

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 453 & 527

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR PRECINCT BOARD TRAINING
MANUALS; CHANGING REGISTRATION PROCEDURES AND REQUIREMENTS;
ELIMINATING PROVISIONS FOR ELECTRONIC TRANSMISSION OF ABSENTEE
BALLOTS; CLARIFYING WHEN THE ABSENT VOTER PRECINCT POLLING
PLACES MAY BE OPEN; CHANGING THE DISTRIBUTION REQUIREMENTS FOR
VOTER IDENTIFICATION CARDS; REQUIRING REPORTING OF FAILED
REGISTRATIONS FOR INVESTIGATION OR PROSECUTION; REQUIRING THE
SECRETARY OF STATE TO INFORM A VOTER OF APPEAL PROCEDURES FOR
COUNTY CLERK DECISIONS CONCERNING THE COUNTING OF THE VOTER'S
PROVISIONAL BALLOT; ESTABLISHING PRECINCT REPORTING
REQUIREMENTS; REQUIRING THIRD-PARTY REGISTRATION ORGANIZATIONS
TO REGISTER WITH THE STATE; CHANGING THE FILING DATE FOR MINOR
PARTY CANDIDATES; PROVIDING FOR THE HANDLING OF ABSENTEE
BALLOTS DELIVERED TO THE POLLING PLACE; CHANGING PROVISIONS FOR
RECOUNT AND RECHECK COSTS; PROVIDING PENALTIES; AMENDING,

.161878.5

underscoring material = new
~~[bracketed material] = delete~~

1 REPEALING AND ENACTING SECTIONS OF THE ELECTION CODE; DECLARING
2 AN EMERGENCY.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 Section 1. A new section of the Election Code is enacted
6 to read:

7 "[NEW MATERIAL] REPORTING OF VOTE TOTALS BY PRECINCT--
8 VOTING DATA MAINTAINED BY PRECINCT.--

9 A. The county clerk shall report to the secretary
10 of state the vote totals in each precinct for each candidate
11 and ballot question to the extent that the county clerk can do
12 so without compromising the secrecy of a voter's ballot.

13 B. The county clerk shall maintain voting data by
14 precinct that includes the number of voters who voted early in-
15 person, absentee by mail and on election day and the number of
16 voters who voted using each type of voting system; provided
17 that the county clerk may combine data only to the extent
18 necessary to protect the secrecy of each voter's ballot in
19 accordance with rules promulgated by the secretary of state.
20 The county clerk shall report the data required by this
21 subsection no later than sixty days after the election."

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

24 "1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS TO
25 PRECINCT BOARDS--TRAINING MANUAL.--

.161878.5

1 A. The secretary of state shall provide:

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

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

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

17 Section 3. Section 1-4-5 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 63, as amended) is amended to read:

19 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
20 INFORMATION--PENALTY.--

21 A. A qualified elector may apply to a registration
22 officer or agent for registration.

23 B. The registration officer or agent or qualified
24 elector shall fill out each of the blanks on the certificate of
25 registration by typing or printing in ink. The [~~voter~~]

.161878.5

underscored material = new
[bracketed material] = delete

1 qualified elector shall be given a receipt [~~for the original,~~
2 ~~and the registration agent shall receive a copy that omits the~~
3 ~~voter's social security number and date of birth and which]~~
4 that shall contain:

5 (1) a number traceable to the registration
6 agent or officer;

7 (2) a statement informing the qualified
8 elector that if the qualified elector does not receive
9 confirmation of the qualified elector's registration within
10 fifteen days of the receipt date, that the qualified elector
11 should contact the office of the county clerk in the county
12 where the qualified elector resides or the office of the
13 secretary of state; and

14 (3) a toll-free number for the office of the
15 secretary of state.

