

HOUSE BILL 1155

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Edward C. Sandoval

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
APPEALS OF COUNTY CLERK DECISIONS CONCERNING THE COUNTING OF
THE VOTER'S PROVISIONAL BALLOT TO GO TO THE SECRETARY OF STATE;
REQUIRING THIRD-PARTY REGISTRATION ORGANIZATIONS TO REGISTER
WITH THE STATE; CHANGING THE FILING DATE FOR MINOR PARTY
CANDIDATES; CHANGING PROVISIONS FOR RECOUNT AND RECHECK COSTS;
PROVIDING FOR HANDLING OF ABSENTEE BALLOTS; PROVIDING PRECINCT
REPORTING PROCEDURES; PROVIDING PENALTIES; AMENDING, REPEALING
AND ENACTING SECTIONS OF THE ELECTION CODE; DECLARING AN

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1 EMERGENCY.

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

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

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

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

12 B. The county clerk shall maintain voting data by
13 precinct that includes the number of voters who voted early in-
14 person, absentee by mail and on election day and the number of
15 voters who voted using each type of voting system. The county
16 clerk shall report this data to the secretary of state within
17 sixty days following the election, and to no other person. The
18 secretary of state shall then combine the data to the extent
19 necessary to protect the secrecy of each voter's ballot in
20 accordance with rules issued by the secretary of state before
21 the data as processed becomes a public record."

22 Section 2. 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.--

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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 looseleaf 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~~]

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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, the qualified elector should
11 contact the office of the county clerk in the county where the
12 qualified elector resides; and

13 (3) a toll-free number for the office of the
14 county clerk and an address for the web site of the secretary
15 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

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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,
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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 physical residence address information on
21 the certificate of 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

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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

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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~~] with or without an address, which address
15 is not required to match the voter's certificate of
16 registration; or 2) a utility bill, bank statement, government
17 check, paycheck, student identification card or other
18 government document, including identification issued by an
19 Indian nation, tribe or pueblo, that shows the name and address
20 of the applicant; and

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

24 (5) a statement requiring the applicant to
25 swear or affirm that the information supplied by the applicant

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1 is true."

2 Section 5. Section 1-4-5.3 NMSA 1978 (being Laws 2005,
3 Chapter 270, Section 18) is amended to read:

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

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

14 B. The secretary of state shall issue rules
15 regarding acceptable forms of non-physical addresses."

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

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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

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

8 "1-4-49. THIRD-PARTY REGISTRATION AGENTS--REGISTRATION
9 REQUIRED--PROCEDURES--REPORTS--PENALTY.--

10 A. Registration agents who either register or
11 assist persons to register to vote on behalf of an organization
12 that is not a state or federal agency shall register with the
13 secretary of state, and the organization shall register and
14 provide the secretary of state with:

15 (1) the names and addresses of the officers of
16 the organization and the name and permanent address of the
17 organization;

18 (2) the names, permanent addresses, temporary
19 addresses, if any, and dates of birth [~~and social security~~
20 ~~numbers~~] of each person registering persons to vote in the
21 state on behalf of the organization; and

22 (3) a sworn statement from each registration
23 agent employed by or volunteering for the organization stating
24 that the agent will obey all state laws and rules regarding the
25 registration of voters on a form that gives notice of the

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1 criminal penalties for false registration.

2 B. Organizations employing registration agents or
3 using volunteer registration agents shall deliver or mail a
4 certificate of registration to the secretary of state or county
5 clerk within forty-eight hours of its completion by the person
6 registering to vote or deliver it the next business day if the
7 appropriate office is closed for that forty-eight-hour period.

8 C. The secretary of state may issue rules to ensure
9 the integrity of the registration process, including rules
10 requiring that organizations account for all state and federal
11 registration forms used by their registration agents.

12 D. A person who [~~willfully~~] violates the provisions
13 of this section is guilty of a petty misdemeanor and [~~shall~~
14 ~~have his~~] the person's third-party registration agent status
15 shall be revoked. If the person who violates a provision of
16 this section is an employee of an organization and has
17 decision-making authority involving the organization's voter
18 registration activities or is an officer of the organization,
19 that organization shall be subject to civil penalties as
20 described in Subsection E of this section.

21 E. If the secretary of state reasonably believes
22 that a person committed, or is about to commit, a violation of
23 the provisions of this section, the secretary of state shall
24 refer the matter to the attorney general or a district attorney
25 for enforcement. The attorney general or district attorney may

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1 institute a civil action in district court for a violation of
2 the provisions of this section or to prevent a violation of the
3 provisions of this section. An action for relief may include a
4 permanent or temporary injunction, a restraining order or any
5 other appropriate order, including a civil penalty of two
6 hundred fifty dollars (\$250) for each violation, not to exceed
7 five thousand dollars (\$5,000).

