

AN ACT

RELATING TO MUNICIPAL ELECTIONS; MODIFYING AND UPDATING CERTAIN PROCEDURES IN THE MUNICIPAL ELECTION CODE; REMOVING REFERENCES TO EMERGENCY PAPER BALLOTS; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 1995, CHAPTER 98, SECTION 3; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-8-2 NMSA 1978 (being Laws 1985, Chapter 208, Section 10, as amended) is amended to read:

"3-8-2. DEFINITIONS.--

A. The definitions in Section 3-1-2 NMSA 1978 shall apply to the Municipal Election Code in addition to those definitions set forth in the Municipal Election Code.

B. As used in the Municipal Election Code:

(1) "absentee voter list" means the list prepared by the municipal and county clerks of those persons who have been issued an absentee ballot;

(2) "ballot" means a system for arranging and designating for the voter the names of candidates and questions to be voted on and for the marking, casting or otherwise recording of such votes. "Ballot" includes paper ballots, absentee ballots, ballot sheets and paper ballots used in lieu of voting machines;

(3) "ballot sheet" means the material placed on the front of the voting machine containing the names of the candidates, the offices the candidates are seeking and a statement of the proposed questions to be voted upon;

(4) "consolidated precinct" means the combination of two or more precincts pursuant to the Municipal Election Code;

(5) "county clerk" means the clerk of the county or the county clerk's designee within which the municipality is located;

(6) "election returns" means all certificates of the precinct board, including the certificate showing the total number of votes cast for each candidate, if any, and for or against each question, if any, and shall include statements of canvass, signature rosters, registered voter lists, machine-printed returns, paper ballots used in lieu of voting machines, absentee ballots, absentee ballot registers and absentee voter lists or absent voter machine-printed returns;

(7) "municipal clerk" means the municipal clerk or any deputy or assistant municipal clerk;

(8) "municipal clerk's office" means the office of the municipal clerk or any other room used in the process of absentee voting, counting and tallying of absentee

ballots or canvassing the election results within the confines of the building where the municipal clerk's office is located;

(9) "paper ballot" means a ballot manually marked by the voter and counted by hand without the assistance of a machine or optical-scan vote tabulating device;

(10) "precinct" means a portion of a county situated entirely in or partly in a municipality that has been designated by the county as a precinct for election purposes and that is entitled to a polling place and a precinct board. If a precinct includes territory both inside and outside the boundaries of a municipality, "precinct", for municipal elections, shall mean only that portion of the precinct lying within the boundaries of the municipality;

(11) "precinct board" means the appointed election officials serving a single or consolidated precinct;

(12) "qualified elector" means any person whose affidavit of voter registration has been filed by the county clerk, who is registered to vote in a general election precinct established by the board of county commissioners that is wholly or partly within the municipal boundaries and who is a resident of the municipality. Persons who would otherwise be qualified electors if land on which they reside is annexed to a municipality shall be deemed to be qualified electors:

(a) upon the effective date of the municipal ordinance effectuating the terms of the annexation

as certified by the board of arbitration pursuant to Section 3-7-10 NMSA 1978;

(b) upon thirty days after the filing of an order of annexation by the municipal boundary commission pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation; or

(c) upon thirty days after the filing of an ordinance pursuant to Section 3-7-17 NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation;

(13) "recheck" pertains to voting machines and means a verification procedure where the counter compartment of the voting machine is opened and the results of the balloting as shown on the counters of the machine are compared with the results shown on the official returns;

(14) "recount" pertains to ballots and absentee ballots and means a retabulation and retallying of individual ballots;

(15) "voter" means a qualified elector of the municipality; and

(16) "voting machine" means any electronic recording and tabulating voting system as tested and approved by the secretary of state."

Chapter 208, Section 19) is amended to read:

"3-8-11. POLLING PLACES.--

A. The governing body shall designate within the municipal boundaries a polling place, in each precinct or consolidated precinct, that is the most convenient and suitable public building or public school building in the precinct that can be obtained and that provides suitable access for handicapped persons as required by law.

B. If no public building or public school building is available, the governing body shall provide some other suitable place, which shall be the most convenient and appropriate place obtainable within the municipal boundaries and in the precinct, considering the purpose for which it is to be used.

C. If no public building or public school building is available in the precinct and if there is no other suitable place obtainable in the precinct, the governing body may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained; provided, no polling place shall be designated outside the boundaries of the municipality and of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

D. Upon application of the governing body or municipal clerk, the governing board of any school district shall permit the use of any school buildings or a part thereof for the conduct of any municipal election.

E. If only one candidate files a declaration of candidacy for each position to be filled at an election and no declared write-in candidate files for a position and there are no questions or bond issues on the ballot, the municipal clerk may designate a single polling place for the election."

Section 3. Section 3-8-13 NMSA 1978 (being Laws 1985, Chapter 208, Section 21) is amended to read:

"3-8-13. VOTING MACHINES--PAPER BALLOTS.--Voting machines shall be used in all municipal elections, except paper ballots may be used in lieu of voting machines for the recording of votes cast in a municipal special or regular election in municipalities of less than one thousand five hundred population. A decision to use paper ballots shall be made by the governing body at the time the election resolution is adopted. Nothing in this section shall prevent the use of absentee ballots as allowed by law."

Section 4. Section 3-8-14 NMSA 1978 (being Laws 1985, Chapter 208, Section 22, as amended) is amended to read:

"3-8-14. VOTING MACHINES--ORDERING--PREPARATION--CERTIFICATION--DELIVERY.--

A. If voting machines are to be used, the

municipal clerk shall order the machines from the county clerk within fifteen days of the adoption of the election resolution, and the county clerk shall supply such voting machines pursuant to Section 1-9-6 NMSA 1978. The county shall provide voting machine technicians, voting machine programming and voting machine transportation. The municipality shall pay the reasonable fee charged by the county for such services and the use of the voting machines, but in no case in an amount that exceeds the actual cost to the county pursuant to Section 1-9-12 NMSA 1978.

B. If voting machines are to be used, the municipal clerk shall order at least one voting machine for every polling place; provided that the municipal clerk shall order a sufficient number of voting machines to ensure that the eligible voters in that polling place shall be able to vote in a timely manner.

C. Programming of electronic machines shall be performed under the supervision of the municipal clerk and the county clerk. The machines shall be programmed so that votes will be counted in accordance with specifications for electronic voting machines adopted by the secretary of state.

D. Immediately upon receipt of the notice of date, time and place of inspection and certification, the municipal clerk shall post such notice in the office of the municipal clerk and attempt to contact the candidates using the

information listed on the declaration of candidacy to give each candidate notice of the date, time and place of inspection and certification.