16 C. The qualified elector shall subscribe a
17 certificate of registration as follows:

18 (1) by signing the certificate of registration
19 using the qualified elector's given name, middle name or
20 initial and last name; or

21 (2) if any qualified elector seeking to
22 register is unable to read and write either the English or
23 Spanish language or is unable to read or write because of some
24 physical disability, the certificate of such person shall be
25 filled out by a registration officer or agent and the name of

.161878.5

1 the qualified elector so registering shall be subscribed by the
2 making of the qualified elector's mark.

3 D. When properly executed by the registration agent
4 or officer, or qualified elector, the original of the
5 certificate of registration shall be presented, either in
6 person or by mail by the qualified elector or by the
7 registration agent or officer, to the county clerk of the
8 county in which the qualified elector resides.

9 E. Only when the certificate of registration is
10 properly filled out, subscribed by the qualified elector and
11 accepted for filing by the county clerk as evidenced by the
12 county clerk's signature or stamp and the date of acceptance
13 thereon shall it constitute an official public record of the
14 registration of the qualified elector. It is unlawful for the
15 ~~[voter's]~~ qualified elector's date of birth or any portion of
16 the ~~[voter's]~~ qualified elector's social security number
17 required on the certificate of registration to be copied,
18 conveyed or used by anyone other than the person registering to
19 vote, either before or after it is filed with the county clerk,
20 except by elections administrators for purposes of the
21 registration and voting process.

22 F. A person who unlawfully copies, conveys or uses
23 information from a certificate of registration is guilty of a
24 fourth degree felony."

25 Section 4. Section 1-4-5.1 NMSA 1978 (being Laws 1993,

.161878.5

1 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
2 as amended) is amended to read:

3 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

7 B. A person may request certificate of registration
8 forms [~~may be requested~~] from the secretary of state or any
9 county clerk in person, by telephone or by mail for [~~oneself~~]
10 that person or for [~~others~~] other persons.

11 C. Except as provided in Subsection D of this
12 section, a qualified elector who wishes to register to vote
13 shall fill out completely and sign the certificate of
14 registration. The qualified elector may seek the assistance of
15 any person in completing the certificate of registration.

16 D. A qualified elector who has filed for an order
17 of protection pursuant to the provisions of the Family Violence
18 Protection Act and who presents a copy of that order from a
19 state or tribal court to the registration officer shall not be
20 required to provide address information on the certificate of
21 registration.

22 E. Completed certificates of registration may be
23 mailed or presented in person by the registrant or any other
24 person to the secretary of state or presented in person by the
25 registrant or any other person to the county clerk of the

.161878.5

1 county in which the registrant resides.

2 F. If the registrant wishes to vote in the next
3 election, the completed and signed certificate of registration
4 shall be delivered or mailed and postmarked at least twenty-
5 eight days before the election.

6 G. Upon receipt of a certificate of registration,
7 the secretary of state shall send the certificate to the county
8 clerk in the county where the qualified elector resides.

9 H. Only when the certificate of registration is
10 properly filled out, signed by the qualified elector and
11 accepted for filing by the county clerk as evidenced by the
12 county clerk's signature or stamp and the date of acceptance
13 thereon and when notice has been received by the registrant
14 shall it constitute an official public record of the
15 registration of the qualified elector.

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

24 (1) the question "Are you a citizen of the
25 United States of America?" and boxes for the applicant to check

.161878.5

1 to indicate whether the applicant is or is not a citizen;

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

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

9 (4) a statement informing the applicant that:

10 (a) if the form is submitted by mail by
11 the applicant and the applicant is registering for the first
12 time in New Mexico, the applicant must submit with the form a
13 copy of: 1) a current and valid photo identification [~~or voter~~
14 ~~identification card~~]; or 2) a utility bill, bank statement,
15 government check, paycheck, student identification card or
16 other government document, including identification issued by
17 an Indian nation, tribe or pueblo, that shows the name and
18 address of the applicant; and

19 (b) if the applicant does not submit the
20 required identification, [~~he~~] the applicant will be required to
21 do so when voting in person or absentee; and

22 (5) a statement requiring the applicant to
23 swear or affirm that the information supplied by the applicant
24 is true."

