

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 1155

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

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 REQUIREMENTS FOR DISTRIBUTION OF
VOTER INFORMATION; REQUIRING REPORTING OF FAILED REGISTRATIONS
FOR DISTRIBUTION OF INVESTIGATION OR PROSECUTION; REQUIRING
APPEALS OF COUNTY CLERK DECISIONS CONCERNING THE COUNTING OF
THE VOTER'S PROVISIONAL BALLOT; 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 EMERGENCY.

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

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

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

A. The county clerk shall report to the secretary of state the vote totals in each precinct on election night.

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

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

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

A. The secretary of state shall provide:

(1) instructions for the precinct board, which shall include a brief nontechnical explanation of ~~[their]~~ its

underscored material = new
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1 duties as required by the Election Code; and

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

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

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

16 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
 17 INFORMATION--PENALTY.--

18 A. A qualified elector may apply to a registration
 19 officer or agent for registration.

20 B. The registration officer or agent or qualified
 21 elector shall fill out each of the blanks on the certificate of
 22 registration by typing or printing in ink. The [~~voter~~]
 23 qualified elector shall be given a receipt [~~for the original,~~
 24 ~~and the registration agent shall receive a copy that omits the~~
 25 ~~voter's social security number and date of birth and which]~~

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1 that shall contain:

2 (1) a number traceable to the registration
3 agent or officer;

4 (2) a statement informing the qualified
5 elector that if the qualified elector does not receive
6 confirmation of the qualified elector's registration within
7 fifteen days of the receipt date, the qualified elector should
8 contact the office of the county clerk in the county where the
9 qualified elector resides; and

10 (3) a toll-free number for the office of the
11 county clerk and an address for the web site of the secretary
12 of state.

13 C. The qualified elector shall subscribe a
14 certificate of registration as follows:

15 (1) by signing the certificate of registration
16 using the qualified elector's given name, middle name or
17 initial and last name; or

18 (2) if any qualified elector seeking to
19 register is unable to read and write either the English or
20 Spanish language or is unable to read or write because of some
21 physical disability, the certificate of such person shall be
22 filled out by a registration officer or agent and the name of
23 the qualified elector so registering shall be subscribed by the
24 making of the qualified elector's mark.

25 D. When properly executed by the registration agent

1 or officer, or qualified elector, the original of the
 2 certificate of registration shall be presented, either in
 3 person or by mail by the qualified elector or by the
 4 registration agent or officer, to the county clerk of the
 5 county in which the qualified elector resides.

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

19 F. A person who unlawfully copies, conveys or uses
 20 information from a certificate of registration is guilty of a
 21 fourth degree felony."

22 Section 4. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
 23 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
 24 as amended) is amended to read:

25 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

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

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

19 E. Completed certificates of registration may be
20 mailed or presented in person by the registrant or any other
21 person to the secretary of state or presented in person by the
22 registrant or any other person to the county clerk of the
23 county in which the registrant resides.

24 F. If the registrant wishes to vote in the next
25 election, the completed and signed certificate of registration

1 shall be delivered or mailed and postmarked at least twenty-
2 eight days before the election.

3 G. Upon receipt of a certificate of registration,
4 the secretary of state shall send the certificate to the county
5 clerk in the county where the qualified elector resides.

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

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

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

24 (2) the question "Will you be at least
25 eighteen years of age on or before election day?" and boxes for

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1 the applicant to check to indicate whether the applicant will
2 be eighteen years of age or older on election day;

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

6 (4) a statement informing the applicant that:

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

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

19 (5) a statement requiring the applicant to
20 swear or affirm that the information supplied by the applicant
21 is true."

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

24 "1-4-5.3. REGISTRATION--LACK OF PHYSICAL ADDRESS.--

25 A. If a qualified elector resides in an area

1 lacking a specific physical address, the qualified elector
 2 shall be allowed to substitute [~~a map or give a description~~
 3 ~~and, if available~~] a mailing address along with a description,
 4 such as a map or the latitude and longitude, indicating where
 5 the qualified elector resides [~~for a physical address and~~
 6 ~~register to vote~~]. The [~~voter~~] qualified elector shall be
 7 assigned to a precinct based on the geographic description of
 8 where the [~~voter~~] qualified elector resides.

