → SECTION 200. Section 5-15-7 NMSA 1978 (being Laws 2006, Chapter 75, Section 7) is amended to read:

"5-15-7. PUBLIC HEARING.--

A. At a public hearing conducted pursuant to the Tax Increment for Development Act, the governing body shall hear all relevant evidence and testimony and make findings. A record of the hearing shall be kept and may consist of a

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transcription by a court reporter, an electronic recording or minutes taken by a designated person. The record shall be preserved in the official records of the governing body and shall be open to public inspection pursuant to the Inspection of Public Records Act.

B. Testimony at a hearing is not required to be given under oath.

C. At the conclusion of a hearing, the governing body shall determine whether the tax increment development district should be formed based upon the interests, convenience or necessity of the owners, the residents of the proposed tax increment development district and the residents of the municipality or county in which the proposed tax increment development district is to be located. The governing body shall make the following findings before adopting a resolution to approve the formation of a district:

(1) the tax increment development plan reasonably protects the interests of the governing body in meeting its goals to support:

- (a) job creation;
- (b) workforce housing;
- (c) public school facility creation and improvement, including the creation and improvement of facilities for charter schools; and

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(d) underdeveloped area or historical area redevelopment;

(2) the tax increment development plan demonstrates elements of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to benefit community development;

(3) the tax increment development plan incorporates sustainable development considerations; and

(4) the tax increment development plan conforms to general or long-term planning of the governing body.

D. If the governing body determines that the district should be formed, it shall:

(1) adopt a resolution ordering that the tax increment development district be formed; [~~and shall~~]

(2) order that a formation determination among the owners of real property within the proposed district be conducted or declare that the formation determination is waived pursuant to Subsection B of Section 5-15-8 NMSA 1978; and

(3) set the matter for an election or declare that an election is [~~waived, as provided in the Tax Increment for Development Act~~] canceled pursuant to Subsection I of

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Section 5-15-8 NMSA 1978. ←HJC

HJC → SECTION 201. Section 5-15-8 NMSA 1978 (being Laws 2006, Chapter 75, Section 8) is amended to read:

"5-15-8. FORMATION DETERMINATION--ELECTION.--

A. The formation determination and election procedures set forth in this section shall be used for:

- (1) formation of a new tax increment development district;
- (2) [~~election~~] selection of a district board member;
- (3) adoption of a property tax levy by a tax increment development district;
- (4) use of property tax increment financing by a tax increment development district; or
- (5) issuing of property tax increment bonds to be repaid by funds raised by property tax increments.

B. [~~An election~~] A formation determination may be waived and a tax increment development district shall be formed upon the governing body's adoption of a resolution to form a tax increment development district if a petition is presented to a governing body in accordance with the Tax Increment for Development Act and if the petition contains the signatures of all owners of the real property within the proposed tax increment development area and states that the owners waive the

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right to ~~[an election]~~ a formation determination.

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The governing body or district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

~~[C.]~~ D. An election by the qualified electors pursuant to the Tax Increment for Development Act shall be a nonpartisan election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation once each week for two consecutive weeks before the election in the municipality or county in which the proposed district is located] conducted and canvassed pursuant to the provisions of the Election Code.

~~[D.]~~ E. In addition to the notice requirements in the Local Election Act, the notice of election shall state:

[~~(1)~~ the place of holding the election and provisions for voting by mail, if any;

[~~(2)~~ the hours during the day during which the polls will be open;

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~~(3)~~ (1) if the election is a formation election, the boundaries of the proposed tax increment development district;

~~(4)~~ (2) if the election is a bond election, the purpose for which the bonds are to be issued and the amount of the issue;

~~(5)~~ (3) if the election is a property tax levy election, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

~~(6)~~ (4) that an approved tax increment development plan is on file with the clerk of the governing body;

~~(7)~~ (5) the purposes for which property taxes will be imposed and for which the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, bond proceeds or other revenues of the tax increment development district; and

~~(8)~~ (6) that the imposition of property taxes will result in a lien for the payment on property within the district.

~~E-~~ F. The district board, or, in the case of a formation election, the governing body, shall determine the

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~~date of the election, [and the polling places for the election and may consolidate county precincts. The district board or the governing body may establish provisions for voting by mail.~~

~~F. Voter lists shall be used to determine the resident qualified electors. If a district or proposed district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at these precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

~~G. For an election held pursuant to the Tax Increment for Development Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed or existing district and stating the area of land in acres owned by the prospective elector. If the prospective elector is not an individual, the affidavit shall provide that the individual casting the vote is the designated representative of the corporation, association, partnership, limited liability company or other legal entity entitled to vote in the election. Precinct board members may administer oaths or accept affirmations for those purposes.~~

~~H. Except as otherwise provided by this section,~~

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~~the election~~] which shall comply with the ~~[general election laws of the state]~~ provisions of the Local Election Act. The ballot material provided to each ~~[voter]~~ qualified electors shall include:

(1) for a formation election, an impartial description of the tax increment development plan and a brief description of arguments for and against the formation of the tax increment development district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each ~~[resident]~~ qualified elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain, but not necessarily all, public improvements that may be needed or desirable within the tax increment development district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and ~~[resident]~~ qualified electors;

(3) for an election concerning the use of property tax increment financing, an impartial description of

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the estimated increment to be generated over the life of the project and the nature and extent of the public improvements to be constructed and maintained using such financing;

(4) for a formation election, the question to be voted upon as "district, yes" and "district, no";

(5) for a property tax imposition election, the question to be voted upon as "property tax, yes" and "property tax, no";

(6) for an election to change an existing maximum tax or eliminate an existing tax, the question to be voted upon as "tax change, yes" and "tax change, no" and shall specify the type of tax to which the proposed change pertains; and

(7) for an election concerning the use of property tax increment bonds, the ballot shall pose the question to be voted upon as "bonds, yes" and "bonds, no".

~~I. The governing body or, if after district formation, the district board, may provide for the returns of the election to be made in person or by mail.~~

~~J. Within thirty days after an election, the governing body, or if after district formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors. A majority of the votes cast at the election shall~~

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~~be required. The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.]~~

G. Failure of a majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election; provided that an election on the same question shall not be held within one year of the failure of a majority to vote in favor of that question.

~~[K.]~~ H. If a person transfers real property located in a district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner of the real property for the purposes of the Tax Increment for Development Act.

~~[L.]~~ I. If there are no persons registered to vote within a district or proposed district areas within ~~[fifty]~~ seventy days immediately preceding a scheduled election date, an election required to be held pursuant to the Tax Increment for Development Act shall be ~~[held by vote of]~~ canceled and the determination made by the owners of property within the district or proposed district areas shall prevail, unless an election is otherwise required by the constitution of New

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Mexico or the determination was waived by the governing body pursuant to Subsection B of this section. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.

~~[M. In an election held pursuant to the Tax Increment for Development Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner and shall not be entitled to an additional vote as a result of residing within the district.]"~~←HJC

HJC→SECTION 202. Section 5-15-9 NMSA 1978 (being Laws 2006, Chapter 75, Section 9, as amended) is amended to read:

"5-15-9. FORMATION OF A DISTRICT.--

A. If the formation of the tax increment development district is approved [~~by a majority of the voters casting votes at the election, or if an election is held by vote of the owners of property within the district or proposed district]~~ in accordance with the provisions of Section 5-15-8 NMSA 1978, the governing body shall deliver a copy of the resolution ordering formation of the tax increment development

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district to each of the following persons or entities:

(1) the county assessor, the county treasurer and the clerk of the county in which the district is located;

(2) the school district within which any portion of the property located within a tax increment development area lies;

(3) any other taxing entities within which any portion of the property located within a tax increment development area lies;

(4) the taxation and revenue department;

(5) the local government division of the department of finance and administration; and

(6) the director of the legislative finance committee.

B. A notice of the formation showing the number and date of the resolution and giving a description of the land included in the district shall be recorded with the clerk of the county in which the district is located.

C. A tax increment development district shall be a political subdivision of the state, separate and apart from a municipality or county."←HJC

HJC→SECTION 203. Section 5-15-10 NMSA 1978 (being Laws 2006, Chapter 75, Section 10, as amended) is amended to read:

"5-15-10. GOVERNANCE OF THE DISTRICT.--

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A. Following formation of a tax increment

development district, a district board shall administer in a reasonable manner the implementation of the tax increment development plan as approved by the governing body.

B. The district shall be governed by the governing

body that adopted a resolution to form the district or by a five-member board composed of four members appointed by that governing body; provided, however, that the fifth member of the five-member board is the secretary of finance and administration or the secretary's designee with full voting privileges.

C. Two of the appointed directors shall serve an

initial term [øf] to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term [øf] to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve [four-year] the longer terms and which shall serve [six-year] the shorter terms. If a vacancy occurs on the district board because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

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~~[D. A director may be a director of more than one district.]~~

~~E.] D. In the case of an appointed board of directors that is not the governing body, at the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of [owners and] qualified [resident] electors in accordance with the Local Election Act and the Tax Increment for Development Act. [Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.] If the election is canceled pursuant to Subsection I of Section 5-15-8 NMSA 1978, a determination by the owners conducted by ballot shall select the new directors."~~ ←HJC

HJC → SECTION 204. Section 5-15-13 NMSA 1978 (being Laws 2006, Chapter 75, Section 13) is amended to read:

"5-15-13. AUTHORITY TO IMPOSE PROPERTY TAX LEVY.--A district has the power to establish a property tax levy upon real property located within the tax increment development area, with the following limitations:

A. the maximum property tax levy a district may impose is five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, which may be used for operation, maintenance

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and capital improvements, in furtherance of the purposes of the Tax Increment for Development Act;

B. a district may impose a property tax levy only after authorization through a determination made by the owners of real property in the district and by a majority of votes cast by the [owners of real property and] qualified resident electors of a district in an election held in accordance with the Local Election Act and the Tax Increment for Development Act; and

C. a property tax levy imposed by a district shall not be effective for more than four years."←HJC

SECTION HJC→202 205←HJC. Section 5-15-14 NMSA 1978 (being Laws 2006, Chapter 75, Section 14) is amended to read:

"5-15-14. PROPERTY TAX LEVY RESCISSION ELECTION.--

A. A property tax levy imposed by a district may be rescinded within the four-year period during which a property tax levy imposed by a district is effective if:

(1) thirty-three and one-third percent of the number of persons who voted in the election for the imposition of that property tax levy sign a petition to rescind the property tax levy; and

(2) each person who signs the petition is a [resident] qualified elector of the district or an owner of real property within the tax increment development area.

B. The petition shall be filed with the district

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board for verification of the signatures, as to both number and qualifications of the persons signing. If the district board verifies that the petition contains the requisite number of signatures by persons qualified to sign the petition pursuant to Subsection A of this section, the question of rescission of the property tax levy imposed by the district shall be placed on the ballot for:

(1) a special election held in accordance with the special election procedures of the Election Code that is called and held within ninety days; provided that the date does not conflict with the provisions of Section 1-24-1 NMSA 1978;
or

(2) the next occurring regular local election or general election if that election is to be held within less than [~~ninety~~] one hundred twenty days.

C. A petition for rescission of a property tax levy imposed by a district may be submitted only once each year during the four-year period during which a property tax levy by a district is effective."

HJC → ~~SECTION 203. Section 5-15-18 NMSA 1978 (being Laws 2006, Chapter 75, Section 18) is amended to read:~~

~~"5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--~~

~~A. Subject to the limitations and in accordance with Article 9 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and~~

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~~dispose of property tax increment bonds for the purpose of securing funds for undertaking tax increment development projects within the purposes of the Tax Increment for Development Act.~~

~~B. Before property tax increment bonds are issued, the district board shall submit to a vote of the [registered] qualified electors within the tax increment development area [and the nonresident electors owning property within the tax increment development area] the question of issuing the property tax increment bonds.~~

~~C. The district board shall give notice of [the time and place of holding the election and the purpose for which the property tax increment bonds are to be issued. Notice of] a property tax increment bond election [shall be given] as required by the Local Election Act and the Tax Increment for Development Act.~~

~~D. The ballot question shall state the purpose for which the property tax increment bonds are to be issued and the amount of the issue. If property tax increment bonds are to be issued for more than one purpose, a separate ballot question shall be submitted to the voters for each purpose to be voted upon. The [ballots] ballot question shall contain words indicating the purpose of the bond issued and a place for a vote in favor of or in opposition to each property tax~~

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~~increment bond issue. [The ballots shall be deposited in a separate ballot box, unless voting machines are used.]~~

~~E. Except as otherwise provided in the Tax Increment for Development Act, property tax increment bonds:~~

~~(1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the governing body;~~

~~(2) may be subject to a prior redemption at the district's option at a time or upon terms and conditions with or without payment of premium or premiums, as determined by the district board;~~

~~(3) may mature at any time not exceeding twenty-five years after the date of issuance;~~

~~(4) may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in another form, as determined by the district board;~~

~~(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and~~

~~(6) may be sold at public or negotiated sale.~~

~~F. Except as otherwise provided by law, the district board shall determine the denominations, places of~~

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~~payment, terms and conditions and the form of property tax increment bonds.~~

~~G. The secretary and treasurer of the district board shall sign property tax increment bonds.~~

~~H. The property tax increment bonds may be executed in the manner provided by the Uniform Facsimile Signature of Public Officials Act."~~

~~SECTION 204. Section 5-15-25 NMSA 1978 (being Laws 2006, Chapter 75, Section 25) is amended to read:~~

~~"5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--~~

~~A. After an election to form a district, an area may be eliminated from the tax increment development area only following a hearing conducted upon notice given to the owners of land in the tax increment development area in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board and voter approval by the [owners and resident] qualified electors as provided in the Local Election Act and the Tax Increment for Development Act. Real property within the tax increment development area that is subject to the lien of property taxes, special levies or other charges imposed pursuant to the Tax Increment for Development Act shall not be eliminated from the district while there are bonds outstanding that are payable by those taxes,~~

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~~special levies or charges.~~

~~B. At any time after adoption of a resolution creating a district, an area may be added to the district upon the [approval] determination of the owners of real property in the proposed additional area and the [resident] approval of the qualified electors residing therein, as well as a determination of the owners of real property in the district and [resident] approval of the qualified electors, in the same manner as required for the formation of a district.~~

~~C. The district board, following a hearing conducted upon notice given to the owners of real property located in the district in the manner prescribed for the formation hearing, may, subject to the approval of the governing body that approved the district's tax increment development plan, amend the tax increment development plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. An election shall not be required solely for the purposes of this subsection."~~←HJC

HJC→SECTION 206. Section 5-15-18 NMSA 1978 (being Laws 2006, Chapter 75, Section 18) is amended to read:

"5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

A. Subject to the limitations and in accordance

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with Article 9 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and dispose of property tax increment bonds for the purpose of securing funds for undertaking tax increment development projects within the purposes of the Tax Increment for Development Act.