E. Inspection and certification shall occur not later than seven days prior to the election and shall be open to the public. If voting machines are to be used for absentee voting, inspection and certification shall occur not later than seven days prior to the beginning of absentee voting and shall be open to the public.

F. At the date, time and place for inspection and certification, in the presence of the county clerk and those municipal candidates present, if any, the municipal clerk shall:

(1) ensure that the correct ballot sheet has been installed on each voting machine, if ballot sheets are to be installed;

(2) test each counter for accuracy by casting votes upon it until it correctly registers each vote cast;

(3) test each voting machine to ensure that it has been correctly programmed; and

(4) inform the county clerk when each machine is satisfactory and ready to be certified.

G. If the municipal clerk informs the county clerk that a machine is satisfactory and ready to be certified:

(1) the county clerk shall reset each counter at zero;

(2) the voting machine shall be immediately sealed with a numbered seal so as to prevent operation of the machine or its registering counters without breaking the seal;

(3) the municipal clerk shall prepare a certificate in triplicate for each machine that shall:

(a) show the serial number of the voting machine;

(b) state that the voting machine has all of its resettable registering counters set at zero;

(c) state that the voting machine has been tested by voting on each registered counter to prove the counter is in perfect condition;

(d) state that the correct ballot sheet has been installed on the voting machine, if ballot sheets are to be installed;

(e) show the number of the seal that has sealed the machine; and

(f) show the number registered on the protective counter;

(4) a copy of the certificate shall be delivered to the county clerk, the original certificate shall be filed in the office of the municipal clerk and one copy shall be posted on the voting machine; and

(5) if the voting machine requires keys, the keys to the voting machine shall be enclosed in a sealed envelope on which shall be written:

(a) the number of the precinct and polling place to which the machine is assigned;

(b) the serial number of the voting machine;

(c) the number of the seal that has sealed the voting machine;

(d) the number registered on the protective counter; and

(e) the signatures of the county clerk, the municipal clerk and all candidates present, if any, at the inspection and certification.

H. After certification of the voting machines, if the voting machines require keys, the county clerk shall keep the keys to the voting machines in the county clerk's custody and shall deliver the keys to the municipal clerk when the voting machines are delivered for election. The municipal clerk shall secure in the office of the municipal clerk all the envelopes containing the keys to the voting machines until delivered to the presiding judge of the election.

I. An objection to the use of a particular voting machine shall be filed in the district court within two days after the machine has been certified. Any objection so filed

shall specify the number of the voting machine objected to and the reason for the objection. Each voting machine shall be conclusively presumed to be properly prepared for the election if it has been certified unless a timely objection has been filed.

J. Voting machines certified in accordance with this section shall be delivered to the assigned precinct polling place no earlier than five days prior to the election and no later than noon on the day prior to the election, provided that any voting machines to be used for absentee voting shall be delivered to the municipal clerk no earlier than five days prior to the beginning of absentee voting and no later than noon on the day prior to the beginning of absentee voting in person in the office of the municipal clerk.

K. The municipal clerk shall refuse to certify any voting machine that the municipal clerk determines is not programmed properly, is not working properly or will not fairly or accurately record votes. Only voting machines that have been certified by the municipal clerk shall be used in the election."

Section 5. Section 3-8-16 NMSA 1978 (being Laws 1985, Chapter 208, Section 24, as amended) is amended to read:

"3-8-16. PAPER BALLOTS IN LIEU OF VOTING MACHINES--
FORM--GENERAL REQUIREMENTS.--As used in this section, "paper

ballots" means paper ballots used in lieu of voting machines. Paper ballots shall be in the form prescribed by the municipal clerk, which shall conform to the following rules:

A. paper ballots shall:

(1) be numbered consecutively beginning with number one. The number shall be printed with a perforated line appropriately placed so that the portion of the ballot bearing the number may be readily and easily detached from the ballot;

(2) be uniform in size;

(3) be printed on good quality paper;

(4) be printed in plain black type;

(5) have all words and phrases printed correctly and in their proper places; and

(6) have district and precinct, if applicable;

B. the following heading shall be printed on each paper ballot used in all municipal elections:

"OFFICIAL ELECTION BALLOT

Election held (insert date)";

C. if the election is a regular municipal election, the paper ballot shall be prepared consistent with the requirements of Section 3-8-29 NMSA 1978. In addition, next to each candidate's name shall appear an empty box to be used when voting for that candidate. Where space is allowed

on a paper ballot for entering the name of a declared write-in candidate, that space shall be clearly designated by the use of the heading "Write-in Candidate". Below the heading shall appear one line, with a box to the right of the line, for each individual office holder to be elected. Below the last candidate's name shall appear any question presented, in the order designated by the governing body;

D. if the election is a special municipal election, questions presented shall be placed on the paper ballot in the order designated by the governing body;

E. next to each question presented on a paper ballot shall appear two empty boxes, one labeled "FOR" and the other labeled "AGAINST"; and

F. at the bottom of all paper ballots shall be printed: "OFFICIAL ELECTION BALLOT", followed by a facsimile signature of the municipal clerk."

Section 6. Section 3-8-18 NMSA 1978 (being Laws 1985, Chapter 208, Section 26, as amended) is amended to read:

"3-8-18. ELECTION SUPPLIES.--

A. No later than 5:00 p.m. on the fifty-third day preceding the day of the election, the municipal clerk shall:

(1) order absentee ballots;

(2) order ballots and sample voting machine ballots; and

(3) order all other election supplies

necessary for the conduct of the election.

B. Ballots and sample voting machine ballots shall be delivered to the municipal clerk not less than thirty-five days prior to the day of the election."

Section 7. Section 3-8-20 NMSA 1978 (being Laws 1971, Chapter 306, Section 9, as amended) is amended to read:

"3-8-20. PRECINCT BOARD--DUTIES.--

A. The precinct board shall:

(1) conduct the municipal election in the manner provided for the conduct of elections in the Municipal Election Code; and

(2) at the close of the polls, count the votes cast on each question, if any, and for each candidate, if any, and perform all duties as required by the Municipal Election Code.

B. A member of the precinct board shall not disclose the name of any candidate for whom any voter has voted.

C. No person shall serve on a precinct board unless that person has attended election training conducted by the municipal clerk in the previous four years."

