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HOUSE BILL 251

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Justine Fox-Young

AN ACT

RELATING TO ELECTIONS; REQUIRING IN-PERSON VOTERS TO PRESENT PHOTO IDENTIFICATION BEFORE VOTING; REQUIRING VOTERS WHO VOTE BY MAIL-IN ABSENTEE BALLOTS TO SEND IDENTIFICATION WITH THE BALLOT; PROVIDING FOR SUBMITTAL OF IDENTIFICATION AFTER THE POLLS CLOSE.

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 VOTER PHOTO IDENTIFICATION CARDS.--

A. The county clerk shall issue without charge a voter photo identification card to a person who:

(1) presents any two of the following identification documents containing the name and address of the person:

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- 1 (a) a state-issued identification card;
- 2 (b) a social security card;
- 3 (c) a student identification card;
- 4 (d) a library card;
- 5 (e) an insurance card;
- 6 (f) a selective service card;
- 7 (g) a union card;
- 8 (h) a professional association card;
- 9 (i) a utility bill;
- 10 (j) a bank statement; or
- 11 (k) a government check or paycheck; or

12 (2) if unable to present the required  
13 documents to the clerk, affirms under penalty of perjury in an  
14 affidavit that the person is registered to vote and the county  
15 clerk confirms that the person is registered to vote.

16 B. The voter photo identification card shall state  
17 on its face that it is not valid identification for other than  
18 the purpose of voting in a state election and shall not be  
19 valid if the voter is subsequently purged from the voter  
20 rolls."

21 Section 2. A new section of the Election Code is enacted  
22 to read:

23 "[NEW MATERIAL] REQUIRED PHOTO IDENTIFICATION--RELIGIOUS  
24 OBJECTION--PROVISIONAL BALLOTS.--If a voter who cast a  
25 provisional ballot because the voter did not provide the

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1 required voter identification affirms under penalty of perjury  
2 in an affidavit within two days following the election that the  
3 voter has a religious objection to being photographed, the  
4 voter shall not be required to submit photo identification and  
5 the voter's ballot shall be counted if it is otherwise valid  
6 and the voter provides the election official with a government-  
7 issued identification document."

8 Section 3. Section 1-1-24 NMSA 1978 (being Laws 2005,  
9 Chapter 270, Section 6) is amended to read:

10 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the  
11 Election Code, "required voter identification" means [~~any of~~  
12 ~~the following forms of identification as chosen by the voter:~~

13 A. ~~a physical form of identification, which may be:~~

14 (1) an original or copy of a current and  
15 valid photo identification [~~with or without an address, which~~  
16 ~~address is not required to match the voter's certificate of~~  
17 ~~registration or a voter identification card; or~~

18 (2) ~~an original or copy of a utility bill,~~  
19 ~~bank statement, government check, paycheck, student~~  
20 ~~identification card or other government document, including~~  
21 ~~identification issued by an Indian nation, tribe or pueblo,~~  
22 ~~that shows the name and address of the person, the address of~~  
23 ~~which is not required to match the voter's certificate of~~  
24 ~~registration; or~~

25 B. ~~a verbal or written statement by the voter of~~

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1 ~~the voter's name, year of birth and unique identifier;~~  
2 ~~provided, however, that the statement of the voter's name need~~  
3 ~~not contain the voter's middle initial or suffix]~~ that contains  
4 the voter's name and photograph and that may be a card issued  
5 by a government agency, a driver's license, a student  
6 identification card, a commercial transaction card, such as a  
7 credit or debit card, an insurance card, a union card, a  
8 professional association card or a voter photo identification  
9 card issued by the county clerk or secretary of state."

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

13 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

21 C. Except as provided in Subsection D of this  
22 section, a qualified elector who wishes to register to vote  
23 shall fill out completely and sign the certificate of  
24 registration. The qualified elector may seek the assistance of  
25 any person in completing the certificate of registration.

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1           D. A qualified elector who has filed for an order  
2 of protection pursuant to the provisions of the Family Violence  
3 Protection Act and who presents a copy of that order from a  
4 state or tribal court to the registration officer shall not be  
5 required to provide physical residence address information on  
6 the certificate of registration.

7           E. Completed certificates of registration may be  
8 mailed or presented in person by the registrant or any other  
9 person to the secretary of state or presented in person by the  
10 registrant or any other person to the county clerk of the  
11 county in which the registrant resides.