8 F. Nothing in this section shall prevent a
9 candidate from distributing NMVR-1 voter registration forms to
10 qualified electors; provided that the form shall not be given
11 back to the candidate for delivery to the county clerk."

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

14 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
15 ELECTOR--OVERSEAS VOTER.--

16 A. Application by a federal qualified elector or an
17 overseas voter for an absentee ballot shall be made on the
18 official postcard form prescribed or authorized by the federal
19 government to the county clerk of the county of ~~his~~ the
20 applicant's residence. The form shall allow the applicant to
21 receive an absentee ballot for all elections within an election
22 cycle.

23 B. Application by a voter for an absentee ballot
24 shall be made only on a form prescribed by the secretary of
25 state in accordance with federal law. The form shall identify

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1 the applicant and contain information to establish [~~his~~] the
2 applicant's qualification for issuance of an absentee ballot
3 under the Absent Voter Act; provided that on the application
4 form for a general election ballot there shall be no box, space
5 or place provided for designation of the voter's political
6 party affiliation.

7 C. Each application for an absentee ballot shall be
8 subscribed by the applicant and shall require the applicant's
9 printed name, year of birth and unique identifier to be
10 supplied by the applicant, which shall constitute the required
11 form of identification, except for new registrants [~~that~~] who
12 have registered by mail and at that time did not provide
13 acceptable identification. The secretary of state shall issue
14 rules to exempt voters from submitting identification as
15 required by federal law.

16 D. An application for an absentee ballot by a
17 federal qualified elector or an overseas voter shall be
18 accepted at any time preceding the general election."

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

21 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

22 A. The county clerk shall mark each completed
23 absentee ballot application with the date and time of receipt
24 in the clerk's office and enter the required information in the
25 absentee ballot register. The county clerk shall then

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1 determine if the applicant is a voter, an absent uniformed
2 services voter or an overseas voter.

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

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

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

25 E. If the county clerk finds that the applicant is

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1 a voter other than a federal qualified elector or overseas
2 voter, the county clerk shall mark the application "accepted"
3 and, beginning twenty-eight days before the election, deliver
4 an absentee ballot to the voter in the county clerk's office or
5 mail to the applicant an absentee ballot and the required
6 envelopes for use in returning the ballot. If the county clerk
7 finds that the applicant is a federal qualified elector or
8 overseas voter, the county clerk shall mark the application
9 "accepted" and beginning forty-five days before the election,
10 mail to the applicant an absentee ballot and the required
11 envelopes for use in returning the ballot. Acceptance of an
12 application of a federal qualified elector constitutes
13 registration for the election in which the ballot is to be
14 cast. Acceptance of an application from an overseas voter who
15 is not an absent uniformed services voter constitutes a request
16 for changing information on the certificate of registration of
17 any such voter. An absent voter shall not be permitted to
18 change party affiliation during those periods when change of
19 party affiliation is prohibited by the Election Code. Upon
20 delivery of an absentee ballot to a voter in the county clerk's
21 office or mailing of an absentee ballot to an applicant who is
22 a voter, an appropriate designation shall be made on the
23 signature line of the signature roster next to the name of the
24 voter who has been provided or mailed an absentee ballot.

25 F. If an application for an absentee ballot is

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1 delivered in person to the county clerk and is accepted, the
2 county clerk shall provide the voter an absentee ballot and it
3 shall be marked by the applicant in a voting booth of a type
4 prescribed by the secretary of state, sealed in the proper
5 envelopes and otherwise properly executed and returned to the
6 county clerk or ~~[his]~~ the clerk's authorized representative
7 before the voter leaves the office of the county clerk. The
8 act of marking the absentee ballot in the office of the county
9 clerk shall be a convenience to the voter in the delivery of
10 the absentee ballot and does not make the office of the county
11 clerk a polling place subject to the requirements of a polling
12 place in the Election Code other than is provided in this
13 subsection. It is unlawful to solicit votes, display or
14 otherwise make accessible any posters, signs or other forms of
15 campaign literature whatsoever in the clerk's office or
16 alternate voting location. Absentee ballots may be marked in
17 person at the county clerk's office during the regular hours
18 and days of business beginning on the twenty-eighth day
19 preceding the election and from 10:00 a.m. to 6:00 p.m. on the
20 Saturday immediately prior to the date of the election. In
21 marking the absentee ballot, the voter, pursuant to the
22 provisions of Section 1-12-15 NMSA 1978, may be assisted by one
23 person of the voter's choice.

24 G. Absentee ballots shall be ~~[airmailed or, if so~~
25 ~~requested, electronically transmitted]~~ mailed to applicants

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1 ~~[temporarily domiciled inside or outside the continental limits~~
2 ~~of the United States]~~ not later than on the Friday immediately
3 prior to the date of the election.