B. Before property tax increment bonds are issued, the district board shall submit the question of authorizing the issuance of property tax increment bonds to the owners for a determination and to a vote of the ~~[registered]~~ qualified electors within the tax increment development area ~~[and the nonresident electors owning property within the tax increment development area the question of issuing the property tax increment bonds]~~.

C. The district board shall give notice of ~~[the time and place of holding the election and the purpose for which the property tax increment bonds are to be issued. Notice of]~~ a property tax increment bond election ~~[shall be given]~~ as required by the Local Election Act and the Tax Increment for Development Act.

D. The ballot question shall state the purpose for which the property tax increment bonds are to be issued and the amount of the issue. If property tax increment bonds are to be issued for more than one purpose, a separate ballot question

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shall be submitted to the voters for each purpose to be voted upon. The ~~[ballots]~~ ballot question shall contain words indicating the purpose of the bond issued and a place for a vote in favor of or in opposition to each property tax increment bond issue. ~~[The ballots shall be deposited in a separate ballot box, unless voting machines are used.]~~

E. Except as otherwise provided in the Tax Increment for Development Act, property tax increment bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the governing body;

(2) may be subject to a prior redemption at the district's option at a time or upon terms and conditions with or without payment of premium or premiums, as determined by the district board;

(3) may mature at any time not exceeding twenty-five years after the date of issuance;

(4) may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in another form, as determined by the district board;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest

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Rate Act; and

(6) may be sold at public or negotiated sale.

F. Except as otherwise provided by law, the district board shall determine the denominations, places of payment, terms and conditions and the form of property tax increment bonds.

G. The secretary and treasurer of the district board shall sign property tax increment bonds.

H. The property tax increment bonds may be executed in the manner provided by the Uniform Facsimile Signature of Public Officials Act."

HJC→SECTION 207. Section 5-15-25 NMSA 1978 (being Laws 2006, Chapter 75, Section 25) is amended to read:

"5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

A. ~~[After an election to form]~~ Following formation of a district, an area may be eliminated from the tax increment development area only following a hearing conducted upon notice given to the owners of land in the tax increment development area in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners of real property within the district to eliminate the area and voter approval by the ~~[owners and resident]~~ qualified electors as provided in the

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Local Election Act and the Tax Increment for Development Act.
Real property within the tax increment development area that is subject to the lien of property taxes, special levies or other charges imposed pursuant to the Tax Increment for Development Act shall not be eliminated from the district while there are bonds outstanding that are payable by those taxes, special levies or charges.

B. ~~[At any time after adoption of a resolution creating]~~ Following formation of a district, an area may be added to the district upon [the approval of] a determination by the owners of real property in the proposed additional area and the [resident] approval of the qualified electors residing therein, as well as a determination by the owners of real property in the district and [resident] approval of the qualified electors, [in the same manner as required for the formation of a district] as provided in the Local Election Act and the Tax Increment for Development Act.

C. The district board, following a hearing conducted upon notice given to the owners of real property located in the district in the manner prescribed for the formation hearing, may, subject to the approval of the governing body that approved the district's tax increment development plan, amend the tax increment development plan in any manner that it determines will not substantially reduce the

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benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. ~~[An]~~ A determination by the owners and an election shall not be required solely for the purposes of this subsection."←HJC

SECTION HJC→205 208←HJC. Section 6-21-5.1 NMSA 1978 (being Laws 1998, Chapter 65, Section 1) is amended to read:

"6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS.--The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act only after a majority of the ~~[registered]~~ qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility."←HJC

SECTION HJC→206 209←HJC. A new Section of Chapter 7, Article 38 NMSA 1978 is enacted to read:

"[NEW MATERIAL] PROCEDURES TO DELAY THE MAILING OF PROPERTY TAX BILLS FOR COUNTIES FOR WHICH A PROPERTY TAX LEVY IS IMPOSED AT THE NOVEMBER 2019 or 2021 REGULAR LOCAL ELECTION TO PUT THE QUESTION OF IMPOSING OR RENEWING A LEVY BEFORE THE VOTERS.--

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A. In 2019 and 2021:

(1) if a local government desires to impose or renew a property tax levy, the local government shall file a resolution with the county clerk and the local government division of the department of finance and administration no later than July 15 calling for the imposition or renewal of a property tax levy and indicate the local government's intent to place the question of imposing or renewing the property tax levy on the regular local election ballot in November;

(2) no later than September 1, and following the procedures provided in Section 7-38-33 NMSA 1978, the local government division of the department of finance and administration shall by written order set two property tax rates for the properties under the jurisdiction of the local governments that submitted a resolution pursuant to Paragraph (1) of this subsection. One set of rates shall assume that the question of the property tax levy will be approved by the voters, and a second set of rates shall assume that the question of the property tax levy will not be approved by the voters. A copy of the property tax rate-setting order with both rates shall be sent to each board of county commissioners and each county assessor of each affected county and the taxation and revenue department within five days of the date the order is made;

(3) within five days of receiving the

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rate-setting order, the board of county commissioners of each affected county shall issue a written order imposing a tax at the rates set on the net taxable value of property allocated to the appropriate governmental units pursuant to Section 7-38-34 NMSA 1978 for both of the property tax rates set pursuant to Paragraph (2) of this subsection. The order shall provide notice of both rates. A copy of each order shall be delivered immediately to the county assessor;

(4) no later than October 1, and following the procedures provided in Section 7-38-35 NMSA 1978, the county assessor for each affected county shall prepare a property tax schedule for all property subject to property taxation in the county for both of the property tax rates set pursuant to Paragraph (2) of this subsection;

(5) pursuant to Section 7-38-36 NMSA 1978, the county assessor shall deliver a copy of the property tax schedule prepared pursuant to Paragraph (4) of this subsection to the county treasurer on October 1, with a notice that the property tax bill for those properties shall be mailed pursuant to Paragraph (6) of this subsection;

(6) after the regular local election is held in November and the voters have answered the question of the property tax levy, the county treasurer for each affected county shall prepare and mail property tax bills no later than November 24, notwithstanding Section 7-38-36 NMSA 1978,

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reflecting the appropriate rate and amount due, to either the owner of the property or any person other than the owner to whom the tax bill is to be sent; and

(7) notwithstanding Section 7-38-38 NMSA 1978, the first installment of property taxes is due on December 6, and shall become delinquent if not paid within thirty days pursuant to Section 7-38-49 NMSA 1978.

B. As used in this section:

(1) "affected county" means a county within which a local government is situate that files a resolution indicating the local government's intent to place the question of imposing or renewing a property tax levy on the regular local election ballot in November 2019 or 2021 pursuant to Subsection A of this section; and

(2) "local government" means "local government" as that term is defined in the Local Election Act."

SECTION HJC→207 210←HJC. Section 8-8-3.1 NMSA 1978 (being Laws 2013, Chapter 64, Section 1) is amended to read:

"8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

A. In addition to other requirements imposed by law, in order to be elected or appointed as a commissioner, a person must be qualified for office by:

(1) having at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes

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accounting, public or business administration, economics, finance, statistics, engineering or law; or

(2) having a total of ten years of combined professional experience as described in Paragraph (1) of this subsection and higher education resulting in at least a professional license or a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body in an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, engineering or law [~~or~~

~~(3) holding the office of commissioner on January 1, 2013].~~

B. As used in this section, "professional experience" means employment in which the candidate or prospective appointee for commissioner regularly made decisions requiring discretion and independent judgment and:

(1) engaged in policy analysis, research or implementation in an area regulated by the commission or in the energy sector;

(2) managed, as the head, deputy head or division director, a federal, state, tribal or local government department or division responsible for utilities, transportation or construction; or

(3) managed a business or organization

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regulated by the commission or in the energy sector that had five or more employees during the time it was managed by the candidate or prospective appointee.

C. A candidate for election to the office of commissioner shall certify by notarized affidavit that the candidate meets the requirements of Subsection A of this section to be filed with the declaration of candidacy. The affidavit shall be on a form provided by the secretary of state that shall permit a candidate to list with particularity the candidate's specific professional experience or higher education that meets the requirements of Subsection A of this section.

D. A voter may challenge the candidacy for election to the office of commissioner of any person seeking nomination for the reason that the person seeking nomination does not meet the requirements of Subsection A of this section or that the affidavit of the person seeking nomination does not contain sufficient information to determine if the person meets the requirements of Subsection A of this section. The challenge shall be made by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy or a statement of candidacy for convention designation, which petition shall be heard in the same manner as provided in Subsection [F] E of Section 1-8-26 NMSA 1978."

SECTION HJC→208 211←HJC. Section 10-3-1 NMSA 1978 (being .211327.3

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Laws 1909, Chapter 36, Section 3, as amended) is amended to read:

"10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL OFFICE.-- Any office [~~belonging to the class mentioned in Section 10-4-1 NMSA 1978~~] of a political subdivision of the state subject to election by the qualified electors within the political subdivision becomes vacant under any of the following circumstances:

- A. by resignation or death of the party in office;
- B. removal of the officer as provided by Sections 10-4-1 through 10-4-29 NMSA 1978;
- C. failure of the officer to qualify as provided by law;
- D. expiration of the term of office when no successor has been chosen as provided by law;
- E. when the officer removes from the area from which the officer was elected to represent and, in case of an officer serving pursuant to an appointment, when the officer removes from the area the officer was appointed to represent;
- F. absence from the political subdivision in which the officer serves for six consecutive months; but this provision does not apply to those officers wherein the law provides that the duties may be discharged by a deputy, when such absence is due to illness or other unavoidable cause;
- G. by [~~resignation of the~~] an officer accepting and

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undertaking an employment relationship with the political subdivision in which the officer serves in a position subject to election; or

H. by an officer [~~accepting and~~] taking the oath of office or undertaking to discharge the duties of another incompatible office."

SECTION HJC→209 212←HJC. Section 10-3-3 NMSA 1978 (being Laws 1907, Chapter 6, Section 2, as amended) is amended to read:

"10-3-3. VACANCY IN COUNTY OFFICE--APPOINTMENT.--[~~Sec. 158.~~] Whenever any vacancy in any county [~~or precinct~~] office in any of the counties of this state, other than a vacancy in the office of county commissioner, [~~shall occur~~] occurs by reason of death, resignation or otherwise, it [~~shall be~~] is the duty of the board of county commissioners of the county where such vacancy has occurred to fill [~~said~~] the vacancy by appointment, and [~~said~~] the appointee shall be entitled to hold [~~said~~] the office until [~~his successor shall be duly elected and qualified according to law~~] the end of the unexpired term of office."

SECTION HJC→210 213←HJC. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] ELECTED OFFICIAL--AWARD OF SERVICE CREDIT FOR SHORTENED TERM OF OFFICE--LOCAL ELECTION ACT.--A member shall be credited an award of service to the member's service

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credit account:

A. if, but for the shortening under the Local Election Act of a term in elected office served by the member, the member would meet the service requirement for normal retirement; and

B. in the minimum amount of service credit needed for the member to meet the requirement for normal retirement, but no more than three months."

SECTION HJC→211 214←HJC. Section 10-16A-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 41, as amended) is amended to read:

"10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON BALLOT OR APPOINTMENT.--

A. [~~At the time of filing a declaration of candidacy or nominating petition~~] A person holding a legislative or statewide office shall file with the secretary of state a financial disclosure statement during the month of January every year that the person holds public office.

B. A candidate for legislative or statewide office who has not already filed a financial disclosure statement with the secretary of state in the same calendar year shall file with the proper filing officer, as defined in [Section 1-8-25 NMSA 1978] the Election Code, a financial disclosure statement [on a prescribed form. In addition, each year thereafter

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~~during the month of January, a legislator and a person holding a statewide office shall file with the proper filing officer a financial disclosure statement]~~ at the time of filing a declaration of candidacy. If the proper filing officer is not the secretary of state, the proper filing officer shall forward a copy of the financial disclosure statement to the secretary of state within ~~[seventy-two hours]~~ three days.

[B-] C. A state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee shall file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the person holds public office.

[G-] D. The financial disclosure statement shall include for any person identified in Subsection A, ~~[or]~~ B or C of this section and the person's spouse the following information for the prior calendar year:

(1) the full name, mailing address and residence address of each person covered in the disclosure statement, except the address of the spouse need not be disclosed; the name and address of the person's and spouse's employer and the title or position held; and a brief description of the nature of the business or occupation;

(2) all sources of gross income of more than

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five thousand dollars (\$5,000) to each person covered in the disclosure statement, identified by general category descriptions that disclose the nature of the income source, in the following broad categories: law practice or consulting operation or similar business, finance and banking, farming and ranching, medicine and health care, insurance (as a business and not as payment on an insurance claim), oil and gas, transportation, utilities, general stock market holdings, bonds, government, education, manufacturing, real estate, consumer goods sales with a general description of the consumer goods and the category "other", with direction that the income source be similarly described. In describing a law practice, consulting operation or similar business of the person or spouse, the major areas of specialization or income sources shall be described, and if the spouse or a person in the reporting person's or spouse's law firm, consulting operation or similar business is or was during the reporting calendar year or the prior calendar year a registered lobbyist under the Lobbyist Regulation Act, the names and addresses of all clients represented for lobbying purposes during those two years shall be disclosed;

(3) a general description of the type of real estate owned in New Mexico, other than a personal residence, and the county where it is located;

(4) all other New Mexico business interests

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not otherwise listed of ten thousand dollars (\$10,000) or more in a New Mexico business or entity, including any position held and a general statement of purpose of the business or entity;

(5) all memberships held by the reporting individual and the individual's spouse on boards of for-profit businesses in New Mexico;

(6) all New Mexico professional licenses held;

(7) each state agency that was sold goods or services in excess of five thousand dollars (\$5,000) during the prior calendar year by a person covered in the disclosure statement; and

(8) each state agency, other than a court, before which a person covered in the disclosure statement represented or assisted clients in the course of the person's employment during the prior calendar year. [~~and~~

~~(9) a general category that allows the person filing the disclosure statement to provide whatever other financial interest or additional information the person believes should be noted to describe potential areas of interest that should be disclosed.~~

D.] E. A complete financial disclosure statement shall be filed every year. The secretary of state shall [~~mail~~] deliver to each elected official required to file a financial disclosure statement a copy of any statement the person filed the previous year.

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[E-] F. The financial disclosure statements filed pursuant to this section are public records open to public inspection during regular office hours and shall be retained by the state for five years from the date of filing.

[F-] G. A person who files a financial disclosure statement may file an amended statement at any time to reflect significant changed circumstances that occurred since the last statement was filed.