12           F. If the registrant wishes to vote in the next  
13 election, the completed and signed certificate of registration  
14 shall be delivered or mailed and postmarked at least twenty-  
15 eight days before the election.

16           G. Upon receipt of a certificate of registration,  
17 the secretary of state shall send the certificate to the county  
18 clerk in the county where the qualified elector resides.

19           H. Only when the certificate of registration is  
20 properly filled out, signed by the qualified elector and  
21 accepted for filing by the county clerk as evidenced by the  
22 county clerk's signature or stamp and the date of acceptance  
23 thereon and when notice has been received by the registrant  
24 shall it constitute an official public record of the  
25 registration of the qualified elector.

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

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

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

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

19 (4) a statement informing the applicant that

20 ~~[(a) if the form is submitted by mail by~~  
21 ~~the applicant and the applicant is registering for the first~~  
22 ~~time in New Mexico, the applicant must submit with the form a~~  
23 ~~copy of: 1) a current and valid photo identification; or 2) a~~  
24 ~~current utility bill, bank statement, government check,~~  
25 ~~paycheck, student identification card or other government~~

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1 ~~document, including identification issued by an Indian nation,~~  
2 ~~tribe or pueblo, that shows the name and current address of the~~  
3 ~~applicant; and~~

4 ~~(b) if the applicant does not submit the~~  
5 ~~required identification]~~ the applicant will be required to [~~de~~  
6 ~~se~~] present the required voter identification when voting in  
7 person or absentee; and

8 (5) a statement requiring the applicant to  
9 swear or affirm that the information supplied by the applicant  
10 is true."

11 Section 5. Section 1-6-4 NMSA 1978 (being Laws 1969,  
12 Chapter 240, Section 130, as amended) is amended to read:

13 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED  
14 ELECTOR--OVERSEAS VOTER.--

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

21 B. Application by a voter for an absentee ballot  
22 shall be made only on a form prescribed by the secretary of  
23 state in accordance with federal law. The form shall identify  
24 the applicant and contain information to establish the  
25 applicant's qualification for issuance of an absentee ballot

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1 under the Absent Voter Act; provided that on the application  
2 form for a general election ballot there shall be no box, space  
3 or place provided for designation of the voter's political  
4 party affiliation.

5 C. Each application for an absentee ballot shall be  
6 subscribed by the applicant and shall require the applicant's  
7 printed name and year of birth [~~and unique identifier~~] to be  
8 supplied by the applicant [~~which shall constitute the required~~  
9 ~~form of identification, except for new registrants who have~~  
10 ~~registered by mail and at that time did not provide acceptable~~  
11 ~~identification~~]. The secretary of state shall issue rules to  
12 exempt voters from submitting identification only as required  
13 by federal law and shall review and, if necessary, update these  
14 rules no later than March 15 of even-numbered years.

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

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

20 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

21 A. The county clerk shall mark each completed  
22 absentee ballot application with the date and time of receipt  
23 in the clerk's office and enter the required information in the  
24 absentee ballot register. The county clerk shall then  
25 determine if the applicant is a voter, an absent uniformed

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1 services voter or an overseas voter.

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

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

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

24 E.] D. If the county clerk finds that the applicant  
25 is a voter other than a federal qualified elector or overseas

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

24 [F.] E. If an application for an absentee ballot is  
25 delivered in person to the county clerk and is accepted, the

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

23 ~~[G.]~~ F. Absentee ballots shall be sent to  
24 applicants not later than on the Friday immediately prior to  
25 the date of the election.

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1           ~~[H-]~~ G. An absentee ballot shall not be delivered  
2 or mailed by the county clerk to any person other than the  
3 applicant for such ballot.

4           ~~[I-]~~ H. The secretary of state and each county  
5 clerk shall make reasonable efforts to publicize and inform  
6 voters of the times and locations for absentee voting;  
7 provided, however, that notice is provided at least ten days  
8 before early voting begins.

9           ~~[J-]~~ I. The secretary of state shall establish  
10 procedures for the submittal, when required by federal law, of  
11 required voter identification with mailed-in absentee ballots."