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

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

13 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
 14 CERTIFICATES.--

15 A. Upon receipt of a complete certificate of
 16 registration, if in proper form, the county clerk shall
 17 determine if the qualified elector applying for registration is
 18 already registered in the registration records of the county.

19 If the qualified elector is not already registered in the
 20 county and if the certificate of registration is received
 21 within the time allowed by law for filing certificates of
 22 registration in the county clerk's office, the county clerk
 23 shall sign or stamp, in the space provided therefor on each
 24 copy of the certificate, [~~his~~] the qualified elector's name and
 25 the date the certificate was accepted for filing in the county

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1 registration records. [A] Voter [~~identification card~~]
2 information shall be handed or mailed immediately to the
3 [~~voter~~] qualified elector and to no other person.

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

18 C. If the qualified elector does not register in
19 person, indicates that [~~he~~] the qualified elector has not
20 previously voted in a general election in New Mexico and does
21 not provide the registration officer with the required
22 identification, the registration officer shall indicate this on
23 the [~~voter's~~] qualified elector's certificate of registration
24 and the county clerk shall note this on the appropriate
25 precinct signature roster."

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

3 "1-4-49. THIRD-PARTY REGISTRATION AGENTS--REGISTRATION
4 REQUIRED--PROCEDURES--REPORTS--PENALTY.--

5 A. Registration agents who either register or
6 assist persons to register to vote on behalf of an organization
7 that is not a state or federal agency shall register with the
8 secretary of state, and the organization shall register and
9 provide the secretary of state with:

10 (1) the names of the officers of the
11 organization and the name and permanent address of the
12 organization;

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

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

22 B. Organizations employing registration agents or
23 using volunteer registration agents shall deliver or mail a
24 certificate of registration to the secretary of state or county
25 clerk within forty-eight hours of its completion by the person

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1 registering to vote or deliver it the next business day if the
2 appropriate office is closed for that forty-eight-hour period.

3 C. The secretary of state may issue rules to ensure
4 the integrity of the registration process, including rules
5 requiring that organizations account for all state and federal
6 registration forms used by their registration agents.

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

16 E. If the secretary of state reasonably believes
17 that a person committed a violation of the provisions of this
18 section, the secretary of state shall refer the matter to the
19 attorney general or a district attorney for enforcement. The
20 attorney general or district attorney may institute a civil
21 action in district court for a violation of the provisions of
22 this section or to prevent a violation of the provisions of
23 this section. An action for relief may include a permanent or
24 temporary injunction, a restraining order or any other
25 appropriate order, including a civil penalty of two hundred

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1 fifty dollars (\$250) for each violation, not to exceed five
2 thousand dollars (\$5,000)."

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

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

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

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

23 C. Each application for an absentee ballot shall be
24 subscribed by the applicant and shall require the applicant's
25 printed name, year of birth and unique identifier to be

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1 supplied by the applicant, which shall constitute the required
2 form of identification, except for new registrants [~~that~~] who
3 have registered by mail and at that time did not provide
4 acceptable identification. The secretary of state shall issue
5 rules to exempt voters from submitting identification only as
6 required by federal law and shall review and, if necessary,
7 update these rules no later than March 15 of even-numbered
8 years.

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

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

14 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

15 A. The county clerk shall mark each completed
16 absentee ballot application with the date and time of receipt
17 in the clerk's office and enter the required information in the
18 absentee ballot register. The county clerk shall then
19 determine if the applicant is a voter, an absent uniformed
20 services voter or an overseas voter.

21 B. If the applicant does not have a valid
22 certificate of registration on file in the county and is not a
23 federal qualified elector or if the applicant states that the
24 applicant is a federal qualified elector but the application
25 indicates the applicant is not a federal qualified elector, an

1 absentee ballot shall not be issued and the county clerk shall
2 mark the application "rejected" and file the application in a
3 separate file from those accepted.

4 C. The county clerk shall notify in writing each
5 applicant of the fact of acceptance or rejection of the
6 application and, if rejected, shall explain why the application
7 was rejected.

8 D. If the applicant has on file with the county a
9 valid certificate of registration that indicates that the
10 applicant is a voter who is a new registrant and who registered
11 by mail without submitting the required voter identification,
12 the county clerk shall notify the voter that the voter must
13 submit with the absentee ballot the required physical form of
14 identification. The county clerk shall note on the absentee
15 ballot register and signature roster that the applicant's
16 absentee ballot must be returned with the required
17 identification.