[G-] H. A person who files to be a candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement required by this section before the final date for ~~[the withdrawal of candidates]~~ qualification of the person as a candidate as provided for in the Election Code shall not ~~[have the candidate's name printed on the election ballot]~~ be qualified by the proper filing officer as a candidate.

[H-] I. For a state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee, the filing of the financial disclosure statement required by this section is a condition of entering upon and continuing in state employment or holding an appointed position."

SECTION HJC→212 215←HJC. Section 21-2A-10 NMSA 1978 (being Laws 1995, Chapter 224, Section 16) is amended to read:
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"21-2A-10. PROCEDURE FOR ELECTION.--

A. In all elections held under the College District Tax Act, the board shall issue a resolution calling for an election. The resolution shall be filed with each county clerk in the college district. ~~[The board shall publish the resolution in a newspaper of general circulation in the college district at least once a week for three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election.]~~

B. All elections held under the College District Tax Act shall be conducted and canvassed ~~[in the same manner as municipal school elections, unless otherwise specifically provided in the College District Tax Act]~~ pursuant to the provisions of the Local Election Act.

C. Any person or corporation may institute, in the district court of any county in which the college district affected lies, an action or suit to contest the validity of any proceedings held under the College District Tax Act, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper official of a certificate or notification of the results of the election."

SECTION HJC→213 216←HJC. Section 21-13-21 NMSA 1978 (being Laws 1963, Chapter 17, Section 16, as amended) is amended to read:

"21-13-21. ADDITION OF SCHOOL DISTRICTS TO EXISTING .211327.3

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COMMUNITY COLLEGE DISTRICTS.--

A. The [~~qualified electors within the territorial limits~~] school board of a school district, group of school districts within a county or school districts in an adjoining county, not included in the community college district as originally formed, may by resolution petition the [~~commission on~~] higher education department to be added to the community college district. [~~The commission shall examine the petition and, if it finds that the petition is signed by the requisite number of qualified electors as provided in Sections 21-13-4 and 21-13-5 NMSA 1978, the commission shall cause a survey to be made of the petitioning district to determine the desirability of the proposed extension of the area of the community college district.~~] The resolution may be initiated by the school board or upon presentation to the school board of a petition signed by ten percent of the qualified electors of the district.

B. In [~~conducting the survey, the commission on~~] reviewing the resolution, the higher education department shall ascertain the attitude of the community college board and [~~collect other information as prescribed in Section 21-13-5 NMSA 1978~~] ensure that the petitioning district is not already within another institution's service area. If [~~on the basis of the survey the commission~~] the department finds that the proposed addition of the petitioning district [~~will promote an~~

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~~improved education service in the area~~ is not within another institution's service area and the proposed addition is acceptable to the community college district, it shall approve the ~~[petition]~~ resolution. Thereafter, ~~[the commission shall proceed to call an election within]~~ the petitioning district and ~~[in]~~ the established community college district shall call an election pursuant to the provisions of the Local Election Act on the question of the inclusion of the area in the community college district. ~~[In the election, the procedure prescribed in Sections 21-13-6, 21-13-7 and 21-13-18 NMSA 1978 shall be followed.]~~

C. If it appears on canvass of the results of the election ~~[in the office of the executive director of the commission on higher education that]~~ a majority of the votes cast in each of the petitioning areas and within the established community college district was in favor of the addition of the petitioning area, the ~~[executive director shall notify the boards of education within each school district and the community college board of the results of the election and]~~ secretary of higher education shall declare the extension of the boundaries of the community college district to include the petitioning area in which the proposed addition referendum carried by a majority vote. The addition shall take effect on the next succeeding July 1.

D. The territory within each school district added

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to any existing community college district shall automatically be subject to any special levy on taxable property approved for the community college district for the maintenance of facilities and services and for support of bond issues."

SECTION HJC→214 217←HJC. Section 21-14-2 NMSA 1978 (being Laws 1963, Chapter 162, Section 2, as amended) is amended to read:

"21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT INSTITUTION--ELECTIONS.--

A. As used in Chapter 21, Article 14 NMSA 1978, "board" means either the local school board or the combined local school boards acting as a single board of the school district or the board of the branch community college elected pursuant to Section 21-14-2.1 NMSA 1978.

B. The duties of the board are to:

(1) enter into written agreements with the board of regents of the parent institution, subject thereafter to biennial review by all parties concerned and to the review and commentary of the [~~commission on~~] higher education department;

(2) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the branch community college;

(3) approve an annual budget for the branch community college for recommendation to the board of regents of

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the parent institution;

(4) certify to the board of county commissioners the tax levy; and

(5) ~~conduct~~ issue the proclamation for the election for tax levies for the branch community college if the tax levies are to be presented to the voters of the district at a special election, or approve the ballot question if the tax levies are to be presented to the voters of the district at either the general or regular local election.

C. The board and the board of regents of the parent institution of the branch community college shall jointly conduct a search for qualified candidates for director. The board of regents of the parent institution, after consultation with the board, shall then select a director for the branch community college.

D. The board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the higher education institution to have full authority and responsibility in relation to all academic matters;

(2) the higher education institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program offered;

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(4) the cooperative use of physical facilities and teaching staff;

(5) consideration of applications of local qualified people before employing teachers of the local school system; and

(6) the detailed agreement of financing and financial control of the branch community college.

E. The agreement shall be binding upon both the board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice. However, if the branch community college has outstanding general obligation or revenue bonds, neither the board nor the board of regents may terminate the agreement until the outstanding bonds are retired, except as provided by Section 21-13-24.1 NMSA 1978. This provision shall apply to all agreements in existence between the branch community college and the board of regents of the parent institution.

F. All taxes levied to pay for principal and interest on bonds of the branch community college shall be in addition to the taxes levied for operating, maintaining and providing facilities for the branch community college pursuant to the College District Tax Act.

G. For the purpose of relating branch community colleges to existing laws, branch community college districts

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or branch community colleges shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the public education department; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned.

H. All elections held pursuant to the branch community college laws shall be ~~[as follows:~~

~~(1) the board calling the election shall give notice of the election in a newspaper of general circulation in the branch community college district at least once a week for three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election;~~

~~(2) the election shall be] conducted and canvassed [in the same manner as municipal school district elections unless otherwise provided in the branch community college laws; and] pursuant to the provisions of the Local Election Act.~~

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I. The territory of a branch of community college may be extended to include additional school districts in the same manner as provided for community colleges in Section 21-13-21 NMSA 1978.

[←3] J. Any person or corporation may institute in the district court of any county in which the branch community college district affected lies an action or suit to contest the validity of any proceedings held under the branch community college laws, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns. [~~by the board.~~

[←] K. The tax rolls of the school districts comprising the branch community college district shall be adopted as the tax rolls of the branch community college district."

SECTION HJC→215 218←HJC. Section 21-14-2.1 NMSA 1978 (being Laws 1985, Chapter 238, Section 29) is amended to read:

"21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD--LOCAL OPTION.--

A. A majority of the local board of education or the combined boards of education acting as a single board may cease to operate as the branch community college board and provide for an elected branch community college board. In that

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event, the majority of the local board of education or the combined boards of education acting as a single board shall elect five persons as members of the branch community college board. [~~The persons elected shall be assigned position numbers one through five.~~] Board members shall be [~~over twenty-one years of age~~] qualified electors and residents of the branch community college district. The members of the board shall continue to serve until the next regular [~~branch community college~~] local election [~~to be held on the first Tuesday of February of each odd-numbered year~~], at which time five board members shall be elected by the [~~registered voters~~] qualified electors of the branch community college district. The candidates shall file for and be elected to a particular position number. [~~The candidate receiving the highest number of votes for a particular position shall be elected.~~] At the first board meeting after the election, the five members shall draw lots for the following terms: two for terms of two years and three for terms of four years. Thereafter, board members shall be elected for terms of four years [~~from March 1 succeeding their election~~]. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members.

B. Immediately after the election of the five members by the assembled board of education members, the board shall select from its members a [~~chairman~~] chair and secretary

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who shall serve in these offices until the next regular [~~branch community college board~~] local election. In January after each [~~branch community college board~~] regular local election, the members shall proceed to reorganize.

C. The duties of the board shall continue as set out in Chapter 21, Article 14 NMSA 1978."

SECTION HJC→216 219←HJC. Section 21-14A-3 NMSA 1978 (being Laws 1982, Chapter 42, Section 3, as amended) is amended to read:

"21-14A-3. ESTABLISHMENT AUTHORIZED--BOARD--
DETERMINATION OF NEED--AGREEMENTS.--

A. An off-campus instruction program may be established in a school district upon the showing of need by the local board of education. An off-campus instruction program may be established to include more than one school district, in which instance the two or more local boards of education shall act as a single board and, if the off-campus instruction program is established, shall continue to act as a single board.

B. As used in the Off-Campus Instruction Act, "off-campus board" means the local board of education, or the combined local boards of education acting as a single board, of the school district.

C. The duties of the off-campus board are to:

(1) initiate and conduct the survey provided

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for in Subsection D of this section;

(2) select one or more parent institutions, which shall be one of the state educational institutions as specified in Article 12, Section 11 of the constitution of New Mexico or one of the state educational institutions established pursuant to Chapter 21 NMSA 1978;

(3) request approval of the off-campus instruction program by the [~~commission on~~] higher education department;

(4) enter into written agreements with the board of regents of the selected parent institution, which agreements shall be subject to biennial review of all parties concerned and to the review and commentary of the [~~commission on~~] higher education department;

(5) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the off-campus instruction program;

(6) approve an annual budget for the off-campus instruction program for recommendation to the board of regents of the parent institution;

(7) certify to the board of county commissioners the tax levy; and

(8) [~~conduct~~] issue the proclamation for the election for tax levies for the off-campus instruction program if the tax levies are to be presented to the voters of the

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district at a special election; or approve the ballot question if the tax levies are to be presented to the voters of the district at either the general or regular local election.

D. Upon evidence of a demand for an off-campus instruction program, the off-campus board shall cause a survey to be made. The [~~commission on~~] higher education department shall develop criteria for the establishment of an off-campus instruction program, and no such program shall be established without the written authorization of the [~~commission~~] department.

E. If need is established, the off-campus board, in accordance with the [~~commission on~~] higher education department criteria for initiating an off-campus instruction program, shall consult with the board of regents of the state educational institution selected to be a parent institution, and, if the off-campus board and the board of regents agree to conduct an off-campus instruction program in the area, they shall transmit a proposal to establish an off-campus instruction program to the [~~commission~~] department. The [~~commission~~] department shall evaluate the need and shall notify the off-campus board and the board of regents of approval or disapproval of the proposal.

F. If the proposal is approved, the off-campus board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions

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for:

(1) the state educational institution to have full authority and responsibility in relation to all academic matters;

(2) the state educational institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program approved by the [~~board of educational finance~~] higher education department and offered to the students;

(4) the cooperative use of physical facilities and teaching staff; and

(5) the detailed agreement of financing and financial control of the off-campus instruction program.

G. The agreement shall be binding upon both the off-campus board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice.

H. For the purpose of relating off-campus instruction programs to existing laws, off-campus instruction program districts or off-campus instruction programs shall not:

(1) [~~shall not~~] be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

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(2) [~~shall not~~] benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) [~~shall not~~] be subject, except as it relates to technical and vocational education, to the control, management and direction of the [~~state board of~~] public education department under Article 12, Section 6 of the constitution of New Mexico;

(4) [~~shall not~~] be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned; and

(5) [~~shall not~~] include the major attendance center of northern New Mexico [~~community~~] college at Espanola.

I. All elections held pursuant to the Off-Campus Instruction Act shall be [~~as follows~~]:

~~(1) the off-campus board calling the election shall give notice of the election in a newspaper of general circulation in the off-campus instruction program district at least once a week for three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election;~~

~~(2) the election shall be] called, conducted and canvassed [in the same manner as municipal school district elections unless otherwise provided in the Off-Campus Instruction Act; and] pursuant to the Local Election Act.~~

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[~~3~~] J. Any person or corporation may institute in the district court of any county in which the off-campus instruction program district affected lies an action or suit to contest the validity of any proceedings held under the Off-Campus Instruction Act, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns [~~by the board~~].

[~~J~~] K. The tax rolls of the school districts comprising the off-campus instruction program district shall be adopted as the tax rolls of the off-campus instruction program district."

SECTION HJC→217 220←HJC. Section 22-18-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 229, as amended) is amended to read:

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

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

B. The election on the question of creating a debt

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

SECTION HJC→~~218~~ **221**←HJC. Section 22-18-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 231, as amended) is amended to read:

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

A. A person is required to be a [~~registered~~] qualified elector to vote in a bond election in a school district.

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

SECTION HJC→219 222←HJC. Section 22-25-3 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

"22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

A. A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code at a rate not to exceed that specified in the resolution for the purpose of capital improvements in the school district. The resolution shall:

- (1) identify the capital improvements for which the revenue proposed to be produced will be used;
- (2) specify the rate of the proposed tax, which shall not exceed two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;
- ~~[(3) specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the district; and~~
- ~~(4)]~~ (3) limit the imposition of the proposed tax to no more than six property tax years; and

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(4) indicate the regular election on which the ballot question shall appear or specify the date a special election will be held to submit the question of imposition of the tax to the qualified electors of the district.

B. [~~On or after July 1, 2009~~] A resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if the charter school timely provides the necessary information to the school district for inclusion in the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used."

SECTION HJC→220 223←HJC. Section 22-25-4 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 4) is amended to read:

"22-25-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The resolution authorized under Section [~~3 of the Public School Capital Improvements Act~~] 22-25-3 NMSA 1978 shall be adopted [~~no later than May 15 in the year in which the tax is proposed to be imposed~~] within the time frames required by the Election Code and pursuant to the requirements of the property tax division of the taxation and revenue department."

SECTION HJC→221 224←HJC. Section 22-25-5 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 5, as amended) is .211327.3

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amended to read:

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

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

B. The proclamation ~~[required to be published as notice of the election under Section 1-22-11 NMSA 1978]~~ authorizing the ballot question or calling for a special election shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for the capital improvements specified in the authorizing resolution.

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

SECTION HJC→~~222~~ 225←HJC. Section 22-25-6 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 6, as amended) is amended to read:

"22-25-6. ELECTION RESULTS--CANVASS--CERTIFICATION.--The canvass and certification of the results of an election held on

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the question of imposition of a public school capital improvements tax shall be [~~made in accordance with Section 77-5-16 NMSA 1953~~] as prescribed in the Local Election Act and in addition to the reporting of results as required by the Election Code, and a copy of the certificate of results shall be [~~mailed~~] delivered immediately to the director."