25 Section 5. Section 1-4-5.3 NMSA 1978 (being Laws 2005,

.161878.5

1 Chapter 270, Section 18) is amended to read:

2 "1-4-5.3. REGISTRATION--LACK OF PHYSICAL ADDRESS.--

3 A. If a qualified elector resides in an area
4 lacking a specific physical address, the qualified elector
5 shall be allowed to substitute a map or give a description and,
6 if available, a mailing address or the latitude and longitude
7 from a geographical information system, indicating where the
8 qualified elector resides for a physical address [~~and register~~
9 ~~to vote~~]. The [~~voter~~] qualified elector shall be assigned to a
10 precinct based on the geographic description of where the
11 [~~voter~~] qualified elector resides.

12 B. As used in this section, "geographical
13 information system" means a system that stores and analyzes
14 geographic data that can be used to display and map addresses
15 and locations."

16 Section 6. Section 1-4-11 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 67, as amended) is amended to read:

18 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
19 CERTIFICATES.--

20 A. Upon receipt of a complete certificate of
21 registration, if in proper form, the county clerk shall
22 determine if the qualified elector applying for registration is
23 already registered in the registration records of the county.
24 If the qualified elector is not already registered in the
25 county and if the certificate of registration is received

.161878.5

1 within the time allowed by law for filing certificates of
2 registration in the county clerk's office, the county clerk
3 shall sign or stamp, in the space provided therefor on each
4 copy of the certificate, [~~his~~] the qualified elector's name and
5 the date the certificate was accepted for filing in the county
6 registration records. A voter identification card shall be
7 handed or mailed as soon as practical to the [~~voter~~] qualified
8 elector and to no other person.

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

23 C. If the qualified elector does not register in
24 person, indicates that [~~he~~] the qualified elector has not
25 previously voted in a general election in New Mexico and does

1 not provide the registration officer with the required
 2 identification, the registration officer shall indicate this on
 3 the ~~[voter's]~~ qualified elector's certificate of registration
 4 and the county clerk shall note this on the appropriate
 5 precinct signature roster.

6 D. If the qualified elector substitutes latitude
 7 and longitude from a geographical information system for a
 8 physical address pursuant to Section 1-4-5.3 NMSA 1978, the
 9 county clerk shall use a mail service, if available, that has
 10 geographical information system delivery capability to deliver
 11 the voter identification card or certificate of registration."

12 Section 7. Section 1-4-49 NMSA 1978 (being Laws 2005,
 13 Chapter 270, Section 17) is amended to read:

14 "1-4-49. THIRD-PARTY REGISTRATION AGENTS--REGISTRATION
 15 REQUIRED--PROCEDURES--REPORTS--PENALTY.--

16 A. Registration agents who either register or
 17 assist persons to register to vote on behalf of an organization
 18 that is not a state or federal agency shall register with the
 19 secretary of state, and the organization shall register and
 20 provide the secretary of state with:

21 (1) the names and addresses of the officers of
 22 the organization and the name and permanent address of the
 23 organization;

24 (2) the names, permanent addresses, temporary
 25 addresses, if any, and dates of birth [~~and social security~~

.161878.5

1 ~~numbers~~] of each person registering persons to vote in the
2 state on behalf of the organization; and

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

8 B. Organizations employing registration agents or
9 using volunteer registration agents shall deliver or mail a
10 certificate of registration to the secretary of state or county
11 clerk within forty-eight hours of its completion by the person
12 registering to vote or deliver it the next business day if the
13 appropriate office is closed for that forty-eight-hour period.

14 C. The secretary of state may issue rules to ensure
15 the integrity of the registration process, including rules
16 requiring that organizations account for all state and federal
17 registration forms used by their registration agents.