18 E. If the county clerk finds that the applicant is
19 a voter other than a federal qualified elector or overseas
20 voter, the county clerk shall mark the application "accepted"
21 and, beginning twenty-eight days before the election, deliver
22 an absentee ballot to the voter in the county clerk's office or
23 mail to the applicant an absentee ballot and the required
24 envelopes for use in returning the ballot. If the county clerk
25 finds that the applicant is a federal qualified elector or

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

18 F. If an application for an absentee ballot is
19 delivered in person to the county clerk and is accepted, the
20 county clerk shall provide the voter an absentee ballot and it
21 shall be marked by the applicant in a voting booth of a type
22 prescribed by the secretary of state, sealed in the proper
23 envelopes and otherwise properly executed and returned to the
24 county clerk or ~~[his]~~ the clerk's authorized representative
25 before the voter leaves the office of the county clerk. The

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1 act of marking the absentee ballot in the office of the county
 2 clerk shall be a convenience to the voter in the delivery of
 3 the absentee ballot and does not make the office of the county
 4 clerk a polling place subject to the requirements of a polling
 5 place in the Election Code other than is provided in this
 6 subsection. It is unlawful to solicit votes, display or
 7 otherwise make accessible any posters, signs or other forms of
 8 campaign literature whatsoever in the clerk's office or
 9 alternate voting location. Absentee ballots may be marked in
 10 person at the county clerk's office during the regular hours
 11 and days of business beginning on the twenty-eighth day
 12 preceding the election and from 10:00 a.m. to 6:00 p.m. on the
 13 Saturday immediately prior to the date of the election. In
 14 marking the absentee ballot, the voter, pursuant to the
 15 provisions of Section 1-12-15 NMSA 1978, may be assisted by one
 16 person of the voter's choice.

17 G. Absentee ballots shall be [~~airmailed or, if so~~
 18 ~~requested, electronically transmitted~~] sent to applicants
 19 [~~temporarily domiciled inside or outside the continental limits~~
 20 ~~of the United States~~] not later than on the Friday immediately
 21 prior to the date of the election.

22 H. An absentee ballot shall not be delivered or
 23 mailed by the county clerk to any person other than the
 24 applicant for such ballot.

25 I. The secretary of state and each county clerk

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1 shall make reasonable efforts to publicize and inform voters of
2 the times and locations for absentee voting; provided, however,
3 that notice is provided at least ten days before early voting
4 begins.

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

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

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

11 A. The county clerk shall mark on each completed
12 official mailing envelope the date and time of receipt in the
13 clerk's office, record this information in the absentee ballot
14 register and safely keep the official mailing envelope unopened
15 in a locked and number-sealed ballot box until it is delivered
16 to the proper absent voter precinct board or until it is
17 canceled and destroyed in accordance with law.

18 B. The county clerk shall accept completed official
19 mailing envelopes until 7:00 p.m. on election day and the
20 county clerk or absent voter precinct board shall accept
21 completed official mailing envelopes from precincts within the
22 county of the voters who turned in their absentee ballots at
23 their precinct by the close of polls on election day. Any
24 completed official mailing envelope received after that time
25 shall not be delivered to a precinct board but shall be

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1 preserved by the county clerk until the time for election
 2 contests has expired. In the absence of a restraining order
 3 after expiration of the time for election contests, the county
 4 clerk shall destroy all late official mailing envelopes without
 5 opening or permitting the contents to be examined, cast,
 6 counted or canvassed. Before their destruction, the county
 7 clerk shall count the numbers of late ballots from voters,
 8 federal voters, overseas citizen voters and federal qualified
 9 electors and report the number from each category to the
 10 secretary of state.

11 C. At 5:00 p.m. on the Monday immediately preceding
 12 the date of election, the county clerk shall record the numbers
 13 of the unused absentee ballots and shall publicly destroy in
 14 the county clerk's office all such unused ballots. The county
 15 clerk shall execute a certificate of destruction, which shall
 16 include the numbers on the absentee ballots destroyed. A copy
 17 of the certificate of destruction shall be sent to the
 18 secretary of state."