SECTION HJC→223 226←HJC. Section 22-25-7 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

"22-25-7. IMPOSITION OF TAX--LIMITATION ON EXPENDITURES.--

A. If as a result of an election held in accordance with the Public School Capital Improvements Act a majority of the qualified electors voting on the question votes in favor of the imposition of the tax, the tax rate shall be certified, unless the local school board requests by resolution that a rate be discontinued, by the department of finance and administration at the rate specified in the resolution authorized under Section 22-25-3 NMSA 1978 or at any lower rate required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon the rate specified in the resolution and be imposed at the rate certified in accordance with the provisions of the Property Tax Code.

B. The revenue produced by the tax and, except as provided in Subsection F, G or H of Section 22-25-9 NMSA 1978,

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any state distribution resulting to the district under the Public School Capital Improvements Act shall be expended only for the capital improvements specified in the authorizing resolution.

C. [~~For resolutions approved by the electors on or after July 1, 2009~~] The amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the [~~fortieth day~~] first reporting date of the prior school year is to the total such enrollment in the school district; provided that no distribution shall be made to an approved charter school that had not commenced classroom instruction in the prior school year [~~and, provided further, that, in determining a school district's total enrollment, students attending a state-chartered charter school within that school district shall be included~~]. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

SECTION HJC→~~224~~ 227←HJC. Section 22-25-8 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 8, as amended) is .211327.3

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amended to read:

"22-25-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--A tax imposed in a school district as a result of an election under the Public School Capital Improvements Act shall be imposed for a specified number of property tax years not exceeding six years [~~commencing with the property tax year in which the election was held~~]. The local school board may discontinue, by resolution, the Public School Capital Improvements Act tax levy at the end of any property tax year. The local school board shall direct that the Public School Capital Improvements Act tax levy be decreased by the amount required for any year in which the decrease is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978."

SECTION HJC→225 228←HJC.. Section 22-26-3 NMSA 1978 (being Laws 1983, Chapter 163, Section 3, as amended) is amended to read:

"22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

A. A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax at a rate not to exceed the rate specified in the resolution should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code for the purpose of capital

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improvements to public schools in the school district. The resolution shall:

- (1) identify the capital improvements for which the revenue proposed to be produced will be used;
- (2) specify the rate of the proposed tax, which shall not exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;
- ~~[(3) specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the district; and~~
- ~~(4)]~~ (3) limit the imposition of the proposed tax to no more than six property tax years; and
- (4) indicate the regular election on which the ballot question shall appear or specify the date a special election will be held to submit the question of imposition of the tax to the qualified electors of the district.

B. ~~[After July 1, 2007]~~ A resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if:

- (1) the charter school timely provides the necessary information to the school district for inclusion on the resolution that identifies the capital improvements of the

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charter school for which the revenue proposed to be produced will be used; and

(2) the capital improvements are included in the five-year facilities plan:

(a) of the school district, if the charter school is a locally chartered charter school; or

(b) of the charter school, if the charter school is a state-chartered charter school."

SECTION HJC→226 229←HJC. Section 22-26-4 NMSA 1978 (being Laws 1983, Chapter 163, Section 4) is amended to read:

"22-26-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The resolution authorized under Section [~~3 of the Public School Buildings Act~~] 22-26-3 NMSA 1978 shall be adopted [~~no later than May 15 in the year in which the tax is proposed to be imposed~~] within the time frames required by the Election Code and pursuant to the requirements of the property tax division of the taxation and revenue department."

SECTION HJC→227 230←HJC. Section 22-26-5 NMSA 1978 (being Laws 1983, Chapter 163, Section 5, as amended) is amended to read:

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

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

B. The resolution [~~required to be published as~~

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~~notice of the election under Section 1-22-11 NMSA 1978]~~
authorizing the ballot question or calling for a special election shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for capital improvements.

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

SECTION HJC→228 231←HJC. Section 22-26-6 NMSA 1978 (being Laws 1983, Chapter 163, Section 6, as amended) is amended to read:

"22-26-6. ELECTION RESULTS--CERTIFICATION.--The certification of the results of an election held on the question of imposition of a public school buildings tax shall be ~~[made in accordance with the School Election Law]~~ as prescribed in the Local Election Act, and in addition to the reporting of results required by the Election Code, a copy of the certificate of results shall be [mailed] delivered immediately to the [state superintendent] secretary."

SECTION HJC→229 232←HJC. Section 22-26-8 NMSA 1978 (being Laws 1983, Chapter 163, Section 8, as amended) is

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amended to read:

"22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--A tax imposed in a school district as a result of an election under the Public School Buildings Act shall be imposed for one, two, three, four, five or six years [~~commencing with the property tax year in which the election was held~~]. The local school board may direct that such levy be decreased or not made for any year if, in its judgment, the total levy is not necessary for such year and shall direct that the levy be decreased by the amount required if a decrease is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978."

SECTION HJC→230 233←HJC. Section 22-26-9 NMSA 1978 (being Laws 2007, Chapter 366, Section 23, as amended) is amended to read:

"22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX REVENUE.--If [~~in an election held after July 1, 2007~~] the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section 22-26-3 NMSA 1978, the amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is to the total such enrollment in the district; provided that, in the

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case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the first reporting date. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

SECTION HJC→231 234←HJC. Section 36-1-8.3 NMSA 1978 (being Laws 1981, Chapter 25, Section 2, as amended) is amended to read:

"36-1-8.3. DISTRICT ATTORNEYS--ELECTION--RESIDENCE.--
The district attorney in division 1 shall be elected by the [registered] qualified electors of San Juan county and the district attorney in division 2 shall be elected by the [registered] qualified electors in McKinley county. Each district attorney shall have all the duties and powers vested in a district attorney."

SECTION HJC→232 235←HJC. Section 60-5A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 15, as amended) is amended to read:

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

A. ~~[at any time after the effective date of the Liquor Control Act]~~ the ~~[registered]~~ qualified electors of a proposed local option district may petition the governing body by filing ~~[one or more petitions]~~ a petition in the appropriate office to hold an election for the purpose of determining whether the county or municipality shall adopt the local option provisions of the Liquor Control Act. If the ~~[aggregate]~~ number of the signatures of ~~[such]~~ the electors on ~~[all]~~ the ~~[petitions]~~ petition equals or exceeds five percent of the number of ~~[registered voters]~~ qualified electors of the district, the governing body shall call an election within ~~[seventy-five]~~ ninety days of the verification of the petition; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978. The ~~[date of the filing of the petition shall be the date of the filing of the last petition that brings the number of signatures up to the required five percent; provided, however, that the]~~ governing body shall refuse to recognize the petition if more than three months have

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elapsed between the date of the first signature and the filing of the [~~last~~] petition. [~~necessary to bring the number of signatures on the petition up to five percent~~] The election also may be initiated by a resolution adopted by the governing body of the proposed local option district without a petition having been submitted;

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

~~C. the votes at the election shall be counted, returned and canvassed as provided for in the case of general elections within the county or special elections within the municipality]~~ pursuant to the provisions of the Local Election Act;

~~[D.]~~ C. except as otherwise provided in this section, contests, recounts and rechecks shall be permitted as provided for in the case of candidates [~~for county office in general elections or as provided for in the case of special elections within the municipality~~]. Applications for contests, recounts or rechecks may be filed by any person who voted in the election, and service shall be made upon the county clerk or municipal clerk as the case may be;

~~[E.]~~ D. if a majority of all the votes cast at the election is cast in favor of the sale, service or public

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consumption of alcoholic beverages in the county or municipality, the chair of the governing body shall declare by order entered upon the records of the county or municipality that the county or municipality has adopted the local option provisions of the Liquor Control Act and shall notify the department of the results;

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

G.] E. if an election is held under the provisions of the Liquor Control Act in a county that contains within its limits a municipality of more than five thousand persons according to the latest United States census, it is not necessary for the [registered] qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of adopting the local option provisions of the Liquor Control Act by the municipality. The election in the county shall be conducted so as to separate the votes in the municipality from those in the remaining parts of the county. If a majority of the voters in the county, including the voters in the municipality, votes against the

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sale, service or public consumption of alcoholic beverages in the county, the county shall not adopt the local option provisions of the Liquor Control Act; but if a majority of the votes in the municipality is in favor of the sale, service or public consumption of alcoholic beverages, the municipality shall have adopted the local option provisions of the Liquor Control Act. Nothing contained in this subsection shall prevent any municipality from having a separate election under the terms of this section;

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

[F.] G. nothing in this section shall invalidate any local option election held pursuant to any former act prior to July 1, 1981."

SECTION HJC→233 236←HJC. Section 60-6A-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 21, as amended) is amended to read:

"60-6A-4. RESTAURANT LICENSE.--

A. [~~At any time after the effective date of the Liquor Control Act~~] A local option district may approve the issuance of restaurant licenses for the sale of beer and wine

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by holding an election on that question pursuant to the procedures set out in Section 60-5A-1 NMSA 1978. The election also may be initiated by a resolution adopted by the governing body of the local option district without a petition from ~~[registered]~~ qualified electors having been submitted.

B. After the approval of restaurant licenses by the ~~[registered]~~ qualified electors of the local option district and upon completion of all requirements in the Liquor Control Act for the issuance of licenses, a restaurant located or to be located within the local option district may receive a restaurant license to sell, serve or allow the consumption of beer and wine subject to the following requirements and restrictions:

(1) the applicant shall submit evidence to the department that ~~[he]~~ the applicant has a current valid food service establishment permit;

(2) the applicant shall satisfy the director that the primary source of revenue from the operation of the restaurant will be derived from meals and not from the sale of beer and wine;

(3) the director shall condition renewal upon a requirement that no less than sixty percent of gross receipts from the preceding twelve months' operation of the licensed restaurant was derived from the sale of meals;

(4) upon application for renewal, the licensee

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shall submit an annual report to the director indicating the annual gross receipts from the sale of meals and from beer and wine sales;

(5) restaurant licensees shall not sell beer and wine for consumption off the licensed premises;

(6) all sales, services and consumption of beer and wine authorized by a restaurant license shall cease at the time [~~meals~~] meal sales and services cease or at 11:00 p.m., whichever time is earlier;

(7) if Sunday sales have been approved in the local option district, a restaurant licensee may serve beer and wine on Sundays until the time [~~meals~~] meal sales and services cease or 11:00 p.m., whichever time is earlier; and

(8) a restaurant license shall not be transferable from person to person or from one location to another.

C. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to restaurant licenses.

D. Nothing in this section shall prevent a restaurant licensee from receiving other licenses pursuant to the Liquor Control Act."

SECTION HJC→~~234~~ 237←HJC. Section 60-7A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 47, as amended) is amended to read:

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

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

- (1) on Mondays from 7:00 a.m. until midnight;
- (2) on Tuesdays through Saturdays from after midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section; and
- (3) on Sundays only after midnight of the previous day until 2:00 a.m., except as provided in Subsections D and F of this section and Section 60-7A-2 NMSA 1978.

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale, only on Mondays through Saturdays from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section.

C. The governing body of a local option district that is a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census or that is a municipality

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located within a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census may pass an ordinance to place restrictions, in addition to those provided in this section, on the hours during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale. The ordinance may restrict sales between 7:00 a.m. and 10:00 a.m. and shall provide the hours between 7:00 a.m. and 10:00 a.m., if any, during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale.

D. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection F of this section.

Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, and in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall expire on June 30 of each year and may be renewed from year to year upon application

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for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection H of this section shall be called "Sunday sales".

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

F. Sunday sales pursuant to the provisions of Subsection D of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection K of this section apply. The question shall not again be placed on the ballot in that local option district until [~~(+)~~] at least one year has passed and:

(1) the local governing body of the local option district passes a resolution calling for the question to

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be placed on a regular election ballot or adopts a proclamation calling for the question to be placed before the voters in a special local election; or

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

G. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees; provided that the licensees have current, valid food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to [~~petition and~~] election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed

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premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall pass a resolution calling for the question to be placed on a regular election ballot or adopt a ~~[resolution]~~ proclamation calling ~~[an election on]~~ for the question of allowing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day to be placed before the voters in a special local election. The election may also be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted. The election ~~[may]~~ shall be held ~~[in conjunction with a regular election of the governing body or a regular local or special election held]~~ pursuant to the Local Election Act. ~~[The election shall be called, conducted, counted and canvassed in substantially the same manner as provided for general elections in the county under the Election Code or for special elections in a municipality under the Local Election Act.]~~ If a majority of the voters voting on the question votes against continuing the sale,

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service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

H. Notwithstanding the provisions of Subsection F of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian nation, tribe or pueblo; provided that a certified copy of such enactment is filed with the office of the director and with the secretary of state.

I. Subject to the provisions of Subsection J of this section, a dispenser or retailer, upon payment of an

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additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until 2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".

J. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall ~~[adopt a resolution calling an election on the question]~~ pass a resolution calling for the question to be placed on a regular election ballot or adopt a proclamation calling for the question to be placed before the voters in a special local election on the question. The election may also be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified

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electors having been submitted. The election shall be held within [~~sixty~~] ninety days of the date that the petition is verified [~~or it may be held in conjunction with a regular election of the governing body, if the regular election occurs within sixty days of the petition verification. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within a county or for special elections within a municipality]~~ pursuant to the provisions of the Local Election Act; provided that the date of the election is not in conflict with the provisions of Section 1-24-1 NMSA 1978. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

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

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SECTION HJC→235 238←HJC. Section 72-18-3 NMSA 1978

(being Laws 1981, Chapter 377, Section 3) is amended to read:

"72-18-3. DEFINITIONS.--As used in the Flood Control District Act:

A. "acquisition" or "acquire" includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift or grant from the federal government, any public body or person or any endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement of facilities, other property, any project or an interest [~~therein~~] authorized by the Flood Control District Act;

B. "board" means the board of directors of a district, which board shall consist of five directors;

C. [~~"chairman"~~] "chair" means the [~~chairman~~] chair of the board and president of a district;

D. "cost" or "cost of the project" means all or any part of the cost designated by the board of any facilities, project or interest [~~therein~~] in any facilities or project being acquired, and of all or any property, rights, easements, privileges, agreements and franchises deemed by the district to be necessary or useful and convenient in connection [~~therewith~~] with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project and all other expenses necessary or

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desirable and appertaining to any project, as estimated by the board;

E. "director" means a member of the board of a district;

F. "disposal" or "dispose" includes the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition of facilities, other property or any project or an interest [therein] in any facilities, property or project authorized by the Flood Control District Act;

G. "district" means a flood control district created pursuant to the Flood Control District Act;

H. "equipment" or "equip" includes the furnishing of all necessary or desirable, related or appurtenant facilities appertaining to any facilities, property, project or interest [therein] in any facilities, property or project authorized by the Flood Control District Act;

I. "facility" includes any of the sewer facilities or other property appertaining to the flood control system of any district;

J. "federal government" means the United States [~~of America~~] or any agency, instrumentality or corporation thereof;

K. "federal securities" means bills, certificates of indebtedness, notes, bonds or other obligations [~~which~~] that are direct obligations of, or the principal and interest of

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which obligations are unconditionally guaranteed by, the United States [~~of America~~];

L. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement of facilities, other property or any project, or any interest [~~therein~~] in any facilities, property or project, authorized by the Flood Control District Act;

M. "person" means an individual, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

N. "president" means the president of a district and the [~~chairman~~] chair of the board of the district;

O. "project" includes any structure, facility or system relating to the flood control system [~~which~~] that a district is authorized by the Flood Control District Act to acquire, improve, equip, maintain or operate, which may be located within and without the district's boundaries;

P. "publication" or "publish" means publication in at least one newspaper published in the district or proposed district in the English language at least once a week and of general circulation in the district or proposed district or, if no such newspaper is published in the district or proposed district, then in a newspaper published in the state in the English language at least once a week and of general

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circulation in the district or proposed district, which publication shall be at least once a week for three consecutive weeks by three weekly insertions. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication;

Q. "public body" means the state or any agency, instrumentality or corporation [~~thereof~~] or any political subdivision of the state, excluding districts and excluding the federal government;

~~[R. "qualified registered elector" means any person who at the designated time or event is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States, who is registered to vote under the provisions of the Election Code in and resides in the district or proposed district;~~

~~S.]~~ R. "revenues" means income, other than tax proceeds, of a district;

~~[T.]~~ S. "secretary" means the secretary of a district;

~~[U.]~~ T. "securities" means any notes, warrants, bonds or interim debentures or other obligations of a district authorized by the Flood Control District Act;

~~[V.]~~ U. "sewer facilities" includes any one or more

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of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations [thereof] and any [~~and all~~] rights or interest in [~~such~~] the sewer facilities; and

[W-] V. "treasurer" means the treasurer of a district."