18 D. A person who [~~willfully~~] violates the provisions
19 of this section is guilty of a petty misdemeanor and [~~shall~~
20 ~~have his~~] the person's third-party registration agent status
21 shall be revoked. If the person who violates a provision of
22 this section is an employee of an organization and has
23 decision-making authority involving the organization's voter
24 registration activities or is an officer of the organization,
25 that organization shall be subject to civil penalties as

1 described in Subsection E of this section.

2 E. If the secretary of state reasonably believes
3 that a person committed, or is about to commit, a violation of
4 the provisions of this section, the secretary of state shall
5 refer the matter to the attorney general or a district attorney
6 for enforcement. The attorney general or district attorney may
7 institute a civil action in district court for a violation of
8 the provisions of this section or to prevent a violation of the
9 provisions of this section. An action for relief may include a
10 permanent or temporary injunction, a restraining order or any
11 other appropriate order, including a civil penalty of two
12 hundred fifty dollars (\$250) for each violation, not to exceed
13 five thousand dollars (\$5,000).

14 F. Nothing in this section shall prevent a
15 candidate from distributing NMVR-1 voter registration forms to
16 qualified electors; provided that the forms clearly state that
17 the form shall not be given back to the candidate for delivery
18 to the county clerk."

19 Section 8. Section 1-6-4 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 130, as amended) is amended to read:

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

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

.161878.5

underscored material = new
[bracketed material] = delete

1 government to the county clerk of the county of [~~his~~] the
2 applicant's residence. The form shall allow the applicant to
3 receive an absentee ballot for all elections within an election
4 cycle.

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

14 C. Each application for an absentee ballot shall be
15 subscribed by the applicant and shall require the applicant's
16 printed name, year of birth and unique identifier to be
17 supplied by the applicant, which shall constitute the required
18 form of identification, except for new registrants [~~that~~] who
19 have registered by mail and at that time did not provide
20 acceptable identification; provided, however, that absent
21 uniformed services voters, overseas voters and voters with
22 disabilities shall not be required to submit any identification
23 other than their printed name, year of birth and unique
24 identifier.

25 D. An application for an absentee ballot by a

1 federal qualified elector or an overseas voter shall be
2 accepted at any time preceding the general election."

3 Section 9. Section 1-6-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 131, as amended) is amended to read:

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

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

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

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

24 D. If the applicant has on file with the county a
25 valid certificate of registration that indicates that the

.161878.5

1 applicant is a voter who is a new registrant and who registered
2 by mail without submitting the required voter identification,
3 the county clerk shall notify the voter that the voter must
4 submit with the absentee ballot the required physical form of
5 identification. The county clerk shall note on the absentee
6 ballot register and signature roster that the applicant's
7 absentee ballot must be returned with the required
8 identification.

9 E. If the county clerk finds that the applicant is
10 a voter other than a federal qualified elector or overseas
11 voter, the county clerk shall mark the application "accepted"
12 and, beginning twenty-eight days before the election, deliver
13 an absentee ballot to the voter in the county clerk's office or
14 mail to the applicant an absentee ballot and the required
15 envelopes for use in returning the ballot. If the county clerk
16 finds that the applicant is a federal qualified elector or
17 overseas voter, the county clerk shall mark the application
18 "accepted" and beginning forty-five days before the election,
19 mail to the applicant an absentee ballot and the required
20 envelopes for use in returning the ballot. Acceptance of an
21 application of a federal qualified elector constitutes
22 registration for the election in which the ballot is to be
23 cast. Acceptance of an application from an overseas voter who
24 is not an absent uniformed services voter constitutes a request
25 for changing information on the certificate of registration of

.161878.5

1 any such voter. An absent voter shall not be permitted to
2 change party affiliation during those periods when change of
3 party affiliation is prohibited by the Election Code. Upon
4 delivery of an absentee ballot to a voter in the county clerk's
5 office or mailing of an absentee ballot to an applicant who is
6 a voter, an appropriate designation shall be made on the
7 signature line of the signature roster next to the name of the
8 voter who has been provided or mailed an absentee ballot.