4 H. An absentee ballot shall not be delivered or
5 mailed by the county clerk to any person other than the
6 applicant for such ballot.

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

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

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

17 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

18 A. The county clerk shall mark on each completed
19 official mailing envelope the date and time of receipt in the
20 clerk's office, record this information in the absentee ballot
21 register and safely keep the official mailing envelope unopened
22 in a locked and number-sealed ballot box until it is delivered
23 to the proper absent voter precinct board or until it is
24 canceled and destroyed in accordance with law.

25 B. The county clerk shall accept completed official

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

18 C. At 5:00 p.m. on the Monday immediately preceding
19 the date of election, the county clerk shall record the numbers
20 of the unused absentee ballots and shall publicly destroy in
21 the county clerk's office all such unused ballots. The county
22 clerk shall execute a certificate of destruction, which shall
23 include the numbers on the absentee ballots destroyed. A copy
24 of the certificate of destruction shall be sent to the
25 secretary of state."

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

3 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
4 PRECINCT BOARDS.--

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

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

19 C. A lawfully appointed challenger may examine the
20 official mailing envelope and may challenge the ballot of any
21 absent voter for the following reasons:

22 (1) the official mailing envelope has been
23 opened prior to being received by the absent voter precinct
24 board; or

25 (2) the person offering to vote is not a

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1 federal voter, federal qualified elector, overseas voter or
2 voter as provided in the Election Code.

3 Upon the challenge of an absentee ballot, the election
4 judges and the presiding election judge shall follow the same
5 procedure as when ballots are challenged when a person attempts
6 to vote in person. If a challenge is upheld, the official
7 mailing envelope shall not be opened but shall be placed in an
8 envelope provided for challenged ballots. The same procedure
9 shall be followed in canvassing and determining the validity of
10 challenged absentee ballots as with other challenged ballots.

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

13 (1) the election clerks shall enter the absent
14 voter's name and residence address as shown on the official
15 mailing envelope in the signature rosters and shall mark the
16 notation "AB" opposite the voter's name in the "Notations"
17 column of the signature rosters; and

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

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1 polls on election night.

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

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

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

12 H. If an absentee ballot does not contain the
13 identification required pursuant to Subsection D of Section
14 1-6-5 NMSA 1978, it shall be handled as a provisional paper
15 ballot in accordance with the Election Code."

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

18 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
19 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or
20 statutorily appointed supervisor of the election shall
21 determine the hours between 8:00 a.m. and 5:00 p.m. during
22 which the absent voter precinct polling place shall be open for
23 delivery and registering of absentee ballots on the five days
24 preceding election day and the hours during which the absent
25 voter precinct polling place shall be open for the delivery,

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1 registering and counting of ballots on election day and
2 subsequent days until all ballots are counted; provided that
3 the absent voter precinct polling place opens at 7:00 a.m. on
4 election day."

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

7 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
8 CONVENTION-DESIGNATED NOMINEES.--

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

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

19 (2) the [~~chairman~~] chair and secretary of the
20 county political convention shall certify to the county clerk
21 the names of their party's nominees for elected county offices
22 and for legislative offices elected from a district located
23 wholly within one county or that is composed of only one
24 county.

25 B. The names certified to the secretary of state

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1 shall be filed on the [~~second Tuesday in July~~] twenty-first day
2 following the primary election in the year of the general
3 election and shall be accompanied by a petition containing a
4 list of signatures and addresses of voters totaling not less
5 than one percent of the total number of votes cast at the last
6 preceding general election for the office of governor or
7 president of the United States, as the case may be:

- 8 (1) in the state for statewide offices; and
9 (2) in the district for offices other than
10 statewide offices.

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

15 C. The names certified to the county clerk shall be
16 filed on the [~~second Tuesday in July~~] twenty-first day
17 following the primary election in the year of the general
18 election and shall be accompanied by a petition containing a
19 list of signatures and addresses of voters totaling not less
20 than one percent of the total number of votes cast at the last
21 preceding general election for the office of governor or
22 president of the United States, as the case may be:

- 23 (1) in the county for countywide offices; and
24 (2) in the district for offices other than
25 countywide offices.

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

5 D. Persons certified as nominees shall be members
6 of that party before the day the governor issues the primary
7 election proclamation.

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

12 Section 14. Section 1-11-12.1 NMSA 1978 (being Laws
13 2005, Chapter 270, Section 9) is amended to read:

14 "1-11-12.1. VOTER IDENTIFICATION CARDS--DISTRIBUTION.--

15 A. Between sixty and [~~forty~~] seventy-five days
16 before each [~~primary~~] general election, the [~~county clerk~~]
17 secretary of state shall send to each active registered voter
18 in [~~the~~] each county a voter identification card or other
19 document indicating the voter's name, address and voting
20 precinct and the name of the current county clerk in that
21 county; provided, however, that a registrant shall still be
22 sent a voter identification card upon filing of the
23 registrant's certificate of registration with the county clerk
24 as provided in Section 1-4-12 NMSA 1978.