Section 8. Section 3-8-21 NMSA 1978 (being Laws 1985, Chapter 208, Section 29, as amended) is amended to read:

"3-8-21. MUNICIPAL CLERK--PRECINCT BOARD--ELECTION TRAINING.--

A. The municipal clerk shall conduct or cause to be conducted election training not less than five days prior to the election. All major details of the conduct of elections shall be covered at the training, with special emphasis given to recent changes in the Municipal Election Code. The training session shall be open to the public, with notice published not less than four days prior to the training.

B. Notice of the training shall be mailed to each precinct board member and alternate not less than seven days prior to the training.

C. Two or more municipalities may jointly conduct election training.

D. The governing body may authorize payment of mileage to precinct board members who attend election training."

Section 9. Section 3-8-22 NMSA 1978 (being Laws 1985, Chapter 208, Section 30, as amended) is amended to read:

"3-8-22. CONDUCT OF ELECTION--ELIGIBILITY FOR ASSISTANCE--ORAL ASSISTANCE FOR LANGUAGE MINORITY VOTERS--AID OR ASSISTANCE TO VOTER MARKING BALLOT--WHO MAY ASSIST VOTER--TYPE OF ASSISTANCE.--

A. A voter may request assistance in voting only if the voter is:

- (1) visually impaired;

(2) a person with a physical disability;
(3) unable to read or write;
(4) a member of a language minority who is
unable to read well enough to exercise the elective franchise;
or

(5) not able to operate a voting machine or
mark a ballot without assistance.

B. When a voter who is eligible for assistance
requires assistance in marking a ballot or recording a vote on
a voting machine, the voter shall announce this fact before
receiving the ballot or before entering the voting machine.

C. The voter's request for assistance shall be
noted next to the voter's name in the signature roster and
shall be initialed by the presiding judge.

D. After noting the voter's request for assistance
in the signature roster, the voter shall be allowed to receive
assistance in marking a ballot or recording a vote on a voting
machine. The name of the person providing assistance to a
voter pursuant to this section shall be recorded on the
signature roster.

E. A person who swears falsely in order to secure
assistance with voting is guilty of perjury.

F. If a voter who has requested assistance in
marking a ballot has a visual impairment or physical
disability, is unable to read or write or is a member of a

language minority who has requested assistance, the voter may be accompanied into the voting machine by a person of the voter's own choice; provided that the person shall not be the voter's employer, an agent of that employer, an officer or agent of the voter's union or a candidate whose name appears on the ballot in the election. A member of the precinct board may assist a voter, if requested to do so by that voter.

G. A person who accompanies the voter into the voting booth or voting machine may assist the voter in marking a ballot or recording a vote on the voting machine. A member of the precinct board who assists a voter shall not disclose the name of any candidate or questions for whom any voter voted.

H. Oral assistance shall be made available to assist language minority voters who cannot read sufficiently well to exercise the elective franchise. As used in this subsection, "language minority" means a person who is Native American or of Spanish heritage, and "inability to read well enough to exercise the elective franchise" means inability to read the languages in which the ballot is printed or the inability to understand instructions for operating the voting machine.

I. The position of election translator is created. The election translator shall be an additional member of the regular precinct board, unless oral assistance to language

minorities can otherwise be rendered by a member of the regular precinct board. The election translator shall be appointed by the municipal clerk in the same manner as other precinct board members are appointed, except that the municipal clerk in appointing Native American election translators shall seek the advice of the pueblo or tribal officials residing in that municipality. The election translator shall take the oath required of precinct board members and shall meet the same qualifications as other precinct board members.

J. Each municipal clerk shall compile and maintain a list of standby election translators to serve in those precincts on election day when the appointed election translator is unavailable for such service."

Section 10. Section 3-8-27 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-8-8, as amended) is amended to read:

"3-8-27. REGULAR MUNICIPAL ELECTION--DECLARATION OF CANDIDACY--WITHDRAWING NAME FROM BALLOT--PENALTY FOR FALSE STATEMENT.--

A. Candidate filing day shall be between the hours of 8:00 a.m. and 5:00 p.m. on the fifty-sixth day preceding the day of election. On candidate filing day, a candidate for municipal office shall personally appear at the office of the municipal clerk to file all documents required by law in order to cause a person to be certified as a candidate.

Alternatively, on candidate filing day, a person acting solely on the candidate's behalf, by virtue of a written affidavit of authorization signed by the candidate, notarized and presented to the municipal clerk by such person, shall file in the office of the municipal clerk all documents required by law in order to cause a person to be certified as a candidate.

B. On candidate filing day, each candidate shall cause to be filed in the office of the municipal clerk a declaration of candidacy; a certified copy of the candidate's current affidavit of voter registration that is on file with the county clerk and that has been certified by the office of the county clerk on a date not earlier than the adoption of the election resolution; and, in a home rule or charter municipality that requires a nominating petition to be submitted by a candidate for municipal office, a nominating petition that has the required number of signatures.

C. All candidates shall cause their affidavits of voter registration to show their address as a street address or rural route number and not as a post office box.

D. The municipal clerk shall provide a form for the declaration of candidacy and shall accept only those declarations of candidacy that contain:

(1) the identical name and the identical resident street address as shown on the affidavit of registration of the candidate submitted with the declaration

of candidacy;

(2) the office and term to which the candidate seeks election and district designation, if appropriate;

(3) a statement that the candidate is eligible and legally qualified to hold the office for which the candidate is filing;

(4) a statement that the candidate has not been convicted of a felony or, if the candidate has been convicted of a felony, a statement that the candidate's elective franchise has been restored and that the candidate has been granted a pardon or a certificate by the governor restoring the candidate's full rights of citizenship;

(5) a statement that the candidate or the candidate's authorized representative shall contact the office of the municipal clerk during normal business hours on the fifty-fourth day before the election to ascertain whether the municipal clerk has certified the declaration of candidacy as valid;

(6) the contact information for how the candidate or the candidate's authorized representative can be reached for purposes of giving notice;

(7) a statement to the effect that the declaration of candidacy is an affidavit under oath and that any false statement knowingly made in the declaration of

candidacy constitutes a fourth degree felony under the laws of New Mexico; and

(8) the notarized signature of the candidate on the declaration of candidacy.

E. The municipal clerk shall not accept a declaration of candidacy for more than one municipal elected office per candidate, so that each candidate declares for only one municipal elected office.

F. Once filed, the declaration of candidacy is a public record.

G. Not later than the fifty-fifth day preceding the day of the election, the municipal clerk shall determine whether the declaration of candidacy shall be certified. In order to be certified as a candidate, the documents submitted to the municipal clerk shall prove that the individual is a qualified elector as defined in Subsection K of Section 3-1-2 NMSA 1978 and, if appropriate, that the individual resides in and is registered to vote in the municipal election district from which the individual seeks election. In the event that an individual fails to submit to the municipal clerk on candidate filing day the documents listed in Subsection B of this section in the form and with the contents as required by this section, the municipal clerk shall not certify that individual as a candidate for municipal office.