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

.161878.5

1 person at the county clerk's office during the regular hours
2 and days of business beginning on the twenty-eighth day
3 preceding the election and from 10:00 a.m. to 6:00 p.m. on the
4 Saturday immediately prior to the date of the election. In
5 marking the absentee ballot, the voter, pursuant to the
6 provisions of Section 1-12-15 NMSA 1978, may be assisted by one
7 person of the voter's choice.

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

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

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

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

24 Section 10. Section 1-6-10 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 136, as amended) is amended to read:

.161878.5

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

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

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

.161878.5

1 C. At 5:00 p.m. on the Monday immediately preceding
2 the date of election, the county clerk shall record the numbers
3 of the unused absentee ballots and shall publicly destroy in
4 the county clerk's office all such unused ballots. The county
5 clerk shall execute a certificate of destruction, which shall
6 include the numbers on the absentee ballots destroyed. A copy
7 of the certificate of destruction shall be sent to the
8 secretary of state."

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

11 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
12 PRECINCT BOARDS.--

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

17 B. If the voter's signature is missing, the
18 presiding judge shall write "Rejected" on the front of the
19 official mailing envelope. The election clerks shall enter the
20 voter's name in the signature rosters and shall write the
21 notation "Rejected--Missing Signature" in the "Notations"
22 column of the signature rosters. The presiding judge shall
23 place the official mailing envelope unopened in an envelope
24 provided for rejected ballots, seal the envelope and write the
25 voter's name on the front of the envelope and deposit it in the

.161878.5

1 locked ballot box.

2 C. A lawfully appointed challenger may examine the
3 official mailing envelope and may challenge the ballot of any
4 absent voter for the following reasons:

5 (1) the official mailing envelope has been
6 opened prior to being received by the absent voter precinct
7 board; or

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

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

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

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

.161878.5

underscored material = new
[bracketed material] = delete

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

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

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

15 G. Absent voter precinct polls shall close [~~at the~~
16 ~~time prescribed by the Election Code for other polling places]~~
17 in accordance with Section 1-6-23 NMSA 1978, and the results of
18 the election shall be certified as prescribed by the secretary
19 of state.

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

24 Section 12. Section 1-6-23 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 95, as amended) is amended to read:

.161878.5

underscored material = new
[bracketed material] = delete

1 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
 2 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or
 3 statutorily appointed supervisor of the election shall
 4 determine the hours between 8:00 a.m. and 5:00 p.m. during
 5 which the absent voter precinct polling place shall be open for
 6 delivery and registering of absentee ballots on the five days
 7 preceding election day and the hours during which the absent
 8 voter precinct polling place shall be open for the delivery,
 9 registering and counting of ballots on election day and
 10 subsequent days until all ballots are counted; provided that
 11 the absent voter precinct polling place opens at 7:00 a.m. on
 12 election day."

13 Section 13. Section 1-8-2 NMSA 1978 (being Laws 1969,
 14 Chapter 240, Section 152, as amended) is amended to read:

15 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
 16 CONVENTION-DESIGNATED NOMINEES.--

17 A. If the rules [~~and regulations~~] of a minor
 18 political party require nomination by political convention:

19 (1) the chairman and secretary of the state
 20 political convention shall certify to the secretary of state
 21 the names of their party's nominees for United States senator,
 22 United States representative, all elective state offices,
 23 legislative offices elected from multicounty districts, the
 24 public regulation commission, all elective judicial officers in
 25 the judicial department and all offices representing a district

.161878.5

1 composed of more than one county; and

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

7 B. The names certified to the secretary of state
8 shall be filed on the [~~second Tuesday in July~~] day following
9 the primary election in the year of the general election and
10 shall be accompanied by a petition containing a list of
11 signatures and addresses of voters totaling not less than one
12 percent of the total number of votes cast at the last preceding
13 general election for the office of governor or president of the
14 United States, as the case may be:

15 (1) in the state for statewide offices; and

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

18 The petition shall contain a statement that the voters
19 signing the petition are residents of the state, district,
20 county or area to be represented by the office for which the
21 person being nominated is a candidate.