SECTION HJC→236 239←HJC. Section 72-18-5 NMSA 1978 (being Laws 1981, Chapter 377, Section 5) is amended to read:

"72-18-5. PETITION.--

A. The organization of a district shall be initiated by a petition filed in the office of the clerk of the district court in a county in which all or a part of the real property in the proposed district is located. The petition shall be signed by qualified [~~registered~~] electors of the proposed district numbering not less than ten percent of those voting in the preceding general election in the state in voting precincts partially or wholly included in the area of the proposed district. The petition and all other instruments relating to the formation of the district shall be filed with the county clerk of the county in which there is the court [~~which~~] that accepted the petition. Any municipality or county

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in which all or a portion of the proposed district is located may, upon proper action of its governing body alone, file the petition required by this section.

B. The petition shall set forth:

- (1) the name of the proposed district, consisting of a chosen name preceding the words "flood control district";
- (2) a general description of the facilities to be acquired or improved within and for the district;
- (3) a general description of the boundaries of the district, with such certainty as to enable a property owner to determine whether [~~his~~] the owner's property is within the proposed district; and
- (4) a prayer for the organization of the district.

C. No petition with the requisite number of valid signatures shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All [~~such~~] petitions filed before the hearing on the first petition filed shall be considered by the court the same as though filed with the first

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petition."

SECTION HJC→237 240←HJC. Section 72-18-8 NMSA 1978
(being Laws 1981, Chapter 377, Section 8) is amended to read:

"72-18-8. HEARING.--

A. Upon the hearing, if the court finds that no petition has been signed and presented in conformity with the Flood Control District Act or that the material facts are not as set forth in the petition filed, it shall dismiss the proceedings and adjudge the costs against the signers of the petition in the proportion as it deems just and equitable.

B. Upon the hearing, if it appears that a valid petition for the organization of the district has been signed and presented in conformity with the requirements of the Flood Control District Act and that the allegations of the petition are true, the court shall order that the question of the organization of the district be submitted to the qualified [registered] electors of the proposed district at an election to be held for that purpose [~~The order shall designate one or more polling places within the district and for each polling place so designated shall appoint three qualified registered electors of the district as judges of the election and two qualified registered electors of the district as clerks of the election. The order shall also designate the clerk of the court or a qualified registered elector of the proposed district to receive applications for and to disburse and~~

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~~collect absentee ballots]~~ pursuant to the provisions of the Local Election Act."

SECTION HJC→238 241←HJC. Section 72-18-9 NMSA 1978 (being Laws 1981, Chapter 377, Section 9) is amended to read:

"72-18-9. NOMINATIONS FOR INITIAL BOARD.--A nomination for director may be made by petition signed by not less than five qualified [~~registered~~] electors and filed with the district court having jurisdiction not less than [~~twenty-five~~] ninety days before the date of the organizational election. Any petition so filed shall designate the name of each nominee and shall state that the petitioners and the nominee or nominees designated in the petition are qualified [~~registered~~] electors of the proposed district. No qualified [~~registered~~] elector shall nominate more than one person for director. The name of each nominee so designated shall appear on the organizational ballot."

SECTION HJC→239 242←HJC. Section 72-18-10 NMSA 1978 (being Laws 1981, Chapter 377, Section 10) is amended to read:

"72-18-10. ORGANIZATIONAL ELECTION.--

~~[A. The clerk of the court shall give notice by publication of the date, time and polling places of the election, the boundaries or other description of the election precincts, the names of the nominees for director and the place where absentee ballots can be obtained. The election shall be held not less than forty-five days after the first publication~~

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~~of the notice.~~

~~B.]~~ A. At the election, the qualified [~~registered~~] electors may vote for or against the organization of the district and for up to five qualified [~~registered~~] electors of the district who shall constitute the board of directors of the district.

~~[G. The judges of election shall certify the returns of the election to the district court having jurisdiction.]~~

B. If a majority of the votes cast at the election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which in all proceedings it shall thereafter be known and shall designate the first board of directors elected, and thereupon the district shall be a political subdivision of the state. The certificate shall be conclusively presumed correct as to the facts stated therein."

SECTION HJC→~~240~~ 243←HJC. Section 72-18-14 NMSA 1978 (being Laws 1981, Chapter 377, Section 14, as amended) is amended to read:

"72-18-14. ELECTION OF DIRECTORS.--Flood control district elections shall be held pursuant to the Local Election Act. At each local election after organization of the district, there shall be elected by the qualified [~~registered~~] electors of the district one or two members of the board to

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serve for a term of six years. Except for the initial board of directors and except for any director chosen to fill an unexpired term, the term of each director runs for six years. Each director shall serve until a successor has been duly chosen and qualified."

SECTION HJC→241 244←HJC. Section 72-18-20 NMSA 1978 (being Laws 1981, Chapter 377, Section 20, as amended) is amended to read:

"72-18-20. ADDITIONAL POWERS.--The board of the district may:

- A. adopt, have and use a corporate seal and alter the same at pleasure;
- B. sue and be sued and be a party to suits, actions and proceedings;
- C. acquire, improve, equip, maintain and operate any project or facility;
- D. protect the watercourses, watersheds, public highways, life and property in the district from floods or storm waters;
- E. exercise the right of eminent domain within the district as provided in the Eminent Domain Code and take any property necessary to carry out any of the objects or purposes of the Flood Control District Act;
- F. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise and otherwise

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participate in and assume the cost and expense of any and all actions and proceedings appertaining to the district, its board, its officers, agents or employees; or any of the district's duties, privileges, immunities, rights, liabilities and disabilities; or the district's flood control system, other property of the district or any project;

G. enter into contracts and agreements, including [~~but not limited to~~] contracts with the federal government and any public body;

H. borrow money and issue securities evidencing any loan to or amount due by the district, provide for and secure the payment of any securities and the rights of the holders thereof and purchase, hold and dispose of securities;

I. refund any loan or obligation of the district and issue refunding securities to evidence such loan or obligation without an election;

J. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of real and personal property and interests therein;

K. levy and cause to be collected a property tax on all property subject to property taxation within the district. The total tax levy for any fiscal year for general purposes shall not exceed an aggregate total of fifty cents (\$.50), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this

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tax levy, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, unless the qualified [~~registered~~] electors approve a greater tax not to exceed two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value; provided that any tax levy approved in excess of fifty cents (\$.50) on each one thousand dollars (\$1,000) of net taxable value shall be subject to the rate limitation provisions of Section 7-37-7.1 NMSA 1978. The rate of levy for the payment of any debt of the district authorized by the qualified [~~registered~~] electors of the district shall be without limitation as to rate or amount. The board shall certify on or before July 15 of each year in which the board determines to levy a tax, to the board of county commissioners of each county wherein the district has any territory, the rate so fixed, with directions that at the time and in the manner required by law for levying taxes for other purposes, the board of county commissioners shall levy a tax upon the net taxable value of all property subject to property taxation within the district;

L. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes of the Flood Control District Act; defray any expenses incurred thereby in connection with the district; and acquire office space, equipment, services, supplies, fire and extended

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coverage insurance, use and occupancy insurance, ~~workmen's~~
workers' compensation insurance, property damage insurance,
public liability insurance for the district and its officers,
agents and employees and other types of insurance as the board
may determine; provided, however, that no provision authorizing
the acquisition of insurance shall be construed as waiving any
immunity of the district or any director, officer or agent of
the district otherwise existing under the laws of the state;

M. acquire, improve, equip, hold, operate, maintain
and dispose of a flood control system, project and appurtenant
works;

N. pay or otherwise defray the cost of any project;

O. deposit any money of the district in any banking
institution within or without the state and secured in such
manner and subject to such terms and conditions as the board
may determine;

P. invest any surplus money in the district
treasury, including money in any sinking or reserve fund
established for the purpose of retiring any securities of the
district, which is not required for the immediate necessities
of the district in its own securities or in federal securities,
by direct purchase of any issue of such securities, or part
thereof, at the original sale of the same or by the subsequent
purchase of such securities;

Q. sell any securities purchased and held pursuant

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to Subsection P of this section;

R. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the district is authorized to engage, and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

S. enter, without an election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning sewer facilities or any project, whether acquired by the district or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

T. cooperate and act in conjunction with a public body, the federal government or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the district, or for the protection of life or property therein, or for any other works, acts or purposes provided for in the Flood Control District Act, and adopt and carry out any definite plan or system of work for any such purpose; and

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U. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by the Flood Control District Act, or in the performance of the district's covenants or duties, or in order to secure the payment of its securities; provided no encumbrance, mortgage or other pledge of property, excluding any money, of the district is created thereby and provided no property, excluding money, of the district is liable to be forfeited or taken in payment of the securities."

SECTION HJC→242 245←HJC. Section 72-18-30 NMSA 1978 (being Laws 1981, Chapter 377, Section 30) is amended to read:

"72-18-30. DISSOLUTION--HEARINGS--COURT POWERS.--

A. No application for dissolution shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

B. The court shall order an election in the district on the question of dissolution if it finds the application for dissolution to be in order and finds that the district has no outstanding securities or other financial obligations or that the district's securities and other financial obligations will be adequately provided for before dissolution by means of escrow funds or federal securities to secure payment thereof.

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C. If the district has outstanding securities or other financial obligations and no escrow plan, the court shall determine whether the continuation of functions provided for in the plan for dissolution adequately provides for payment of the securities and other financial obligations of the district. If the court determines that the application and the plan for dissolution are sufficient and that an agreement exists for continuation of functions, the court shall order an election of the qualified [~~registered~~] electors of the district pursuant to the provisions of the Local Election Act on the question of dissolving the district or, if there is a plan for dissolution, on the question of dissolving the district in accordance with the plan for dissolution. If, at any time after the filing of an application for dissolution, the court determines that no agreement can be reached concerning the plan for dissolution or that the other requirements of Section [~~28 of the Flood Control District Act~~] 72-18-28 NMSA 1978 cannot be met, it shall dismiss the dissolution proceedings."

SECTION HJC→~~243~~ 246←HJC. Section 72-18-32 NMSA 1978 (being Laws 1981, Chapter 377, Section 32) is amended to read:

"72-18-32. DISSOLUTION--LIMITATION ON ELECTIONS.--The question of dissolution of a district may be resubmitted to the qualified [~~registered~~] electors of the district after the same or similar question has previously been rejected by the electors, but no such question shall be submitted at any

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election held less than twelve months after a previous submission of such question."

SECTION HJC→244 247←HJC. Section 72-18-35 NMSA 1978 (being Laws 1981, Chapter 377, Section 35, as amended) is amended to read:

"72-18-35. ELECTION.--Wherever in the Flood Control District Act an election of the qualified [~~registered~~] electors of a district is permitted or required, the election shall be held pursuant to the Local Election Act."

SECTION HJC→245 248←HJC. Section 72-18-48 NMSA 1978 (being Laws 1981, Chapter 377, Section 48) is amended to read:

"72-18-48. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--A district is authorized to borrow money in anticipation of taxes or other revenues and to issue bonds to evidence the amount so borrowed. No bonded indebtedness nor any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections [~~49 and 63 through 65 of the Flood Control District Act~~] 72-18-49 and 72-18-63 through 72-18-65 NMSA 1978, shall be created by the district without first submitting the proposition of issuing the bonds to the qualified [~~registered~~] electors of the district, which proposition shall be approved by a majority of the qualified [~~registered~~] electors voting at an election held for that purpose in accordance with Sections [~~35 through 40 of that act~~] 72-18-35 and 72-18-35.1 NMSA 1978. Bonds so authorized may be

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issued in one series or more and may mature at such time, [~~or times~~] not exceeding forty years from their issuance, as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed four percent of the value of the taxable property in the district as shown by the last preceding assessment for county taxes for each county in which the district is located."

SECTION HJC→246 249←HJC. Section 72-18-63 NMSA 1978 (being Laws 1981, Chapter 377, Section 63) is amended to read:

"72-18-63. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Whenever a majority of the qualified [~~registered~~] electors of a district voting on a proposal to issue bonds has authorized the district to issue bonds for an authorized purpose, the district may borrow money without any other election in anticipation of taxes, the proceeds of the bonds or any other revenues of the district, and may issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time [~~or times~~] not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections [~~64 and 65 of the Flood Control District Act~~] 72-18-64 and 72-18-65 NMSA 1978, interim debentures shall be issued as provided for securities in Sections [~~49 through 61 of that act~~]

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72-18-49 through 72-18-61 NMSA 1978. Taxes, other revenues of the district, including without limiting the generality of the foregoing proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures, may be pledged for the purpose of securing the payment of the interim debentures. Bonds pledged as collateral security for the payment of any interim debentures shall mature at such time [~~or times~~] as the board may determine, not exceeding forty years from the date of either any of such bonds or any such interim debentures, whichever date is earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debentures secured by a pledge of such bonds."