12           Section 7. Section 1-6-5.7 NMSA 1978 (being Laws 2005,  
13 Chapter 270, Section 40) is amended to read:

14           "1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING  
15 PROCEDURES--ALTERNATE VOTING LOCATIONS.--

16           A. Commencing on the third Saturday prior to an  
17 election, an early voter may vote in person on a voting system  
18 at an alternate voting location established by the county  
19 clerk. In class A counties with more than two hundred thousand  
20 registered voters, the county clerk shall establish not less  
21 than twelve alternate voting locations as a convenience to the  
22 voters. For class A counties with two hundred thousand  
23 registered voters or fewer, the county clerk shall establish  
24 not less than four alternate voting locations. In non-class A  
25 counties with more than ten thousand registered voters, the

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1 county clerk shall establish at least one alternate voting  
2 location. In non-class A counties with ten thousand registered  
3 voters or fewer, early voting shall be conducted in the office  
4 of the county clerk or at such [~~alternative~~] alternate  
5 locations as may be designated by the county clerk. Early  
6 voting may be done at an alternate location from 12:00 p.m. to  
7 8:00 p.m., Tuesday through Friday, and from 10:00 a.m. to 6:00  
8 p.m., Saturday through the Saturday immediately prior to the  
9 election.

10 B. When voting early, the voter shall provide the  
11 required voter identification to the county clerk or the  
12 clerk's authorized representative. If the voter does not  
13 provide the required voter identification, the voter shall be  
14 allowed to vote on a provisional ballot. Provisional ballots  
15 issued pursuant to the provisions of this subsection shall be  
16 counted only if:

17 (1) the voter presents to the county clerk no  
18 later than three days following election day the required voter  
19 identification;

20 (2) the voter did not vote elsewhere in that  
21 election; and

22 (3) the voter was registered to vote in the  
23 election.

24 C. If the voter provides the required  
25 identification, the voter shall be allowed to vote after

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1 subscribing an application to vote in accordance with secretary  
2 of state rules. The county clerk or the clerk's authorized  
3 representative shall make an appropriate designation on the  
4 signature roster next to the voter's name indicating that the  
5 voter has voted early."

6 Section 8. Section 1-6-8 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 134, as amended) is amended to read:

8 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

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

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

13 (2) official mailing envelopes for use in  
14 returning the official inner envelope to the county clerk;  
15 provided the official mailing envelope for absentee ballots in  
16 a general election shall contain no designation of party  
17 affiliation;

18 (3) absentee ballot instructions, describing  
19 proper methods for completion of the ballot and returning it;  
20 and

21 (4) official transmittal envelopes for use by  
22 the county clerk in mailing absentee ballot materials.

23 B. Official transmittal envelopes and official  
24 mailing envelopes for transmission of absentee ballot materials  
25 to and from the county clerk and federal qualified electors

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1 shall be printed in red in the form prescribed by the federal  
2 Uniformed and Overseas Citizens Absentee Voting Act. Official  
3 transmittal envelopes and official mailing envelopes for  
4 transmission of absentee ballot materials to and from the  
5 county clerk and voters shall be printed in black in  
6 substantially similar form. All official inner envelopes shall  
7 be printed in black.

8 C. The reverse of each official mailing envelope  
9 shall contain a form to be executed by the voter completing the  
10 absentee ballot. The form shall identify the voter and shall  
11 contain the following statement: "I will not vote in this  
12 election other than by the enclosed ballot. I will not receive  
13 or offer any compensation or reward for giving or withholding  
14 any vote."

15 D. The official mailing envelope shall contain a  
16 space for the voter to record the voter's [~~unique identifier~~]  
17 year of birth and name and a window slot to hold the copy of  
18 the required voter identification. The envelope shall have a  
19 security flap to cover this information."

20 Section 9. Section 1-6-9 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 135, as amended) is amended to read:

22 "1-6-9. MANNER OF VOTING.--

23 A. A person voting pursuant to the Absent Voter Act  
24 shall secretly mark the absentee ballot in the manner provided  
25 in the Election Code for marking emergency paper ballots, place

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1 it in the official inner envelope and securely seal the  
2 envelope. The voter shall then place the official inner  
3 envelope inside the official mailing envelope and securely seal  
4 the envelope. The voter shall then complete the form on the  
5 reverse of the official mailing envelope, which shall include  
6 an affirmation by the voter under penalty of perjury that the  
7 facts stated in the form are true and the voter's name, year of  
8 birth and [~~unique identifier~~] required voter identification.