H. The municipal clerk shall post in the clerk's

office a list of the names of those individuals who have been certified as candidates. The municipal clerk shall also post in the clerk's office the names of those individuals who have not been certified as candidates, along with the reasons therefor. The posting shall occur no later than 9:00 a.m. on the fifty-fourth day preceding the election.

I. Not later than 5:00 p.m. on the forty-ninth day before the day of the election, a candidate for municipal office may file an affidavit on the form provided by the municipal clerk in the office of the municipal clerk stating that the candidate is no longer a candidate for municipal office. A municipal clerk shall not place on the ballot the name of any person who has filed an affidavit as provided in this subsection.

J. Not later than 10:00 a.m. on the forty-eighth day preceding the election, the municipal clerk shall confirm with the printer on contract with the municipality and the county clerk the names of the candidates and their position on the ballot.

K. Any person knowingly making a false statement in the declaration of candidacy is guilty of a fourth degree felony.

L. No person shall be elected to municipal office as a write-in candidate unless that person has been certified as a declared write-in candidate by the municipal clerk, as

follows:

(1) write-in candidates filing day shall be on the forty-ninth day preceding the election between the hours of 8:00 a.m. and 5:00 p.m.;

(2) write-in candidates shall file a declaration of write-in candidacy with the same documents and satisfy the same requirements as established in this section for candidates;

(3) the municipal clerk shall, on the forty-eighth day preceding the election, certify those individuals who have satisfied the requirements of this section as declared write-in candidates;

(4) not later than 9:00 a.m. on the forty-seventh day preceding the election, the municipal clerk shall, in the office of the municipal clerk:

(a) post the names of those individuals who have been certified as declared write-in candidates; and

(b) post the names of those individuals who have not been certified as declared write-in candidates along with the reasons; and

(5) not later than 5:00 p.m. on the thirty-fifth day preceding the election, a declared write-in candidate may file an affidavit that the candidate is no longer a write-in candidate for municipal office. In the event that a declared write-in candidate files an affidavit of

withdrawal, votes for that candidate shall not be counted and canvassed."

Section 11. Section 3-8-41 NMSA 1978 (being Laws 1985, Chapter 208, Section 49) is amended to read:

"3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS, SIGNATURE--ENTRIES BY PRECINCT BOARD.--

A. When a person goes to the polls to vote, the person shall announce the person's name and address in an audible tone of voice and locate the person's name and number in the registered voter list posted for such purpose. An election clerk shall locate the person's name and number in the signature roster. The person shall then sign the person's name in the signature roster or, if the person is unable to write, the election clerk shall sign the person's name in the signature roster, which shall be initialed by an election judge in the signature roster. Thereupon, a challenge may be interposed as provided in the Municipal Election Code.

B. If no challenge is interposed, an election clerk shall issue a voting machine permit to the person, upon which shall be written the person's voter registration list number. The person shall present the voting machine permit to the precinct board member monitoring the machine or issuing ballots, and the person shall be allowed to vote. The precinct board member shall enter the public counter number onto the voting machine permit as shown on the voting machine

after the person has voted. All voting machine permits shall be retained in consecutive order and made part of the election returns."

Section 12. Section 3-8-43 NMSA 1978 (being Laws 1985, Chapter 208, Section 51, as amended) is amended to read:

"3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED CHALLENGES--ENTRIES--DISPOSITION.--

A. A challenge may be interposed by a member of the precinct board or by a challenger for the following reasons, which shall be stated in an audible tone by the person making the challenge:

(1) the person offering to vote is not registered;

(2) the person offering to vote is listed among those persons in the precinct to whom an absentee ballot was issued;

(3) the person offering to vote is not a qualified elector;

(4) the person offering to vote is not listed on the signature roster or voter registration list;

(5) in the case of an absentee ballot, the official mailing envelope containing an absentee ballot has been opened prior to delivery of absentee ballots to the absent voter precinct board; or

(6) the person offering to vote is a

qualified elector of the municipality but does not reside in the district where the person is offering to vote.

B. When a person has offered to vote and a challenge is interposed and the person's name appears in the signature roster or the person's name has been entered in the signature roster pursuant to Subsection C of Section 3-8-40 NMSA 1978, the election clerk shall write the word "challenged" above the person's signature in the signature roster and:

(1) if the challenge is unanimously affirmed by the election judges:

(a) the election clerk shall write the word "affirmed" above the person's signature next to the challenge notation in the signature roster;

(b) the person shall nevertheless be furnished a paper ballot, whether or not voting machines are being used at the polling place, and the election clerk shall write the number of the ballot so furnished next to the person's signature in the signature roster;

(c) the person shall be allowed to mark and prepare the ballot. The person shall return the paper ballot to an election judge who shall announce the person's name in an audible tone and in the person's presence place the challenged ballot in an envelope marked "rejected", which shall be sealed and the person's name shall be written on the

envelope; and

(d) the envelope containing the rejected ballot shall then be deposited in the ballot box and shall not be counted; or

(2) if the challenge is not unanimously affirmed by the election judges:

(a) the election clerks shall write the words "not affirmed" above the person's signature next to the challenge notation in the signature roster; and

(b) the person shall be allowed to vote in the manner allowed by law as if the challenge had not been interposed.

C. A required challenge shall be interposed by the precinct board when a person attempts to offer to vote and demands to vote and the person's name does not appear on the signature roster and cannot be entered pursuant to Subsection B of Section 3-8-40 NMSA 1978. A required challenge shall be interposed by the precinct board as follows:

(1) the election judge shall cause the election clerks to enter the person's name and address under the heading "name and address" in the signature roster in the first blank space immediately below the last name and address that appears in the signature roster;

(2) the election clerk shall immediately write the words "required challenge" above the space provided

for the person's signature in the signature roster;

(3) the person shall sign the person's name in the signature roster;

(4) the person shall nevertheless be furnished a paper ballot, whether or not voting machines are being used at the polling place, and the election clerk shall write the number of the ballot so furnished next to the person's signature in the signature roster; and

(5) the person shall be allowed to mark and prepare the ballot. The person shall return the paper ballot to an election judge who shall announce the person's name in an audible tone and in the person's presence place the required challenge ballot in an envelope marked "rejected--required challenge" that shall be sealed. The person's name shall be written on the envelope and the envelope containing the rejected ballot shall then be deposited in the ballot box and shall not be counted."