22 C. The names certified to the county clerk shall be
23 filed on the [~~second Tuesday in July~~] day following the primary
24 election in the year of the general election and shall be
25 accompanied by a petition containing a list of signatures and

.161878.5

1 addresses of voters totaling not less than one percent of the
 2 total number of votes cast at the last preceding general
 3 election for the office of governor or president of the United
 4 States, as the case may be:

- 5 (1) in the county for countywide offices; and
 6 (2) in the district for offices other than
 7 countywide offices.

8 The petition shall contain a statement that the voters
 9 signing the petition are residents of the state, district,
 10 county or area to be represented by the office for which the
 11 person being nominated is a candidate.

12 D. Persons certified as nominees shall be members
 13 of that party before the day the governor issues the primary
 14 election proclamation.

15 E. No voter shall sign [~~any~~] a petition prescribed
 16 by this section for more persons than the number of minor party
 17 candidates necessary to fill the office at the next ensuing
 18 general election."

19 Section 14. Section 1-11-12.1 NMSA 1978 (being Laws
 20 2005, Chapter 270, Section 9) is amended to read:

21 "1-11-12.1. VOTER IDENTIFICATION CARDS--DISTRIBUTION.--

22 A. Between sixty and [~~forty~~] seventy-five days
 23 before each [~~primary~~] general election, the [~~county clerk~~]
 24 secretary of state shall send to each registered voter in [~~the~~]
 25 each county a voter identification card indicating the voter's

.161878.5

1 name, address and voting precinct and the name of the current
2 county clerk in that county; provided, however, that a
3 registrant shall still be sent a voter identification card upon
4 filing of the registrant's certificate of registration with the
5 county clerk as provided in Section 1-4-12 NMSA 1978.

6 ~~[B. The county clerk may apply to the office of the~~
7 ~~secretary of state for reimbursement of costs related to~~
8 ~~supplying voter identification cards.~~

9 G.] B. The secretary of state shall promulgate
10 rules to ensure that all registered voters receive a voter
11 identification card before each [~~primary~~] general election [~~and~~
12 ~~reimburse the county for the costs of supplying and~~
13 ~~distributing the cards~~]."

14 Section 15. Section 1-12-8.1 NMSA 1978 (being Laws 2005,
15 Chapter 270, Section 62) is amended to read:

16 "1-12-8.1. CONDUCT OF ELECTION--USE OF VOTER'S [~~COPY~~]
17 RECEIPT OF CERTIFICATE OF REGISTRATION--PROCEDURES.--If a voter
18 whose name is not in the signature roster presents the voter's
19 [~~duplicate~~] receipt of the voter's certificate of registration,
20 the voter shall be allowed to vote on a provisional ballot in
21 the proper precinct in accordance with the provisions of
22 Section 1-5-10 NMSA 1978. The election judge shall inform the
23 voter that the voter will be notified by the county clerk to
24 provide a copy of the receipt of the certificate of
25 registration to the county clerk if the original certificate is

1 not located. A note shall be entered on the signature roster
 2 indicating that the voter's certificate of registration should
 3 be checked by the county clerk. For the purposes of
 4 investigation or prosecution, the county clerk shall provide
 5 the district attorney and the secretary of state with the
 6 person's name and address and the corresponding receipt number
 7 of the person's certificate of registration for each person
 8 whose certificate of registration is not located."

9 Section 16. Section 1-12-8.2 NMSA 1978 (being Laws 2005,
 10 Chapter 270, Section 60) is amended to read:

11 "1-12-8.2. CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF
 12 ABSENTEE BALLOT BY VOTER--PROCEDURES.--

13 A. A voter who requested and received an absentee
 14 ballot shall be allowed to deliver the official mailing
 15 envelope containing the voter's absentee ballot on election day
 16 to the precinct in which the voter is registered if the voter
 17 presents the official mailing envelope to the election judge
 18 before the polls close on election day.