SECTION HJC→247 250←HJC. Section 72-20-8 NMSA 1978 (being Laws 2007, Chapter 99, Section 8, as amended) is amended to read:

"72-20-8. BOARD OF DIRECTORS.--

A. The governing body of the authority is a board of directors consisting of three [~~registered~~] qualified electors of the authority; provided that, after single-member districts are created pursuant to Subsection B of Section 72-20-10 NMSA 1978 and after the expiration of the terms of any directors-at-large who are serving at the time that single-member districts are created:

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(1) each director shall reside within and represent a specified district; and

(2) if a director no longer resides within the district that the director represents, the director's position shall be deemed vacant and a successor shall be appointed to serve the unexpired term pursuant to Section 72-20-12 NMSA 1978.

B. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors appointed as provided for in Section 72-20-9 NMSA 1978 or elected as provided in Section 72-20-10 NMSA 1978 and except for any director chosen to fill an unexpired term, and except for the first directors serving after the authority is divided into single-member districts, the term of each director runs for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

SECTION HJC→248 251←HJC. Section 73-20-1 NMSA 1978 (being Laws 1957, Chapter 210, Section 1) is amended to read:

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"73-20-1. SHORT TITLE.--~~[This act]~~ Sections 73-20-1 through 73-20-24 NMSA 1978 may be cited as the "Watershed District Act"."

SECTION HJC→249 252←HJC. Section 73-20-9 NMSA 1978 (being Laws 1957, Chapter 210, Section 9, as amended) is amended to read:

"73-20-9. REFERENDUM.--After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in Section ~~[45-5-31 NMSA 1953]~~ 73-20-13 NMSA 1978 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Due notice of the referendum shall be given as provided in ~~[Section 45-5-26 NMSA 1953, except that notice sent to absentee landowners shall also inform them of their right to request a ballot. Such notice shall state the date of holding the referendum, the hours of opening and closing the polls and shall designate one or more places within the proposed district~~

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~~as polling places. The board shall appoint a polling superintendent and other necessary polling officers giving equal representation to the proponents and opponents of the question involved. Ballots shall be sent to all absentee landowners upon request and they may vote by return ballot by first class mail] the Local Election Act."~~

SECTION HJC→250 253←HJC. Section 73-20-11 NMSA 1978 (being Laws 1957, Chapter 210, Section 11, as amended) is amended to read:

"73-20-11. VOTES--RESULTS.--~~[The votes shall be counted by the election officers at the close of the polls and report of the results along with the ballots delivered to the polling superintendent, who shall certify the results to the board of supervisors.]~~ If a majority of the votes cast [~~favor~~] favours creation of the district, the county canvassing board [~~of supervisors~~] shall certify the results to the county clerk in the county involved. Upon proper recording of the action, the watershed district shall be duly created. After recording, the certification shall be filed with the New Mexico department of agriculture."

SECTION HJC→251 254←HJC. Section 73-20-12 NMSA 1978 (being Laws 1957, Chapter 210, Section 12, as amended) is amended to read:

"73-20-12. DIRECTORS--ELECTION.--

A. [~~Within thirty days~~] At the next regular local

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election held pursuant to the Local Election Act after a watershed district is created, the board of supervisors of the soil and water conservation district involved shall cause an election to be held for the election of a board of directors of the watershed district. The board shall consist of five members. The first board shall determine by lot from among its membership two members to serve terms of two years [~~two~~] and three members to serve terms [~~of three years and one member to serve a term~~] of four years. Thereafter, as these initial terms expire, their replacements shall be elected for terms of four years. Vacancies occurring before the expiration of a term shall be filled by the remaining members of the board for the unexpired term. Two or more vacancies occurring simultaneously shall be filled by appointment by the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed district.

B. If the territory embraced within a watershed district lies within more than one soil and water conservation district, each additional soil and water conservation district having a minority of the land involved in the watershed shall be entitled to elect three additional directors. These additional directors after their election shall determine by lot one of their number to serve a term of two years [~~one a term of three years~~] and [~~one~~] two a term of four years.

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Thereafter, their successors shall be elected for terms of four years. The representatives of each of these minority districts shall fill vacancies in the district's membership for the unexpired term.

C. The board of directors shall annually elect from its membership a [~~chairman~~] chair, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of [~~his~~] office to be approved by the board of directors. The bond shall be executed with at least three solvent personal sureties whose solvency shall exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium of the bond shall be paid by the board of directors.

D. The board of directors shall prepare and submit to the department of finance and administration such reports as it may require from among those required to be submitted by other political subdivisions.

E. Each person desiring to be a director of a watershed district shall file a nominating petition with the [~~board of supervisors~~] proper filing office in accordance with the provisions of the Local Election Act, signed by ten or more [~~landowners within the watershed districts of the county~~] involved, or, if less than fifty landowners are involved, a

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~~majority of such landowners. If the candidates nominated do not exceed the positions available, they shall be declared elected. No person shall be eligible to be a director of a watershed district who is not a landowner in the district in which he seeks election]~~ qualified electors."

SECTION HJC→252 255←HJC. Section 73-20-14 NMSA 1978 (being Laws 1957, Chapter 210, Section 14, as amended) is amended to read:

"73-20-14. BONDS.--

A. Bonds authorized by Section 73-20-13 NMSA 1978 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used, and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary assessment levy in excess of the maximum authorized in Section 73-20-17 NMSA 1978 to establish a sinking fund for the liquidation of bonds as provided in Section 73-20-17 NMSA 1978. A copy of the order or resolution shall be certified to the board of supervisors.

B. The board of supervisors shall conduct a hearing on the proposal after notice given pursuant to Section 73-20-8 NMSA 1978. If it appears that the proposal is within the scope and purpose of the Watershed District Act and meets all other requirements of the law, the proposal shall be submitted to the [~~landowners of the district by referendum under supervision of~~

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~~the board of supervisors.~~

~~G. Provisions of Sections 73-20-8 through 73-20-11 NMSA 1978 as to notice, qualifications of voters and manner of holding referendum election in organizing a watershed district shall apply to the referendum held under this section] qualified electors of the district at an election held pursuant to the Local Election Act.~~

[D.] C. If two-thirds of the [~~landowners~~] qualified electors voting on the ballot question favor the proposal, the bonds may be issued."

SECTION HJC→253 256←HJC. Section 73-20-21 NMSA 1978 (being Laws 1957, Chapter 210, Section 20, as amended) is amended to read:

"73-20-21. ADDITION OF LAND.--

A. Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed district. The petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five or more of the landowners in the territory described, if fifty or more such owners are involved, or by a majority if [~~less~~] fewer than fifty landowners are involved.

B. Within thirty days after the petition is filed,

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the board shall cause due notice to be given as provided in Section 73-20-8 NMSA 1978 of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion of them shall be included in the district. If all the landowners in the territory involved are not petitioners, a referendum shall be held within the territory [~~as provided in Sections 73-20-8 through 73-20-11 NMSA 1978 before making a final determination~~] in accordance with the provisions of the Local Election Act. If it is determined by the qualified electors of the district that the land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county involved. After recording, the certification shall be filed with the New Mexico department of agriculture."

SECTION HJC→254 257←HJC. Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended by Laws 2013, Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section 2) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of

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the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within [~~sixty~~] ninety days after petition is filed, [~~a referendum~~] an election shall be held [~~under the supervision of the board of supervisors as provided in Section 73-20-14 NMSA 1978. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its result if notice of the referendum has been given substantially as provided in Subsection B of this section~~] pursuant to the provisions of the Local Election Act; provided that the date of the election is not in conflict with the provisions of Section 1-24-1 NMSA 1978.

D. If a majority of the votes cast in the referendum [~~favor~~] favours the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

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SECTION HJC→255 258←HJC. A new section of the Soil and Water Conservation District Act is enacted to read:

"[NEW MATERIAL] ASSESSMENTS--LIMITATIONS.--A levy approved by the voters of a district and authorized by the commission pursuant to Section 73-20-46 NMSA 1978 prior to July 1, 2018 shall continue to be assessed pursuant to the laws in effect at the time the levy was initially approved; provided that the aggregate of all levies in a district approved prior to July 1, 2018 that continue in effect and any levies in the same district approved on or after July 1, 2018 shall not exceed the maximum allowable levy in a district pursuant to Subsection A of Section 73-20-46 NMSA 1978."

SECTION HJC→256 259←HJC. Section 73-21-4 NMSA 1978 (being Laws 1943, Chapter 80, Section 3, as amended) is amended to read:

"73-21-4. DEFINITIONS.--As used in the Water and Sanitation District Act:

- A. "board" means the board of directors of a district;
- B. "district" means a water and sanitation district that is established pursuant to the Water and Sanitation District Act and that is either entirely within or partly within and partly without one or more counties; provided those parts or parcels of the district lying in two or more counties are contiguous with one another, and further provided, a

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district created pursuant to a petition signed by the board of county commissioners of a county shall be entirely within that county;

C. "fee-for-service system" means a garbage or refuse collection system established by a district to fully implement the purposes for which the district is created and for which a service is offered, a fee is established by the board and the fee is paid by the customers of the district;

D. "proponents and opponents" means residents or nonresidents of a district who pay or are liable for paying rates, tolls, fees and charges assessed by that district;

E. "publication" means giving notice once a week for three consecutive weeks in at least one newspaper of general circulation in the county in which all or the major portion of the district is located; however, it is not necessary that publication be made on the same day of the week in each of the three weeks, but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication;

F. "sewage system" includes all constructions for collection, transportation, pumping, treatment and final disposition of sewage; and

~~[G. "taxpaying elector of a district", "qualified elector" or "elector" means a person who is registered to vote~~

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~~in any precinct in the state and who:~~

~~(1) is a resident of the district;~~

~~(2) is a nonresident of the district who pays,
or will be liable for paying, rates, tolls or charges set by
the board; or~~

~~(3) is a nonresident of the district who
either has paid or incurred a general tax liability on real
property within the district in the twelve months immediately
preceding a designated time or event or who is purchasing real
property within the district under a real estate contract where
a property tax has been paid or incurred on the real property
in the twelve months immediately preceding a designated time or
event; and~~

H.] G. "utility" means a water system, sewer system
or other fee-for-service system implemented by the district."

SECTION HJC→257 260←HJC. Section 73-21-6 NMSA 1978

(being Laws 1943, Chapter 80, Section 5, as amended) is amended
to read:

"73-21-6. PETITION.--

A. The organization of a district shall be
initiated by a petition filed in the office of the clerk of the
court vested with jurisdiction in a county in which all or part
of the real property in the proposed district is situated. The
petition shall be signed by not less than twenty-five percent
of the [~~taxpaying~~] qualified electors of the district, none of

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whom shall be an officer, director or shareholder of any business entity with an economic interest in the subdivision and sale of land within the district; provided that at the option of a county and, after adoption of a resolution by the county authorizing the filing of a petition, that county may file a petition [~~which~~] that shall be signed by the [~~chairman~~] chair of the board of county commissioners. The petition and all other instruments relating to the formation of such districts shall be filed [~~with~~] in the office of the county clerk of the county or counties in which [~~all or the major portion of~~] the proposed district is located.

B. The petition shall set forth:

- (1) the name of the proposed district consisting of a chosen name preceding the words "water and sanitation district";
- (2) a general description of the improvements to be constructed or installed within and for the district;
- (3) the estimated overall cost of the proposed improvements to be constructed or installed within and for the district;
- (4) an estimated time table for the completion of all intended improvements;
- (5) the need for the creation of the district and the construction or installation of improvements, stating the nature and extent of the anticipated use of the

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improvements by persons presently residing on land within the district and the nature and extent of the anticipated use of the improvements due to future development;

(6) a general description of the boundaries of the district or the territory to be included in it, with such certainty as to enable a property owner to determine whether or not [~~his~~] the owner's property is within the district;

(7) the salary, if any, that the members of the board shall receive for their services [~~provided, however, that no member of the board shall receive a salary in excess of five dollars (\$5.00) per day for each day while in actual attendance upon his duties~~]; and

(8) a request for the organization of the district.

C. No petition with the requisite signatures shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. [~~All such petitions filed prior to the hearing on the first petition filed shall be considered by the court the same as though filed with the first petition placed on file.~~]"

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SECTION HJC→258 261←HJC. Section 73-21-9 NMSA 1978

(being Laws 1943, Chapter 80, Section 8, as amended) is amended to read:

"73-21-9. HEARING ON PETITIONS--ELECTION FOR ORGANIZATION AND OFFICERS.--

~~[A. On the day fixed for the hearing or at an adjournment of it, the court shall ascertain from the tax rolls of the county in which the district is located or into which it extends, from the last official registry list and from any other evidence that may be adduced, the total number of taxpaying electors of the proposed district.~~

~~B. If the court finds that no petition has been signed and presented in conformity with the Water and Sanitation District Act, or that the material facts are not as set forth in the petition filed, it shall dismiss the proceedings and adjudge the costs against the signers of the petition or, if applicable, the board of county commissioners of a county, in the proportion as it deems just and equitable. No appeal or suit of error shall lie from an order dismissing the proceedings; but nothing in that act shall prevent the filing of a subsequent petition for similar improvements or for a similar district, and the right to renew the proceeding is expressly granted and authorized.~~

~~G.] A. At any time after the filing of the petition for the organization of a district and before the day fixed for~~

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the hearing on it, the owner of any taxable property within the proposed district may file a petition with the court stating reasons why the property should not be included in the district and requesting that the property be excluded from it. The petition shall be verified and shall describe the property sought to be excluded. The court shall hear the petition and all objections to it at the time of the hearing on the petition for organization and shall determine whether the property should be excluded or included in the district.

~~[D-]~~ B. In determining whether or not the petition for the creation of a water and sanitation district shall be granted, the district court shall consult and request an opinion from:

(1) the state engineer to determine whether the proposed district has adequate water rights to implement the proposed improvements; and

(2) the environmental improvement division of the department of environment to determine, as to the technological feasibility of the proposed improvements, whether the water proposed to be supplied is of an acceptable quality to conform with the state regulations and whether the liquid and solid waste disposal proposals can conform with state regulations.

~~[E-]~~ C. The court may deny the petition or may order the petition to be modified if the court, after hearing

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on the petition, finds that:

(1) the proposed water and sewage improvements cannot conform with the state regulations;

(2) the water and sewage improvements cannot be implemented within a reasonable time taking into consideration applications for state and federal grants;

(3) there is lacking an actual or impending need for the water and sewage improvements proposed; or

(4) the boundaries of the proposed district contain land that has no actual or impending need for the water and sewage improvements or cannot be reasonably expected to utilize the water and sewage improvements, unless the land is otherwise required to be included in the proposed district by rule or regulation of a federal agency.