Section 13. Section 3-8-44 NMSA 1978 (being Laws 1985, Chapter 208, Section 52, as amended) is amended to read:

"3-8-44. CONDUCT OF ELECTION--VOTING MACHINES--
INSTRUCTIONS--INSPECTION OF VOTING MACHINE FACE AFTER VOTE--
ENTRY INTO MACHINE.--

A. Before each person votes, a member of the precinct board shall, at the request of the voter and so far as possible, instruct the person on how to operate the voting

machine, illustrate its operation on the model and call attention to the posted sample ballot. If any person, before voting, asks for further information regarding the machine's operation, an election judge shall give the person the necessary information prior to the person's casting a vote.

B. The member of the precinct board attending the voting machine shall inspect the face of the machine after each person has voted to see that the ballot labels are in their proper places and have not been defaced.

C. After a person has announced the person's name and address, had voter registration confirmed, signed the signature roster and has had no challenge affirmed against casting a ballot, the person may vote. No more than one voter shall be permitted at the voting machine at one time unless the voter is being assisted."

Section 14. Section 3-8-46 NMSA 1978 (being Laws 1985, Chapter 208, Section 54, as amended) is amended to read:

"3-8-46. CONDUCT OF ELECTIONS--CLOSING POLLS--LOCKING VOTING MACHINES--OPENING VOTING MACHINES--VERIFICATION OF VOTES--ADMITTANCE OF WATCHERS AND CANDIDATES--PROCLAMATION OF RESULTS--COMPLETION OF LOCKING--DURATION OF LOCKING AND SEALING.--

A. When the last person has voted, the precinct board, in the presence of all persons lawfully permitted to be present, shall immediately lock and, if required by the county

clerk, seal the voting machine against further voting. The precinct board shall release the machine-printed returns from the machine. The precinct board shall then sign a certificate stating that the machine was locked; giving the exact time; stating the number of voters shown on the public counters, which shall be the total number of votes cast on the machine in that precinct; stating the number on the seal; and stating the number registered on the protective counter.

B. The precinct board shall verify that the counter settings registered on the machine-printed returns are legible. The machine-printed returns shall show the number of votes cast for each candidate and the number of votes cast for and against any other question submitted, and the return shall be signed by each member of the precinct board and the challengers and watchers, if there be such.

C. If the machine-printed returns are not legible, or if the precinct officials are unable to obtain the returns from the voting machine, the precinct officials shall call the municipal clerk, who shall immediately contact the county clerk, who shall dispatch a voting machine technician to that polling place to help the precinct officials obtain the returns from the voting machine.

D. A write-in vote shall be cast by writing in the name of a declared write-in candidate on the ballot or, on voting machines, write-ins shall be written in the slot

provided for each designated office. A write-in vote shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of write-in candidacy of the declared write-in candidate and misspellings of the above combinations that can be reasonably determined by a majority of the members of the precinct board to identify the declared write-in candidate;

(2) the name is written in the proper slot on the voting machine or on the proper line for write-in votes provided on an absentee ballot or paper ballot used in lieu of voting machines;

(3) the name written in is not a vote for a person who is on the ballot for that office; and

(4) the name written in is not imprinted by rubber stamp or similar device or by the use of preprinted stickers or labels.

E. Only the members of the precinct board, candidates or their representatives, representatives of the news media, certified challengers, watchers and observers and the municipal clerk may be present while the votes are being counted and tallied. Only members of the precinct board shall handle ballots, machine-printed returns and signature rosters

or take part in the counting and tallying.

F. The proclamation of the results of the votes cast shall be distinctly announced by an election judge who shall read the name of each candidate and the total number of votes cast for each candidate shown on the printed returns. An election judge shall also read the total number of votes cast for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the result so proclaimed with the printed returns. The precinct board may make corrections then and there.

G. When the precinct board is satisfied that the election results have been correctly tallied, an election judge shall complete a separate election return certificate in triplicate on which is recorded the total number of votes cast in that polling place for each candidate and for and against each question. The certificate shall be signed by all the members of the precinct board. One copy shall be posted at the door of the polling place, one copy mailed to the district court in the envelope provided and the original returned to the municipal clerk in the envelope provided.

H. Before adjourning, the precinct board shall complete the locking procedures on the voting machine.

I. On the voting machine, the machine return sheet is the official vote tally for that machine and the separate

election return certificate is the official vote tally for that precinct or consolidated precinct.

J. If in the district court's opinion a contest is likely to develop, the court may order a voting machine to remain locked and sealed for such time as it deems necessary.

K. The county clerk shall break the seal for purposes of lawful investigation when ordered to do so by a court of competent jurisdiction. When the investigation is completed, the voting machine shall again be sealed and across the envelope containing the keys shall be written the signature of the county clerk, unless other provisions for the use of the voting machine are ordered by the court."

Section 15. Section 3-8-47 NMSA 1978 (being Laws 1985, Chapter 208, Section 55, as amended) is amended to read:

"3-8-47. CONDUCT OF ELECTIONS--DISPOSITION OF SIGNATURE ROSTER--MACHINE-PRINTED RETURNS--BALLOT BOXES--ELECTION RETURN CERTIFICATE--AFFIDAVITS--OTHER ELECTION MATERIALS.--

A. After all certificates have been executed, the precinct board shall place the voter checklist and one copy of the machine-printed returns in the stamped, addressed envelope provided for that purpose by the municipal clerk and immediately mail it to the district court.

B. The following election returns and materials shall not be placed in the ballot box and shall be returned by the precinct board to the municipal clerk in the envelope or

other container provided by the municipal clerk for such purpose:

- (1) all ballot box keys;
- (2) the signature roster;
- (3) one voter registration list;
- (4) the election returns certificate, if separate from the signature roster;
- (5) one copy of the machine-printed returns;
- (6) a machine cartridge or memory card for any voting machine, if required by the county clerk;
- (7) voting machine permits; and
- (8) all unused election supplies.

C. All materials listed in Subsection B of this section, along with the locked ballot box containing any paper ballots cast in the election, including spoiled and challenged ballots, shall be returned by the precinct board to the municipal clerk within twenty-four hours after the polls close.