9 B. Federal qualified electors and overseas voters  
10 shall either deliver or mail the official mailing envelope or  
11 electronically transmit the absentee ballot to the county clerk  
12 of their county of residence or deliver it to a person  
13 designated by federal authority to receive executed ballots for  
14 transmission to the county clerk of the county of residence or  
15 former residence as the case may be. Voters shall either  
16 deliver or mail the official mailing envelope to the county  
17 clerk of their county of residence."

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

20 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
21 PRECINCT BOARDS.--

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

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

11           C. If the required voter identification is not  
12          under the flap or in the window pocket under the flap on the  
13          official mailing envelope, the presiding judge shall place the  
14          official mailing envelope unopened in an envelope provided for  
15          ballots lacking the required voter identification. A list of  
16          all voters who mailed in absentee ballots without the required  
17          voter identification shall be posted by the county clerk in the  
18          county clerk's office on the first day after election day.  
19          Absentee ballots received by the county clerk without the  
20          required voter identification shall not be counted unless the  
21          voter provides the county clerk with the required voter  
22          identification within three days after posting of the list and  
23          the county clerk determines that the voter did not vote  
24          elsewhere in that election.

25           [~~C.~~] D. A lawfully appointed challenger may examine

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1 the official mailing envelope and may challenge the ballot of  
2 any absent voter for the following reasons:

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

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

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

17 [~~D.~~] E. If the official mailing envelope has been  
18 properly subscribed and the voter has not been challenged:

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

24 (2) only between 8:00 a.m. and 5:00 p.m. on  
25 the five days preceding election day, including Saturday and

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

8 [E-] F. It is unlawful for a person to disclose the  
9 results of a count and tally or the registration on a voting  
10 machine of absentee ballots prior to the closing of the polls.

11 [F-] G. Absentee ballots shall be counted and  
12 tallied on an electronic voting machine as provided in the  
13 Election Code.

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

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

22 Section 11. Section 1-12-7.1 NMSA 1978 (being Laws 1969,  
23 Chapter 240, Section 112, as amended) is amended to read:

24 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING  
25 ELECTION.--

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1           A. Each precinct board using voter lists shall post  
2 securely at or near the entrance of the polling place one copy  
3 of the precinct voter list for use of the voters prior to  
4 voting. The posted copy shall not contain a listing of voter  
5 social security numbers.

6           B. The presiding judge of the precinct board shall  
7 assign one judge of the board to be in charge of one copy of  
8 the precinct voter list, which shall be used to confirm the  
9 registration and voting of each person offering to vote.

10          C. The presiding judge of the precinct board shall  
11 assign one election clerk to be in charge of the signature  
12 roster.

13          D. The judge assigned to the precinct voter list  
14 used for confirmation of registration and voting shall  
15 determine that each person offering to vote is registered and,  
16 in the case of a primary election, that the voter is registered  
17 in a party designated on the primary election ballot. If the  
18 person's registration is confirmed by the presence of the  
19 person's name on the precinct voter list and the voter provides  
20 the required voter identification, the judge shall announce to  
21 the election clerks the list number and the name of the voter  
22 as shown on the precinct voter list. If the voter does not  
23 provide the required voter identification, the voter shall be  
24 allowed to vote on a provisional ballot in accordance with the  
25 provisions of Section 1-12-8 NMSA 1978 and shall provide the

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1 required voter identification to the county clerk's office  
2 [~~before the county canvass begins~~] within three days of the  
3 closing of the polls, or to the precinct board before the polls  
4 close, or the voter's provisional ballot shall not be  
5 qualified. If the required voter identification is provided,  
6 the voter's provisional ballot shall be qualified and the voter  
7 shall not vote on any other type of ballot.