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

21 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
 22 PRECINCT BOARDS.--

23 A. Before opening an official mailing envelope, the
 24 presiding judge and the election judges shall determine that
 25 the required information has been completed on the reverse side

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1 of the official mailing envelope.

2 B. If the voter's signature is missing, the
3 presiding judge shall write "Rejected" on the front of the
4 official mailing envelope. The election clerks shall enter the
5 voter's name in the signature rosters and shall write the
6 notation "Rejected--Missing Signature" in the "Notations"
7 column of the signature rosters. The presiding judge shall
8 place the official mailing envelope unopened in an envelope
9 provided for rejected ballots, seal the envelope and write the
10 voter's name on the front of the envelope and deposit it in the
11 locked ballot box.

12 C. A lawfully appointed challenger may examine the
13 official mailing envelope and may challenge the ballot of any
14 absent voter for the following reasons:

15 (1) the official mailing envelope has been
16 opened prior to being received by the absent voter precinct
17 board; or

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

21 Upon the challenge of an absentee ballot, the election
22 judges and the presiding election judge shall follow the same
23 procedure as when ballots are challenged when a person attempts
24 to vote in person. If a challenge is upheld, the official
25 mailing envelope shall not be opened but shall be placed in an

1 envelope provided for challenged ballots. The same procedure
2 shall be followed in canvassing and determining the validity of
3 challenged absentee ballots as with other challenged ballots.

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

6 (1) the election clerks shall enter the absent
7 voter's name and residence address as shown on the official
8 mailing envelope in the signature rosters and shall mark the
9 notation "AB" opposite the voter's name in the "Notations"
10 column of the signature rosters; and

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

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

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

25 G. Absent voter precinct polls shall close [~~at the~~

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1 ~~time prescribed by the Election Code for other polling places]~~
2 in accordance with Section 1-6-23 NMSA 1978, and the results of
3 the election shall be certified as prescribed by the secretary
4 of state.

5 H. If an absentee ballot does not contain the
6 identification required pursuant to Subsection D of Section
7 1-6-5 NMSA 1978, it shall be handled as a provisional paper
8 ballot in accordance with the Election Code."

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

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

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

25 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--

1 CONVENTION-DESIGNATED NOMINEES.--

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

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

12 (2) the [~~chairman~~] chair and secretary of the
13 county political convention shall certify to the county clerk
14 the names of their party's nominees for elected county offices
15 and for legislative offices elected from a district located
16 wholly within one county or that is composed of only one
17 county.

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

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

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

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

- 16 (1) in the county for countywide offices; and
17 (2) in the district for offices other than
18 countywide offices.

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

23 D. Persons certified as nominees shall be members
24 of that party before the day the governor issues the primary
25 election proclamation.

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

5 Section 14. Section 1-11-12.1 NMSA 1978 (being Laws
 6 2005, Chapter 270, Section 9) is amended to read:

7 "1-11-12.1. VOTER ~~[IDENTIFICATION CARDS]~~ INFORMATION--
 8 DISTRIBUTION.--

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

19 ~~[B. The county clerk may apply to the office of the~~
 20 ~~secretary of state for reimbursement of costs related to~~
 21 ~~supplying voter identification cards.~~

22 ~~G.]~~ B. The secretary of state shall promulgate
 23 rules to ensure that all registered voters receive ~~[a]~~ voter
 24 ~~[identification card before each primary election and reimburse~~
 25 ~~the county for the costs of supplying and distributing the~~

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1 eards] information."

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

4 "1-12-8.1. CONDUCT OF ELECTION--USE OF VOTER'S [~~COPY~~]
5 RECEIPT OF CERTIFICATE OF REGISTRATION--PROCEDURES.--If a voter
6 whose name is not in the signature roster presents the voter's
7 [~~duplicate~~] receipt of the voter's certificate of registration,
8 the voter shall be allowed to vote on a provisional ballot in
9 the proper precinct in accordance with the provisions of
10 Section [~~1-5-10~~] 1-12-7.1 NMSA 1978. The election judge shall
11 inform the voter that the voter will be notified by the county
12 clerk to provide a copy of the receipt of the certificate of
13 registration to the county clerk if the original certificate is
14 not located. A note shall be entered on the signature roster
15 indicating that the voter's certificate of registration should
16 be checked by the county clerk. For the purposes of
17 investigation or prosecution, the county clerk shall provide
18 the district attorney and the secretary of state with the
19 person's name and address and the corresponding receipt number
20 of the person's certificate of registration for each person
21 whose certificate of registration is not located."