D. After receipt of ballot boxes and election returns and materials but not later than twenty-four hours after the polls close, the municipal clerk shall ascertain whether the locked ballot box and all the election returns and materials enumerated in Subsection B of this section have been returned to the municipal clerk as provided in Subsection C of this section. If the locked ballot box or all such election

returns and materials are not timely returned by each precinct board, the municipal clerk shall immediately issue a summons requiring the delinquent precinct board to appear and produce the missing ballot box or election returns or materials within twenty-four hours. The summons shall be served by a sheriff or state police officer without cost to the municipality, and the members of the precinct board shall not be paid for their service on election day unless the delay was unavoidable. If delivery pursuant to the summons is not timely made, the vote in the precinct shall not be canvassed or made a part of the final election results except upon order of the district court after finding that the delay in the delivery of materials was due to forces beyond the control of the precinct board.

E. Once the ballot box is locked, it shall not be opened prior to canvassing by the municipal clerk."

Section 16. Section 3-8-48 NMSA 1978 (being Laws 1985, Chapter 208, Section 56, as amended) is amended to read:

"3-8-48. CONDUCT OF ELECTIONS--PAPER BALLOTS--ONE TO A VOTER--RECEIPT OR DELIVERY--OCCUPATION OF VOTING MACHINES.--

A. Only one paper ballot shall be given to each qualified elector entitled to vote. The ballots shall be delivered to qualified electors entitled to vote in consecutive order, beginning with the lowest numbered ballot.

B. No qualified elector entitled to vote shall receive a ballot from any person other than from an election

judge at the polling place where the person is authorized to vote. No person other than an election judge shall deliver a ballot to any qualified elector entitled to vote.

C. Unless otherwise provided by law, when voting machines are used as voting booths to mark paper ballots, they shall not be occupied by more than one person at a time. A person shall not remain in or occupy such voting machine longer than is necessary to mark and prepare the paper ballot.

D. The ballot shall be completed and returned to the presiding judge who shall place it in a locked ballot box to be counted when the machine is repaired or replaced or at the time the polls close."

Section 17. Section 3-8-49 NMSA 1978 (being Laws 1985, Chapter 208, Section 57) is amended to read:

"3-8-49. CONDUCT OF ELECTION--PAPER BALLOTS--MARKING--
USE OF PEN OR OTHER WRITING IMPLEMENT--IDENTIFICATION MARKS.--

A. In order to vote for a candidate, the person voting shall mark a cross (X) or a check (V) in the box next to the name of that candidate or write in the name of the person for whom the voter desires to vote in the space for write-in candidates and mark a cross (X) or a check (V) in the box next to the line upon which the write-in vote is cast. Such write-in vote shall be cast in accordance with the provisions of Subsection D of Section 3-8-46 NMSA 1978.

Notwithstanding the requirements of this subsection, if a

different mark, other than a cross or check, is required for proper counting of the ballot, then the person voting shall make such mark on the ballot in the place so designated on the ballot utilizing the required writing implement pursuant to the instructions of the precinct board.

B. If a question is included on the paper ballot, the person voting shall mark the paper ballot by marking a cross (X) or a check (V) in the box for or against the question submitted or otherwise marking the ballot in accordance with Subsection A of this section.

C. All crosses, checks or other proper marks on the ballot shall be made only with pen or other writing implement and in the manner required for the proper counting of the ballot. The cross used in marking ballots shall be two lines intersecting at any angle within the circle or box. The check shall be a "V"-shaped mark with it being permissible for either side of the "V" to be longer than the other side. Any mark discernible either as a cross or a check, whether or not any of the lines extends outside the circle or box, shall be counted as a valid marking of the ballot when crosses or checks are required.

D. A vote shall be counted if:

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

(2) the preferred candidate's name or answer

to a ballot question is circled;

(3) there is a cross or check within the voting response area for the preferred candidate or answer to the ballot question; or

(4) the presiding judge and election judges for the precinct unanimously agree that the voter's intent is clearly discernable.

E. A person voting shall not place any mark on the ballot by which it may be afterwards identified as one voted by that person."

Section 18. Section 3-8-50 NMSA 1978 (being Laws 1985, Chapter 208, Section 58) is amended to read:

"3-8-50. CONDUCT OF ELECTION--PAPER BALLOTS--PROCEDURE AFTER MARKING--DELIVERY OF TWO OR MORE BALLOTS--PERSON AUTHORIZED TO RECEIVE BALLOTS--SPOILED OR DEFACED BALLOTS.--

A. After marking and preparing the paper ballot, the person voting:

(1) shall not show it to any person in such a way as to reveal its contents; and

(2) shall deliver it to an election judge who shall then remove any visible number on the ballot, hand the detached number to the person voting and deposit the paper ballot in the ballot box in the presence of the person voting.

B. Only an election judge shall receive a ballot from a person voting. No person shall examine or solicit a

person to reveal or show the contents of the person's paper ballot.

C. The election judge shall not deposit in the ballot box any paper ballot from which the slip containing the number of the paper ballot has not been removed by the election judge and handed to the person voting.

D. A person who accidentally spoils or erroneously prepares the ballot may return the spoiled or erroneously prepared ballot to the election judge and receive a new ballot.

E. The election judge in delivering the new ballot shall announce the name of the person voting in an audible tone and the number of the new ballot.

F. Upon the announcement of the election judge, the election clerks shall cross out the number of the spoiled or erroneously prepared ballot in the signature roster with a single line and shall insert in lieu thereof the number of the new ballot.

G. The election judge shall mark the spoiled or erroneously prepared ballot with the word "SPOILED" and shall place it in a separate envelope marked "SPOILED BALLOTS", which shall be returned to the municipal clerk.

H. Any person who knowingly hands to the election judge two or more ballots folded together is guilty of a fourth degree felony."

Section 19. Section 3-8-51 NMSA 1978 (being Laws 1985, Chapter 208, Section 59, as amended) is amended to read:

"3-8-51. CONDUCT OF ELECTION--PAPER BALLOTS--UNUSED BALLOTS--DESTRUCTION OF UNUSED BALLOTS--COUNTING AND TALLYING.--

A. Immediately upon closing of the polls, the election judge shall prepare a certificate of destruction, which shall state the number of the last ballot that was used for voting, the numbers of the ballots that were destroyed and the fact that all unused ballots were destroyed.

B. Immediately after preparation of the certificate of destruction and before any ballot box is unlocked, the precinct board shall destroy all unused ballots in the presence of the candidates, if present, the municipal clerk, if present, certified challengers and watchers, if any, and representatives of the news media, if any.

C. On the day of the election, immediately upon the arrival of the hour when the polls are required by law to be closed, the municipal clerk shall publicly, in the clerk's office, proceed to destroy every unused ballot that remains in the clerk's control and make and file an affidavit in writing as to the number of ballots so destroyed.