[F-] D. Upon the hearing, if it appears that a petition for the organization of a district has been properly signed and presented and that the allegations of the petition are true, the court shall order that the question of the organization of the district be submitted to the ~~[taxpaying]~~ qualified electors of the district as set forth in the petition, as the boundaries were modified by the court in determining that only property to be benefited by the proposed improvements should be included within the boundaries of the district, at an election to be held for that purpose and ~~[the order shall designate one or more polling places within the~~

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~~district, and for each polling place so designated, shall appoint three taxpaying electors of the district as judges of the election and two taxpaying electors of the district as clerks of the election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to] conducted pursuant to the provisions of the Local Election Act. The election shall be held in the district not less than [twenty] ninety days after the [first publication of the notice.~~

~~G. The election shall be held and conducted as nearly as possible in the same manner as general elections in this state. No special registration for the election is required, but for the purpose of determining qualifications of electors, the judges may use official records, and, in addition, they may require the execution of an affidavit concerning the qualifications of any elector] order is entered in accordance with the Local Election Act; provided that the date does not conflict with the provisions of Section 1-24-1 NMSA 1978.~~

~~[H.] E. At the election, the [taxpaying] qualified electors of the district shall vote for or against the organization of the district. [and if in favor thereof, shall vote for three taxpaying electors of the district who shall constitute the board of directors of the district, one to act until the first biennial election, one until two years and one~~

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~~until four years after the election, except that at the election in a county where the petition for the district was signed by the chairman of the board of county commissioners, the taxpaying electors of the district shall vote only for or against the organization of the district.~~

~~I. The judges of election shall certify the returns of the election to the district court having jurisdiction.] If a majority of the votes cast at the election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which in all proceedings it shall thereafter be known [and designate the first board of directors elected, except that a district created pursuant to a petition signed by the chairman of the board of county commissioners of a county shall appoint the first board of directors as provided in Section 73-21-15.1 NMSA 1978]. Thereupon the district shall be a governmental subdivision of the state, except a district created pursuant to a petition signed by the [chairman] chair of the board of county commissioners of a county, which district shall be a subdivision of the county. Every district shall be a body corporate with all the powers of a public or quasi-municipal corporation.~~

~~[J. If an order is entered establishing the district, the order is final and no appeal or writ of error shall lie therefrom, and the entry of the order shall finally~~

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~~and conclusively establish the regular organization of the district against all persons except the state, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty days after the decree declaring the district organized. The organization of the district shall not be directly or collaterally questioned in any suit, action or proceeding except as expressly authorized in the Water and Sanitation District Act.]"~~

SECTION HJC→259 262←HJC. Section 73-21-13 NMSA 1978 (being Laws 1943, Chapter 80, Section 12, as amended) is amended to read:

"73-21-13. MEETINGS.--The board shall meet once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the board shall constitute a quorum at any meeting. Any vacancy on a board elected by [~~taxpaying~~] qualified electors of the district shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election when the vacancy shall be filled by election. Any vacancy on a board appointed by a board of county commissioners shall be filled in the same manner as original appointments, in accordance with Section 73-21-15.1 NMSA 1978, the appointee to act until the end of the term of the member creating the vacancy. If the board or a board of

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county commissioners fails to fill any vacancy within thirty days after it occurs, the court having jurisdiction shall fill the vacancy."

HJC→SECTION 263. Section 73-21-15 NMSA 1978 (being Laws 1977, Chapter 326, Section 2, as amended) is repealed and a new Section 73-21-15 NMSA 1978 is enacted to read:

"73-21-15. [NEW MATERIAL] BOARD INCREASE--APPOINTED MEMBERS.--

A. In every district, three members of the board shall be elected by the qualified electors pursuant to the provisions of the Local Election Act.

B. In those districts that have five board members, the board may by resolution designate two board members to serve by appointment. In those districts that have three board members, the board may by resolution expand the board to include two appointed board members. A resolution adopted pursuant to this subsection shall not be rescinded until two regular local elections have passed after adoption of the resolution.

C. The appointment of board members serving pursuant to a resolution adopted pursuant to Subsection B of this section shall be for a term of two years beginning July 1 of each even-numbered year and ending June 30 of the following even-numbered year. Appointed members of the board are not

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required to be qualified electors nor residents of the district.

D. Appointed board members are authorized to vote on all matters except for a tax or assessment of any kind proposed or approved pursuant to authority granted by Article 8, Section 9 of the constitution of New Mexico, which is limited to a vote of the elected members only."←HJC

SECTION HJC→260 264←HJC. Section 73-21-15.1 NMSA 1978 (being Laws 1985, Chapter 155, Section 8, as amended) is amended to read:

"73-21-15.1. APPOINTMENT OF FIRST BOARD [~~DISTRICT CREATED BY A BOARD OF COUNTY COMMISSIONERS~~].-- [~~Notwithstanding any other provision of the Water and Sanitation District Act relating to election of the board, all~~] Members of the first board of any district [~~created pursuant to a petition signed by the chairman of the board of county commissioners of a county~~] shall be appointed by the board of county commissioners. In a district consisting of multiple counties, the district judge shall designate how many members of the board will be appointed by each board of county commissioners. The first board shall consist of five directors who are [~~taxpaying~~] qualified electors of the district appointed for staggered terms so that the terms of two directors expire [~~in one year~~] within two years and the terms of three directors expire [~~in two~~] within four years. Thereafter, all directors shall be elected to

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[two-year] terms of office pursuant to the provisions of the Water and Sanitation District Act. Any director appointed by any board of county commissioners shall be eligible for election; provided that no member of a board shall serve more than two consecutive terms."

SECTION HJC→261 265←HJC. Section 73-21-26 NMSA 1978 (being Laws 1943, Chapter 80, Section 24, as amended) is amended to read:

"73-21-26. BONDS--INTEREST--FORM.--To carry out the purposes of the Water and Sanitation District Act, the board may issue bonds of the district upon approval of the majority of the [~~taxpaying~~] qualified electors of the district voting on the question pursuant to the provisions of the Local Election Act. Bonds shall bear interest payable semiannually and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date. The form and terms of the bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, the bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. The bonds, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be executed in the name of and on behalf of the district and signed by the [~~chairman~~] chair of the board, with the seal of the district

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affixed thereto, and attested to by the secretary of the board. The bonds shall be sold and shall be in such denominations as the board determines, and the bonds and the attached coupons, if any, shall be payable to the bearer or registered as to principal or as to principal and interest. Interest coupons, if any, shall bear the original or facsimile signature of the [chairman] chair of the board."

SECTION HJC→262 266←HJC. Section 73-21-28 NMSA 1978 (being Laws 1943, Chapter 80, Section 25, as amended) is amended to read:

"73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.-- Whenever the board shall, by resolution, determine that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, to carry out the objects or purposes of the district, requiring the creation of a general obligation indebtedness of five thousand dollars (\$5,000) or more, secured by property tax revenue from within the district, the board shall order the submission of the proposition of issuing the obligations or bonds or creating other indebtedness to the qualified electors of the district at a district election held in accordance with the provisions of the Local Election Act. The declaration of public interest or necessity required in

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this section and the provision for the holding of the election may be included within one and the same resolution. The resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred and the maximum rate of interest to be paid on the indebtedness. The resolution shall also announce the date upon which the election shall be held; provided that the date is not in conflict with the provisions of Section ~~[1-12-71]~~ 1-24-1 NMSA 1978."

SECTION HJC→263 267←HJC. Section 73-21-31 NMSA 1978 (being Laws 1943, Chapter 80, Section 28) is amended to read:

"73-21-31. EFFECT OF ELECTION--SUBSEQUENT ELECTIONS.--In the event that it [~~shall appear~~] appears from [~~said~~] the returns that a majority of [~~said~~] the qualified [~~taxpaying~~] electors of the district [~~who shall~~] have voted [~~on any proposition submitted hereunder at such election voted~~] in favor of [~~such proposition~~] the ballot question, the district shall [~~thereupon~~] then be authorized to incur [~~such~~] the indebtedness or the obligations, enter into [~~such~~] the contract or issue and sell [~~such~~] the bonds of the district, as the case may be, [~~all~~] for the purpose [~~or purposes~~] and object [~~or objects~~] provided for in the proposition submitted [~~here~~] under the provisions of the Water and Sanitation District Act and in

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the resolution [~~there~~] for them and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in [~~such~~] the resolution. Submission of the proposition of incurring such obligations or bonded or other indebtedness at [~~such~~] an election shall not prevent or prohibit submission of [~~the same~~] it or other propositions at subsequent [~~election or~~] elections called for [~~such~~] that purpose."

SECTION HJC→264 268←HJC. Section 73-26-1 NMSA 1978 (being Laws 2009, Chapter 100, Section 1, as amended) is amended to read:

"73-26-1. LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY.--

A. The "Lower Rio Grande public water works authority" is created. The authority is a political subdivision of the state and shall be an independent public body. The authority is composed of Berino mutual domestic water consumers and mutual sewage works association, Desert Sands mutual domestic water consumers association, La Mesa mutual domestic water consumers association, Mesquite mutual domestic water consumers and mutual sewage works association and Vado mutual domestic water consumers association, all serving unincorporated communities within Dona Ana county. The voting community membership of the five founding entities [~~have~~] has approved by resolution the development of the

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authority.

B. The authority may adopt rules and resolutions, governance policies and procedures necessary to exercise the powers conferred pursuant to this section.

C. All functions, appropriations, money, records and equipment and all personal property and real property, including water rights, easements, permits and infrastructure, as well as all encumbrances, debts and liabilities pertaining to or owned by the founding entities shall be transferred to the authority.

D. The authority's service area shall consist of the founding entities' existing place of use on file with and approved by the state engineer and shall be filed in the public records of Dona Ana county. An application shall be filed with the state engineer to combine and commingle water rights and to combine the existing entities' place of use into the authority's service area. In the event that another entity elects to merge into the authority, the authority's service area shall be amended to include that entity's place of use and shall be filed with the state engineer. The authority's initial service area and any subsequent amendments to its service area shall be designated in a plat filed in the public records of Dona Ana county. If the service area of the merging entity is contiguous with the service area of the authority, the merger shall include the combining and commingling of water

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rights with the authority by application filed with the state engineer.

E. The authority may provide for water and wastewater services, road improvements for the protection of the authority's infrastructure or renewable energy projects that are integral to the operation and maintenance of the authority's facilities or any combination or parts thereof.

F. The authority shall exercise all powers allowed pursuant to law, including:

(1) regulating, supervising and operating the authority's facilities;

(2) establishing rates and imposing assessments, fees and charges and taking action necessary for the enforcement thereof;

(3) assessing a standby charge for the privilege of connection into the authority's service at some date in the future if the property line is within three hundred feet of the authority's service lines and the property line is located within the boundaries of the authority. This section applies to new connections after the enactment of this act;

(4) acquiring, from a willing seller only, holding and using water rights in an amount necessary to meet its reasonable needs not to exceed forty years pursuant to Section 72-1-9 NMSA 1978;

(5) shutting off, after notice, unauthorized

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connections, illegal connections or a connection for which charges are delinquent in payment;

(6) entering into contracts for services with private entities, the state, municipalities, counties and the federal government and other public bodies to further its public purposes;

(7) entering into joint powers agreements with other governmental entities;

(8) acquiring and disposing of real property, personal property and rights of way;

(9) condemning property pursuant to the Eminent Domain Code as the last resort and only for the purposes of construction, maintenance and operations of the authority's infrastructure;

(10) hiring and retaining agents, employees and consultants, as needed;

(11) adopting and using a governmental seal;

(12) placing a lien on property for unpaid assessments, charges and fees and enforcing the lien in a manner pursuant to this section;

(13) suing and being sued and being a party to suits, actions and proceedings; and

(14) having and exercising all rights and powers necessary, incidental to or implied from the specific powers granted in this section.

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G. As a political subdivision of the state and a member-owned community water system, the authority shall be subject to the:

(1) applicable rules and regulations of the department of environment, and in its discretion the department may:

(a) conduct periodic reviews of the operation of the authority;

(b) require the authority to submit information to the department;

(c) upon department of environment discretion or upon a petition of twenty-five percent of the members of the authority, conduct an investigation as it deems necessary to ensure the authority's compliance with all applicable statutes, rules, regulations and reporting requirements; and

(d) after a hearing, set and collect rates and fees and use the same for the proper operation and management of the authority;

(2) applicable rules and regulations of the department of finance and administration, local government division and budget and finance bureau;

(3) Open Meetings Act;

(4) Inspection of Public Records Act;

(5) Audit Act;

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(6) Procurement Code;
(7) Governmental Conduct Act;
~~[(8) special election procedures pursuant to
Chapter 1, Article 24 NMSA 1978;~~
~~(9)]~~ (8) Chapter 72 NMSA 1978; and
~~[(10)]~~ (9) applicable rules and regulations of
the state engineer.

H. The authority is a political subdivision of the state and a member-owned community water system and shall not be subject to the jurisdiction of the public regulation commission or the provisions of the Public Utility Act.

I. The authority may issue utility system revenue bonds and obligations for acquiring real and personal property needed for the utility system and for extending, enlarging, renovating, repairing or otherwise improving its facilities. The authority may issue revenue anticipation notes with maturities and terms to be approved by the board of directors of the authority. The authority may pledge irrevocably net revenues from the operation of the utility system for payment of the principal, premiums and interest on the bonds. The utility system revenue bonds:

(1) may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as the authority determines;

(2) may be subject to prior redemption at the

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authority's option at such time and upon such terms and conditions, with or without the payment of a premium, as determined by the authority;

(3) may mature at any time not exceeding forty years after the date of issuance;

(4) may be serial in form and maturity, may consist of one bond payable at one time or in installments or may be in another form as determined by the authority;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and

(6) may be sold at a public or negotiated sale.

J. The authority's board of directors may adopt a resolution declaring the necessity for the issuance of utility system revenue bonds or other obligations and may authorize the issuance of utility system revenue bonds or other obligations by an affirmative vote of a majority of all members of the authority's board of directors. Utility revenue bonds and the resolution authorizing their issuance shall be subject to voter approval with oversight from the department of finance and administration and the New Mexico finance authority. The bonds authorized by the authority and their income shall be exempt from taxation by the state and its political subdivisions.

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K. Except for the purpose of refunding previous utility system revenue bond issues, the authority shall not sell utility system revenue bonds payable from pledged revenues after the expiration of three years from the date of the resolution authorizing their issuance. Any period of time during which a utility system revenue bond is in litigation shall not count toward the determination of the expiration date of that issue.