25 ~~[B. The county clerk may apply to the office of the~~

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1 ~~secretary of state for reimbursement of costs related to~~
2 ~~supplying voter identification cards.~~

3 G.] B. The secretary of state shall promulgate
4 rules to ensure that all registered voters receive a voter
5 identification card [~~before each primary election and reimburse~~
6 ~~the county for the costs of supplying and distributing the~~
7 ~~cards~~]."

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

10 "1-12-8.1. CONDUCT OF ELECTION--USE OF VOTER'S [COPY]
11 RECEIPT OF CERTIFICATE OF REGISTRATION--PROCEDURES.--If a voter
12 whose name is not in the signature roster presents the voter's
13 [~~duplicate~~] receipt of the voter's certificate of registration,
14 the voter shall be allowed to vote on a provisional ballot in
15 the proper precinct in accordance with the provisions of
16 Section [~~1-5-10~~] 1-12-7.1 NMSA 1978. The election judge shall
17 inform the voter that the voter will be notified by the county
18 clerk to provide a copy of the receipt of the certificate of
19 registration to the county clerk if the original certificate is
20 not located. A note shall be entered on the signature roster
21 indicating that the voter's certificate of registration should
22 be checked by the county clerk. For the purposes of
23 investigation or prosecution, the county clerk shall provide
24 the district attorney and the secretary of state with the
25 person's name and address and the corresponding receipt number

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1 of the person's certificate of registration for each person
2 whose certificate of registration is not located."

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

5 "1-12-8.2. CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF
6 ABSENTEE BALLOT BY VOTER--PROCEDURES.--

7 A. A voter who requested and received an absentee
8 ballot shall be allowed to deliver the official mailing
9 envelope containing the voter's absentee ballot on election day
10 to the precinct in which the voter is registered if the voter
11 presents the official mailing envelope to the election judge
12 before the polls close on election day.

13 B. The election judge shall note on the signature
14 roster that the voter delivered the absentee ballot in person
15 on election day. The precinct board shall deliver the unopened
16 official mailing envelopes to the absent voter precinct board
17 or county clerk before midnight on election day."

18 Section 17. Section 1-12-25.2 NMSA 1978 (being Laws
19 2003, Chapter 356, Section 3, as amended) is amended to read:

20 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
21 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

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

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1 not counted.

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

11 C. Beginning with the closing of the polls on
12 election day through the tenth day following the election, the
13 county clerk shall notify by [~~certified~~] mail each person whose
14 provisional ballot was not counted of the reason the ballot was
15 not counted. The voter shall have until the Friday prior to
16 the meeting of the state canvassing board to appeal to the
17 [~~county clerk~~] secretary of state a decision to reject the
18 voter's ballot. [~~The secretary of state shall establish~~
19 ~~procedures for handling appeals to the county clerk.~~]"

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

22 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

23 A. An applicant for a recount shall deposit with
24 the proper canvassing board or, in the case of an office for
25 which the state canvassing board issues a certificate of

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

18 B. The deposit or surety bond shall be security for
19 the payment of the reasonable costs and expenses of the recount
20 or recheck in case the results of the recount or recheck are
21 not sufficient to change the results of the election. [~~The~~
22 ~~state canvassing board may condition the issuance of the~~
23 ~~summons on a receipt of a portion of or the full estimated~~
24 ~~costs of the recount or recheck to ensure sufficient security.]~~

25 C. If it appears that error or fraud sufficient to

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1 change the winner of the election has been committed, the costs
2 and expenses of the recount or recheck shall be paid by the
3 state upon warrant issued by the secretary of finance and
4 administration supported by a voucher of the secretary of
5 state, or shall be paid by the county upon warrant of the
6 county clerk from the general fund of the county, as the case
7 may be.

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

16 Section 19. Section 1-14-22 NMSA 1978 (being Laws 2005,
17 Chapter 270, Section 76) is amended to read:

18 "1-14-22. CONTESTS AND RECOUNTS [~~AND RECHECKS~~]-
19 PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary
20 of state shall issue rules governing and allowing procedures
21 for reviewing the qualification of provisional ballot
22 envelopes, absentee and other paper ballots in the case of a
23 contest or recount [~~or recheck~~] of election results. All
24 rejected provisional paper ballot envelopes shall be included
25 in any contest or recount [~~or recheck~~] of election results, and

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1 a review of the qualification of provisional ballot envelopes
2 shall occur in a recount."

3 Section 20. REPEAL.--Section 1-6-10.2 NMSA 1978 (being
4 Laws 2003, Chapter 378, Section 1) is repealed.

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

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