D. The precinct board shall count and tally the ballots and certify the results of the election on the form provided on the cover of the signature roster by writing

opposite the name of each candidate in words and figures the total number of votes cast for the candidate and shall set forth in the spaces provided therefor in words and figures the total number of votes cast for or against each question submitted. Ballots not marked as required by the Municipal Election Code shall not be counted.

E. Only the members of the precinct board, candidates, municipal clerk, representatives of the news media and certified challengers and watchers may be present while the votes are being counted and tallied. Only members of the precinct board shall handle ballots and signature rosters or take part in the counting and tallying.

F. The proclamation of the results of the votes cast shall be distinctly announced by the election judge who shall read the name of each candidate and the total vote cast for each candidate. The election judge shall also read the total vote cast for and against each question submitted. The election judge shall thereupon complete an election return certificate on which is recorded the total number of votes cast for each candidate and for and against each question. The certificate shall be signed by all the members of the precinct board."

Section 20. Section 3-8-52 NMSA 1978 (being Laws 1985, Chapter 208, Section 60, as amended) is amended to read:

"3-8-52. CONDUCT OF ELECTION--PAPER BALLOTS--SIGNATURE

ROSTERS--DISPOSITION.--

A. After the counting and tallying of ballots is completed and after all certificates have been executed, the precinct board shall place the voter checklist and one copy of all certificates and tally sheets in the stamped, addressed envelope provided for that purpose by the municipal clerk and immediately mail it to the district court.

B. The signature roster, all certificates, tally sheets and all ballot box keys shall be returned to the municipal clerk. The signature roster, certificates, tally sheets and ballot box key shall not be placed in the ballot box.

C. After paper ballots used in lieu of voting machines are counted and tallied, the precinct board shall place the following in the ballot box:

(1) the bundles of counted paper ballots used in lieu of voting machines;

(2) the envelopes containing spoiled ballots; and

(3) the envelopes containing rejected ballots.

D. After the required items have been placed in the ballot box, the ballot box shall be closed and locked.

E. The locked ballot box containing those materials required by law, the election returns and all other

election materials shall be delivered to the municipal clerk by the precinct board within twenty-four hours after the polls are closed. If such delivery is not timely made, then the vote in the precinct shall not be canvassed or made a part of the final election results except upon order of the district court after finding that the delay in the delivery of materials was due to forces beyond the control of the precinct board.

F. Once the ballot box is locked, it shall not be opened prior to canvassing."

Section 21. Section 3-8-58 NMSA 1978 (being Laws 1985, Chapter 208, Section 66, as amended) is amended to read:

"3-8-58. POST-ELECTION DUTIES--CANVASS--VOTING MACHINE RECHECK.--

A. Prior to completion of the official canvass of an election, the municipal clerk, upon written request of any candidate in the election, if any, or upon receipt of a written petition of five percent of the people who voted in the election, shall, in the presence of the district judge, conduct a recheck and comparison of the results shown on the official returns being canvassed with the results of each voting machine used in the election.

B. For the purpose of making the recheck and comparison, the municipal clerk may request the county clerk to:

- (1) unlock the voting machine;
- (2) check the figures shown by the counter on the voting machine;
- (3) insert the cartridge or memory card into the voting machine; and
- (4) rerun the printed returns from the voting machine.

C. At the conclusion of the recheck and comparison, the voting machine shall again be secured.

D. The necessary corrections, if any, shall be made on the returns and the results of the election, as shown by the recheck and comparison, shall be declared."

Section 22. Section 3-8-65 NMSA 1978 (being Laws 1985, Chapter 208, Section 73, as amended) is amended to read:

"3-8-65. CONTEST OF ELECTIONS--PRESERVATION OF BALLOTS--BALLOTS DEFINED--APPLICATION FOR ORDER--DEPOSIT.--

A. Either the contestant or contestee, within the time provided by the Municipal Election Code for the preservation of ballots, shall give notice by certified mail to the municipal clerk that a contest is pending in a designated court, and it is the duty of the municipal clerk to preserve the ballots of all precincts named in the notice of contest and to notify the county clerk to impound the ballot sheets and voting machines used in all of the precincts named in the notice of contest until the contest has been finally

determined.

B. "Ballots", as used in Subsection A of this section, includes signature rosters, registered voter lists, machine-printed returns, voting machine permits, paper ballots, absentee ballots, absentee ballot outer envelopes, statements of canvass, absentee ballot applications, absentee ballot registers and absentee voter lists.

C. Any contestant or contestee may petition the district court for an order impounding ballots in one or more precincts or consolidated precincts. The petition shall state what specific items of ballots are requested to be impounded. Upon receipt of the petition, along with a cash deposit of twenty-five dollars (\$25.00) per precinct or consolidated precinct, the court may issue an order of impoundment."

Section 23. Section 3-8-68 NMSA 1978 (being Laws 1985, Chapter 208, Section 76, as amended) is amended to read:

"3-8-68. RECOUNT--RECHECK--APPLICATION--COSTS.--

A. Whenever any candidate for any office for which the municipal clerk issues a certificate of election believes that any error or fraud has been committed by any precinct board in counting or tallying the ballots or absentee ballots, in the verification of the votes cast on the voting machines or in the certifying of the results of any election whereby the results of the election in the precinct have not been correctly determined, declared or certified, the candidate,

within six days after completion of the canvass by the municipal canvassing board, may have a recount of the ballots or absentee ballots, or a recheck of the voting machine and the voting machine cartridge or memory card that contains the number of total votes that were cast in the precinct.

B. In the case of any office for which the municipal clerk issues a certificate of election, application for recount or recheck shall be filed with the municipal clerk.

C. Any applicant for a recount shall deposit with the municipal clerk fifty dollars (\$50.00) in cash or a sufficient surety bond in an amount equal to fifty dollars (\$50.00) for each precinct or consolidated precinct for which a recount is demanded. Any applicant for a recheck shall deposit with the municipal clerk ten dollars (\$10.00) in cash or a sufficient surety bond in an amount equal to ten dollars (\$10.00) for each voting machine to be rechecked.

D. The deposit or surety bond shall be security for the payment of the costs and expenses of the recount or recheck in case the results of the recount or recheck are not sufficient to change the results of the election.

E. If it appears that error or fraud sufficient to change the winner of the election has been committed, the costs and expenses of the recount or recheck shall be paid by the municipality upon warrant of the municipal clerk from the

general fund of the municipality.