L. The authority shall be governed by a board of directors. [~~The directors of the initial board shall consist of five directors representing each of the founding entities. The directors of the initial board shall serve until their successors are elected. After the terms of the initial directors are completed, the succeeding~~] The board of directors shall be elected by districts from a minimum of five and a maximum of seven electoral districts. Each director [~~at the time of election~~] shall reside within and be a qualified elector of the electoral district of the authority from which that member is elected. The boundaries and the number of electoral districts shall be established by the initial board within two years of the creation of the authority. The board may in its governance document provide for redistricting upon any change in the authority's boundary and following each decennial census. The elected board of directors shall serve staggered terms to be established in the governance document

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developed by the [initial] board. [~~Elections shall be conducted in accordance with the special election procedures pursuant to Chapter 1, Article 24 NMSA 1978 and may be conducted by the Dona Ana county elections bureau.~~]

M. All elections of the authority shall be conducted pursuant to the provisions of the Local Election Act and voted upon by the qualified electors registered to vote within the boundaries of the authority. Board members shall be elected at the regular local election. Vacancies on the board shall be filled by the remaining board members and a person appointed to fill a vacancy shall serve until the next regular local election. A person appointed to fill a vacancy shall be a qualified elector of the districted area the person is appointed to represent.

[M-] N. If the authority places a lien on property for nonpayment of money owed, the authority shall file in the office of the county clerk of the county or counties in which the property is located a notice of lien, which shall include:

- (1) identification of the outstanding debt to the authority;
- (2) the fact that a lien is established;
- (3) the general purpose of the lien;
- (4) the name of the owner of the property against which the lien is established as determined from the records of the county assessor;

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- (5) a description of the property against which the lien is established;
- (6) the amount of the lien; and
- (7) if the lien is for more than one period of time, the date for which the lien is established.

~~[N-]~~ O. A lien for multiple charges or assessments on a property owner may be included in the same notice of lien, and it shall not be necessary to file separate liens against the separate properties. The lien shall be attested in the name of the authority. The principal amount of any lien imposed for a charge or assessment shall bear interest at the rate of twelve percent per year from the date of filing the notice of lien unless otherwise provided by law.

~~[O-]~~ P. After the filing of the notice of lien in the office of the county clerk, the authority shall have a lien upon the property described in the notice of lien. The filing of the notice of lien shall be notice to all the world of the existence of the lien and of the contents of the notice of lien. No such lien shall affect the title or rights to or in any real estate, of any purchaser, mortgagee in good faith or judgment lien creditor, without knowledge of the existence of such lien, unless the notice of lien is filed in accordance with this section in the office of the county clerk of the county in which the real estate is situated. All authority liens shall be first and prior liens on the property subject

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only to the lien of federal, state and county taxes. The authority may release a lien against any specific property by:

(1) entering and signing a receipt of payment upon the notice of lien filed in the office of the county clerk; or

(2) issuing a separate receipt that recites that payment of the lien with any accrued interest and penalty has been made.

[P-] Q. The authority may, in a single suit, foreclose the liens against all persons named in the notice of liens or against the property if the owners are unknown. The complaint filed shall:

(1) expressly name each defendant, if known;
(2) describe the property against which the lien is established; and

(3) set forth the amount of the lien.

[Q-] R. The judgment or decree rendered in said cause shall be several against the named defendants and against the several properties for the amounts decreed to be due by each. A lien against real estate may be foreclosed in the same manner that mortgages or other liens against real estate are foreclosed with like rights of redemption. In the foreclosure of any lien created by the authority, reasonable attorney fees may be ordered by the court as part of the costs in favor of the prevailing party.

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[R-] S. The authority shall prepare and sign a notice of foreclosure, which shall also bear the signature and mailing address of an attorney representing the authority. The proceeds of the sale of the property by the authority pursuant to a foreclosure sale on a lien shall be applied as follows:

(1) first, to the payment of costs in giving notice of the sale and of conducting the sale;

(2) second, to the indebtedness claimed under a lien on the property for federal, state, county, municipal or ad valorem taxes;

(3) third, to the indebtedness claimed under the lien of the authority;

(4) fourth, to all other special assessments having a lien on the property; and

(5) fifth, after all such costs, liens, assessments and taxes are paid, to the former owner, mortgage holder or parties having an interest in the tract or parcel, upon such persons providing satisfactory proof to the court of such interest and upon approval of the court.

[S-] T. As used in this section, "public water works authority" means a utility organized as a political subdivision of the state for the purposes of constructing infrastructure and furnishing water and wastewater services for domestic, commercial or industrial uses, road improvements for the protection of the authority's infrastructure and renewable

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energy projects; and entering into agreements with other entities for the provision of other services, including water conservation and reclamation, source water protection, drainage, flood control, solid waste, planning and zoning."

SECTION HJC→265 269←HJC. Section 74-10-12 NMSA 1978 (being Laws 1993, Chapter 319, Section 12) is amended to read:

"74-10-12. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of seven qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided for in Section [5 of the Solid Waste Authority Act or elected as provided in Section 13 of the Solid Waste Authority Act and except for any director chosen to fill an unexpired term] 74-10-5 NMSA 1978, the term of each director commences on the first day of January next following a [general] regular local election in the state and runs for six years. [Each director, subject to such exceptions, shall serve a six-year term ending on the first day of January next following a general election, and each director shall serve until his successor has been duly chosen and qualified.]"

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SECTION HJC→266 270←HJC. Section 74-10-13 NMSA 1978

(being Laws 1993, Chapter 319, Section 13) is amended to read:

"74-10-13. ELECTION OF DIRECTORS.--Each biennial nonpartisan election of directors shall be conducted at the time of the ~~[general]~~ regular local election under the direction of the county clerk and in accordance with the election laws of New Mexico. Any other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted ~~[at any time approved by the board in accordance with the election laws of New Mexico]~~ pursuant to the provisions of the Local Election Act."

SECTION HJC→267 271←HJC. Section 74-10-14 NMSA 1978

(being Laws 1993, Chapter 319, Section 14) is amended to read:

"74-10-14. ELECTION RESOLUTION.--The board shall call any election by resolution ~~[adopted at least one hundred eighty days prior to the election]~~ as prescribed in the Local Election Act. The resolution shall recite the objects and purposes of the election and ~~[the date upon which the election shall]~~ indicate the general or regular local election on which the ballot question shall appear or specify the date a special election will be held."

SECTION HJC→268 272←HJC. Section 74-10-15 NMSA 1978

(being Laws 1993, Chapter 319, Section 15) is amended to read:

"74-10-15. CONDUCT OF ELECTION.--An election held pursuant to the Solid Waste Authority Act shall be conducted

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~~[in the manner provided by the laws of the state for the conduct of general elections]~~ pursuant to the provisions of the Local Election Act."

SECTION HJC→269 273←HJC. Section 74-10-19 NMSA 1978 (being Laws 1993, Chapter 319, Section 19) is amended to read:

"74-10-19. APPROVAL OF PROPOSALS AT ELECTION

[RETURNS].--

~~[The authority shall appoint an authority precinct board at the authority's expense for each polling place. For authority elections held at the time of the general election, the authority shall be provided space in the polling places where the general election is being conducted. Paper ballots shall be used in the conduct of any authority election, and the authority precinct board shall conduct the election as provided in the Election Code where paper ballots are used. The separate authority precinct board shall certify the results of the election in that precinct to the secretary within twelve hours after the close of the polls. The secretary shall canvass the results of the authority election as certified by each of the separate authority precinct boards and shall declare the results of the election at any regular or special meeting held not less than five days following the date of the election.]~~ Except as otherwise provided, any proposal submitted at any election held pursuant to the Solid Waste Authority Act shall not carry unless the proposal has been approved by a

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majority of the qualified electors of the authority voting on the proposal."

Hf1→SECTION 274. A new section of the Public Improvement District Act is enacted to read:

"[NEW MATERIAL] POSTING OF NOTICES.--For any election conducted pursuant to the Public Improvement District Act, in addition to the notice requirements set forth in Section 5-11-7 NMSA 1978, the owners shall ensure that notices shall be posted in three conspicuous public places within the boundaries of the district not less than twenty days before the first day for voting in the election."

SECTION 275. A new section of the Tax Increment for Development Act is enacted to read:

"[NEW MATERIAL] POSTING OF NOTICES.--For any election conducted pursuant to the Tax Increment for Development Act, in addition to the notice requirements set forth in Section 5-15-8 NMSA 1978, the owners shall ensure that notices shall be posted in three conspicuous public places within the boundaries of the district not less than twenty days before the first day for voting in the election."←Hf1

SECTION Hf1→HJC→270-274←HJC←Hf1 Hf1→276←Hf1.

TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--The New Mexico

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compilation commission shall rename in tables of contents and headings:

A. Chapter 1, Article 16 NMSA 1978 as "Ballot Questions"; and

B. Chapter 1, Article 24 NMSA 1978 as "Special Elections".

SECTION Hf1→HJC→271-275←HJC ←Hf1 Hf1→277←Hf1.

TEMPORARY PROVISION--POLLING PLACES FOR 2019 REGULAR LOCAL ELECTION.--Polling places for the 2019 regular local election shall be the same polling places that were used in the 2018 general election, unless the board of county commissioners amends the 2017 polling place resolution no later than July 1, 2019.

SECTION Hf1→HJC→272-276←HJC ←Hf1 Hf1→278←Hf1. TEMPORARY PROVISION--DISTRICTS--EXPIRATION OF MEMBER TERMS.--

A. The term of a branch community college district, special hospital district, solid waste authority district, lower Rio Grande public water works authority or watershed district board member that was set to expire on or before June 30, 2020 shall expire on December 31, 2019, and that member's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2019 for a term beginning on January 1, 2020.

B. The term of a branch community college district, special hospital district, solid waste authority district,

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lower Rio Grande public water works authority or watershed district board member that was set to expire on or after July 1, 2020 but on or before June 30, 2022 shall expire on December 31, 2021, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2021 for a term beginning on January 1, 2022.

C. The term of a special hospital district or watershed district board member that was set to expire on or after July 1, 2022 shall expire on December 31, 2023, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

SECTION HJC→273 277←HJHf1→C 279←Hf1. TEMPORARY PROVISION--EXPIRATION OF DISTRICT COURT JUDGE TERMS.--

A. The term of a district court judge in any judicial district serving in a division numbered 2 or every third number thereafter that was set to expire on December 31, 2020 shall expire on December 31, 2022, subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico.

B. The term of a district court judge in any judicial district serving in a division numbered 3 or every third number thereafter that was set to expire on December 31, 2020 shall expire on December 31, 2024, subject to the provisions of the Nonpartisan Judicial Retention Act and

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Article 6 of the constitution of New Mexico.

SECTION Hf1→HJC→274-278←HJC←Hf1 Hf1→280←Hf1. TEMPORARY PROVISION--EXPIRATION OF METROPOLITAN COURT JUDGE TERMS.--The term of a metropolitan court judge serving in a division numbered 2 or every second number thereafter that was set to expire on December 31, 2022 shall expire on December 31, 2024, subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico.

SECTION Hf1→HJC→275-279←HJC←Hf1 Hf1→281←Hf1. TEMPORARY PROVISION--SECRETARY OF STATE.--The secretary of state shall ensure that the public regulation commission, public education commission, magistrate judges and county officers are aligned with the offices listed for election in Section 1-10-8 NMSA 1978. The secretary of state shall provide a process to renumber district numbers so that offices are aligned with the offices listed for election in Section 1-10-8 NMSA 1978 and, where necessary, shall provide for an extended term to the general election in 2022 or 2024 only as required to align offices and positions to the offices listed for election in Section 1-10-8 NMSA 1978; provided that where one member of a local governing body must receive an extended term pursuant to this section, the secretary of state shall have the members whose terms expire the same year draw lots to make the determination.

SECTION Hf1→HJC→276-280←HJC←Hf1 Hf1→282←Hf1. TEMPORARY .211327.3

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PROVISION--ELECTION FUND.--In fiscal years 2019 and 2020, if sufficient funding is deemed available by the secretary of state no later than May 1, 2019 and May 1, 2020, money in the election fund may be expended to reimburse local governments for transitional costs associated with implementation of the Local Election Act, based on written guidance provided by the secretary of state and posted on the secretary's website no later than May 1, 2019 and May 1, 2020.

SECTION Hf1→HJC→277-281←HJC←Hf1 Hf1→283←Hf1. TEMPORARY PROVISION--ELECTION BOARD.-- References in the Election Code to "precinct board", shall be deemed to be references to "election board", as that term is defined in Section 1-1-13 NMSA 1978."

SECTION Hf1→HJC→278-282←HJC←Hf1 Hf1→284←Hf1. REPEAL.--

A. Sections 1-2-8, 1-2-10, 1-3-3, 1-4-26, 1-4-33, 1-6-5.4, 1-8-9, HJC→1-8-10,←HJC 1-8-25, 1-8-43, 1-12-71, 1-13-3, 1-16-5, 1-16-6, 1-16-10 through 1-16-13, 1-22-9, 1-22-10.1 through 1-22-15, 3-30-1 through 3-30-4, 4-38-20 through 4-38-23, 4-44-36 through 4-44-45, 6-15-23 through 6-15-28, 22-4A-1 through 22-4A-3, 22-7-2, 22-7-15, 22-7-16, 73-20-10, 73-21-15 and 74-10-16 through 74-10-18 NMSA 1978 (being Laws 1975, Chapter 255, Sections 14 and 16, Laws 1969, Chapter 240, Sections 52, 82 and 89, Laws 1999, Chapter 267, Section 3, Laws 1975, Chapter 255, Section 104, Laws 1969, Chapter 240, Sections HJC→159,←HJC 170 and 180, Laws 1977, Chapter 222, Section 7, Laws 1969, Chapter 240, Sections 305, .211327.3

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378, 379, 383 and 384, Laws 1975, Chapter 287, Section 1, Laws 2018, Chapter 79, Sections 23 and 25 through 28, Laws 1965, Chapter 300, Sections 14-29-1, 14-29-2, 14-29-3 and 14-29-4, Laws 1969, Chapter 90, Section 1, Laws 1876, Chapter 1, Sections 15, 28 and 32, Laws 1953, Chapter 167, Sections 1 through 8, 11 and 12, Laws 1970, Chapter 6, Sections 1 through 3, Laws 1971, Chapter 132, Section 3, Laws 1970, Chapter 6, Sections 5 and 6, Laws 1987, Chapter 191, Sections 1 through 3, Laws 1977, Chapter 308, Sections 2, 15 and 16, Laws 1957, Chapter 210, Section 10, Laws 1977, Chapter 326, Section 2 and Laws 1993, Chapter 319, Sections 16 through 18, as amended) are repealed.

B. Laws 2018, Chapter 79, Sections 160, 161 and 163 through 165 are repealed.

SECTION Hf1→~~HJC→279-283←HJC~~ ←Hf1 Hf1→285←Hf1.

EFFECTIVE DATE.--

HJC→A.←HJC The effective date of the provisions of Section 141 of this act is July 1, 2022.

HJC→B. The effective date of the provisions of Section 145 of this act is January 1, 2020.←HJC

SECTION Hf1→~~HJC→280-284←HJC~~ ←Hf1 Hf1→286←Hf1.

EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.