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

24 "1-12-8.2. CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF
25 ABSENTEE BALLOT BY VOTER--PROCEDURES.--

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1 A. A voter who requested and received an absentee
2 ballot shall be allowed to deliver the official mailing
3 envelope containing the voter's absentee ballot on election day
4 to the precinct in which the voter is registered if the voter
5 presents the official mailing envelope to the election judge
6 before the polls close on election day.

7 B. The election judge shall note on the signature
8 roster that the voter delivered the absentee ballot in person
9 on election day. The precinct board shall deliver the unopened
10 official mailing envelopes to the absent voter precinct board
11 or county clerk before midnight on election day."

12 Section 17. Section 1-12-25.2 NMSA 1978 (being Laws
13 2003, Chapter 356, Section 3, as amended) is amended to read:

14 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
15 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

16 A. If a voter is required to vote on a provisional
17 paper ballot, the election judge shall give the voter written
18 instructions on how the voter may determine whether the vote
19 was counted and, if the vote was not counted, the reason it was
20 not counted.

21 B. The county clerk shall establish a free access
22 system, such as a toll-free telephone number or internet web
23 site, that a voter who casts a provisional paper ballot may
24 access to ascertain whether the voter's ballot was counted and,
25 if the vote was not counted, the reason it was not counted and

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1 how to appeal the decision pursuant to rules issued by the
2 secretary of state. Access to information about an individual
3 voter's provisional ballot is restricted to the voter who cast
4 the ballot.

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

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

16 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

17 A. An applicant for a recount shall deposit with
18 the proper canvassing board or, in the case of an office for
19 which the state canvassing board issues a certificate of
20 nomination or election, with the secretary of state [~~fifty~~
21 ~~dollars (\$50.00) in~~] sufficient cash, or a sufficient surety
22 bond [~~in an amount equal to fifty dollars (\$50.00)]~~, to cover
23 the cost of a recount for each precinct for which a recount is
24 demanded. An applicant for a recheck shall deposit with the
25 proper canvassing board or, in the case of an office for which

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1 the state canvassing board issues a certificate of nomination
 2 or election, with the secretary of state [~~ten dollars (\$10.00)~~
 3 ~~in~~] sufficient cash, or a sufficient surety bond [~~in an amount~~
 4 ~~equal to ten dollars (\$10.00)~~], to cover the cost of the
 5 recheck for each voting machine to be rechecked. The state
 6 canvassing board shall determine the estimated actual cost of a
 7 recount per precinct and a recheck per voting machine no later
 8 than March 15 of even-numbered years. The secretary of state
 9 shall post the recount and recheck cost determinations on the
 10 secretary of state's web site when the state canvassing board
 11 issues its cost determinations.

12 B. The deposit or surety bond shall be security for
 13 the payment of the costs and expenses of the recount or recheck
 14 in case the results of the recount or recheck are not
 15 sufficient to change the results of the election. [~~The state~~
 16 ~~canvassing board may condition the issuance of the summons on a~~
 17 ~~receipt of a portion of or the full estimated costs of the~~
 18 ~~recount or recheck to ensure sufficient security.]~~

19 C. If it appears that error or fraud sufficient to
 20 change the winner of the election has been committed, the costs
 21 and expenses of the recount or recheck shall be paid by the
 22 state upon warrant issued by the secretary of finance and
 23 administration supported by a voucher of the secretary of
 24 state, or shall be paid by the county upon warrant of the
 25 county clerk from the general fund of the county, as the case

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1 may be.

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

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

12 "1-14-22. CONTESTS AND RECOUNTS [~~AND RECHECKS~~]
13 PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary
14 of state shall issue rules governing and allowing procedures
15 for reviewing the qualification of provisional ballot
16 envelopes, absentee and other paper ballots in the case of a
17 contest or recount [~~or recheck~~] of election results. All
18 rejected provisional paper ballot envelopes shall be included
19 in any contest or recount [~~or recheck~~] of election results, and
20 a review of the qualification of provisional ballot envelopes
21 shall occur in a recount."

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

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

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