19 B. The election judge shall note on the signature
 20 roster that the voter delivered the absentee ballot in person
 21 on election day. The precinct board shall [~~deliver~~] handle and
 22 process the unopened official mailing envelopes [~~to the absent~~
 23 ~~voter precinct board before midnight on election day~~] as
 24 provisional ballots and the county clerk shall count the
 25 absentee ballot if it would otherwise have qualified to be

.161878.5

1 counted by the absent voter precinct board."

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

4 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
5 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

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

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

20 C. Beginning with the closing of the polls on
21 election day through the tenth day following the election, the
22 county clerk shall notify by [~~certified~~] mail each person whose
23 provisional ballot was not counted of the reason the ballot was
24 not counted. The voter shall have until the Friday prior to
25 the meeting of the state canvassing board to appeal to the

.161878.5

1 ~~[county clerk]~~ secretary of state a decision to reject the
 2 voter's ballot. ~~[The secretary of state shall establish~~
 3 ~~procedures for handling appeals to the county clerk.]"~~

4 Section 18. Section 1-14-15 NMSA 1978 (being Laws 1978,
 5 Chapter 48, Section 1, as amended) is amended to read:

6 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

7 A. An applicant for a recount shall deposit with
 8 the proper canvassing board or, in the case of an office for
 9 which the state canvassing board issues a certificate of
 10 nomination or election, with the secretary of state [~~fifty~~
 11 ~~dollars (\$50.00) in]~~ sufficient cash, or a sufficient surety
 12 bond [~~in an amount equal to fifty dollars (\$50.00)]~~, to cover
 13 the cost of a recount for each precinct for which a recount is
 14 demanded. An applicant for a recheck shall deposit with the
 15 proper canvassing board or, in the case of an office for which
 16 the state canvassing board issues a certificate of nomination
 17 or election, with the secretary of state [~~ten dollars (\$10.00)~~
 18 ~~in]~~ sufficient cash, or a sufficient surety bond [~~in an amount~~
 19 ~~equal to ten dollars (\$10.00)]~~, to cover the cost of the
 20 recheck for each voting machine to be rechecked. The state
 21 canvassing board shall determine the reasonable cost of a
 22 recount per precinct and a recheck per voting machine at least
 23 thirty days before each primary and general election. The
 24 secretary of state shall post the recount and recheck cost
 25 determinations on the secretary of state's web site when the

.161878.5

1 state canvassing board issues its cost determinations.

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

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

17 D. If no error or fraud appears to be sufficient to
18 change the winner, the costs and expenses for the recount or
19 recheck shall be paid by the applicant. Costs shall consist of
20 any docket fees, mileage of the sheriff in serving summons and
21 fees and mileage of precinct board members, at the same rates
22 allowed witnesses in civil actions. If error or fraud has been
23 committed by a precinct board, the board members shall not be
24 entitled to such mileage or fees."

25 Section 19. Section 1-14-22 NMSA 1978 (being Laws 2005,

.161878.5

1 Chapter 270, Section 76) is amended to read:

2 "1-14-22. CONTESTS AND RECOUNTS [~~AND RECHECKS~~]
3 PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary
4 of state shall issue rules governing and allowing procedures
5 for reviewing the qualification of provisional ballot
6 envelopes, absentee and other paper ballots in the case of a
7 contest or recount [~~or recheck~~] of election results. All
8 rejected provisional paper ballot envelopes shall be included
9 in any contest or recount [~~or recheck~~] of election results, and
10 a review of the qualification of provisional ballot envelopes
11 shall occur in a recount."

12 Section 20. REPEAL.--Sections 1-6-4.3 and 1-6-10.2 NMSA
13 1978 (being Laws 2005, Chapter 270, Section 41 and Laws 2003,
14 Chapter 378, Section 1) are repealed.

15 Section 21. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.

underscored material = new
[bracketed material] = delete