8 E. The election clerk shall locate that list number  
9 and name on the signature roster and shall require the voter to  
10 sign the voter's usual signature or, if unable to write, to  
11 make the voter's mark opposite the voter's printed name. If  
12 the voter makes the voter's mark, it shall be witnessed by one  
13 of the judges of the precinct board. [~~If the signature roster~~  
14 ~~indicates that the voter is required to present a physical form~~  
15 ~~of identification before voting, the election judge shall ask~~  
16 ~~the voter for the required physical form of identification. If~~  
17 ~~the voter does not provide the required identification, the~~  
18 ~~voter shall be allowed to vote on a provisional paper ballot;~~  
19 ~~provided, however, that if the voter brings the required~~  
20 ~~physical form of identification to the polling place after~~  
21 ~~casting a provisional ballot, that ballot shall be qualified~~  
22 ~~and the voter shall not vote on any other type of ballot.]~~

23 F. The election judge shall follow the procedures  
24 provided for in Sections 1-12-7.2 and 1-12-8 NMSA 1978 if a  
25 person whose name does not appear on the signature roster

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1 requests to vote or a person is required to vote on a  
2 provisional paper ballot.

3 G. A voter shall not be permitted to vote until the  
4 voter has properly signed the voter's usual signature or made  
5 the voter's mark in the signature roster.

6 H. After the poll is closed, the election clerk in  
7 charge of a signature roster shall draw a single horizontal  
8 line in ink through each signature space in the signature  
9 roster where no signature or mark appears."

10 Section 12. Section 1-12-8 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 247, as amended) is amended to read:

12 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

13 A. A person shall be permitted to vote on a  
14 provisional paper ballot even though the person's original  
15 certificate of registration cannot be found in the county  
16 register or even if the person's name does not appear on the  
17 signature roster, provided:

18 (1) the person's residence is within the  
19 boundaries of the county in which the person offers to vote;

20 (2) the person's name is not on the list of  
21 persons submitting absentee ballots; and

22 (3) the person executes a statement swearing  
23 or affirming to the best of the person's knowledge that the  
24 person is a qualified elector, is currently registered and  
25 eligible to vote in that county and has not cast a ballot or

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1 voted in that election.

2 B. A voter shall vote on a provisional paper ballot  
3 if the voter:

4 (1) has not previously voted in a general  
5 election in New Mexico or has been purged from the voter list;

6 (2) registered to vote by mail;

7 (3) did not submit the ~~[physical form of the]~~  
8 required voter identification with the certificate of  
9 registration form; and

10 (4) does not present to the election judge [~~a~~  
11 ~~physical form of~~] the required voter identification.

12 C. A voter shall vote on a provisional ballot in  
13 accordance with the provisions of Paragraph (3) of Subsection A  
14 of this section and Section 1-12-7.1 NMSA 1978 if the voter  
15 does not provide the required voter identification to the  
16 election judge.

17 D. An election judge shall have the voter sign the  
18 signature roster and issue the voter a provisional paper  
19 ballot, an outer envelope and an official inner envelope. The  
20 voter shall vote on the provisional paper ballot in secrecy and  
21 when done, place the ballot in the official inner envelope and  
22 place the official inner envelope in the outer envelope and  
23 return it to the precinct officer. The election judge shall  
24 ensure that the required information is completed on the outer  
25 envelope, have the voter sign it in the appropriate place and

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1 place it in an envelope designated for provisional paper  
2 ballots.

3 E. Knowingly executing a false statement  
4 constitutes perjury as provided in the Criminal Code of this  
5 state, and voting on the basis of such falsely executed  
6 statement constitutes fraudulent voting."

7 Section 13. Section 1-12-10 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 249, as amended) is amended to read:

9 "1-12-10. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,  
10 SIGNATURE.--

11 A. When a voter [~~presents himself~~] offers to vote  
12 at the polls [~~to vote, he~~], the voter shall announce [~~his~~] the  
13 voter's name and address in an audible tone of voice. When an  
14 election judge finds the voter's name in the signature roster,  
15 [~~he~~] the election judge shall in like manner repeat the name of  
16 the voter. The election judge shall then ask the voter to  
17 provide the required voter identification. The voter shall  
18 then sign [~~his~~] the voter's name or make [~~his~~] the voter's mark  
19 on the signature line in the copy of the signature roster to be  
20 returned to the county clerk. Upon the voter's name or mark  
21 being written in the signature roster, a challenge may be  
22 interposed as provided in the Election Code.

23 B. If a voter fails to provide the required voter  
24 identification, the voter shall be allowed to vote on a  
25 provisional ballot in accordance with the provisions of

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Sections 1-12-7.1 and 1-12-8 NMSA 1978."

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