F. If no error or fraud appears to be sufficient to change the winner, the costs and expenses for the recount or recheck shall be paid by the applicant. Costs shall consist of any docket fees, mileage of a sheriff or state police officer in serving summons and fees and mileage of precinct board members, at the same rates allowed witnesses in civil actions. If fraud has been committed by a precinct board, it shall not be entitled to such mileage or fees."

Section 24. Section 3-8-69 NMSA 1978 (being Laws 1985, Chapter 208, Section 77, as amended) is amended to read:

"3-8-69. RECOUNT--RECHECK--PROCEEDINGS.--

A. Immediately after filing of the application for recount or recheck, the municipal clerk shall issue a summons directed to the precinct board of each precinct or consolidated precinct specified in the application commanding it to appear at the office of the municipal clerk on a day fixed in the summons, which date shall not be more than ten days after the filing of the application for recount or recheck. A copy of the summons shall be forwarded to the county clerk of the concerned county.

B. The municipal clerk shall deliver the summons to a sheriff or state police officer who shall forthwith personally serve it upon each of the precinct board members. The municipal clerk shall send notices by registered mail of

the date, time and place fixed for recount or recheck to the district judge and county clerk.

C. The precinct board, district judge or the district court judge's designee, county clerk and the municipal clerk shall meet on the date, time and place fixed for the recount or recheck, and the ballot boxes or voting machines of the precinct or consolidated precinct involved in the recount or recheck shall be opened. The precinct boards shall recount and retally the ballots or recheck the votes cast on the voting machine, as the case may be, and recount and retally the absentee ballots for the office in question in the presence of the municipal clerk, the county clerk, district judge or person designated to act for the judge and any other person who may desire to be present.

D. During the recount or recheck, the precinct board of a precinct or consolidated precinct where paper ballots used in lieu of voting machines or absentee ballots were used shall recount and retally only the ballots that the election judge accepted and placed in the ballot box at the time they were cast or received, as the case may be.

E. After completion of the recount or recheck, the precinct board shall replace the ballots or absentee ballots in the ballot box and lock it, or the voting machines shall be locked and resealed, and the precinct board shall certify to the municipal clerk the results of the recount or recheck.

The district judge or the person designated to act for the judge, the county clerk and the municipal clerk shall also certify that the recount or recheck was made in their presence."

Section 25. Section 3-8-71 NMSA 1978 (being Laws 1985, Chapter 208, Section 79, as amended) is amended to read:

"3-8-71. PRESERVATION OF ELECTION INFORMATION.--

A. The municipal clerk shall retain for two years after each municipal election:

- (1) the absentee ballot register, application for absentee ballots, absentee voter lists and affidavits of destruction;
- (2) signature roster and registered voter list;
- (3) the machine-printed returns;
- (4) oaths of office of the precinct board;
- (5) declarations of candidacy and withdrawals;
- (6) copies of all election material required to be published or posted;
- (7) a copy of all sample ballots and ballot sheets;
- (8) voting machine permits;
- (9) certificates submitted by voters;
- (10) copies of all affidavits and

certificates prepared in connection with the election;

(11) all results of recounts, rechecks, contests and recanvass; and

(12) all other significant election materials.

B. The district court shall retain for forty-five days after each municipal election all election materials sent by the precinct board. Thereafter, the material may be destroyed unless needed by the court in connection with a contest or other case or controversy.

C. The municipal clerk shall destroy election records two years after the election by shredding, burning or otherwise destroying."

Section 26. Section 3-8-75 NMSA 1978 (being Laws 1985, Chapter 208, Section 83, as amended) is amended to read:

"3-8-75. FALSE VOTING--FALSIFYING ELECTION DOCUMENTS--FALSE SWEARING--PENALTY.--

A. False voting consists of:

(1) voting or offering to vote with the knowledge of not being a qualified elector;

(2) voting or offering to vote in the name of any other person;

(3) knowingly voting or offering to vote in any precinct except that in which one is registered;

(4) voting or offering to vote more than

once in the same election;

(5) inducing, abetting or procuring or attempting to induce, abet or procure a person known not to be a qualified elector to vote; or

(6) inducing, abetting or procuring or attempting to induce, abet or procure a person who has voted once in any election to vote or attempt to vote again at the same election.

B. A person who commits false voting is guilty of a fourth degree felony.

C. Falsifying election documents consists of performing any of the following acts willfully and with knowledge and intent to deceive or mislead any voter, precinct board, municipal clerk or other election official:

(1) printing, causing to be printed, distributing or displaying false or misleading instructions pertaining to voting or the conduct of the election;

(2) printing, causing to be printed, distributing or displaying any official ballot, absentee ballot, sample ballot, facsimile diagram, ballot sheet or pretended ballot that includes the name of any person not entitled by law to be on the ballot or omits or defaces the name of any person entitled by law to be on the ballot or otherwise contains false or misleading information or headings;

(3) defacing, altering, forging, making false entries in or changing any election document, including election returns, a certificate of election registration record or signature rosters, affidavits, certificates or any other election document except as authorized in the Municipal Election Code;

(4) withholding any certificate of election, registered voter list, signature roster, election return or any other election document required by or prepared and issued pursuant to the Municipal Election Code; or

(5) preparing or submitting any false certificate of election, signature roster, registered voter list, election return or any other election document.

D. A person who falsifies election documents is guilty of a fourth degree felony.

E. False swearing consists of knowingly taking or giving any oath required by the Municipal Election Code with the knowledge that the thing or matter sworn to is not a true and correct statement.

F. A person who falsely swears is guilty of a fourth degree felony."

Section 27. Section 3-9-1 NMSA 1978 (being Laws 1973, Chapter 375, Section 2, as amended) is amended to read:

"3-9-1. DEFINITIONS.--As used in Chapter 3, Article 9 NMSA 1978:

A. "absent uniformed services voter" means:

(1) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(2) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(3) a spouse or dependent of a member described in Paragraph (1) or (2) of this subsection who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

B. "absentee voting" means the casting of a vote by a qualified elector for any candidate or question prior to election day;

C. "early voter" means a voter who votes in person before election day, and not by mail;

D. "election" means a regular or special municipal election;

E. "federal qualified elector" means:

(1) an absent uniformed services voter; or

(2) an absent uniformed services voter who, by reason of active duty or service, is absent from the United

States on the date of the election involved;

F. "immediate family" means a person's spouse, children, parents, brothers and sisters;

G. "member of the merchant marine" means an individual other than a member of a uniformed service or an individual employed, enrolled or maintained on the great lakes or the inland waterways who:

(1) is employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States or a vessel of a foreign-flag registry under charter to or control of the United States; or

(2) is enrolled with the United States for employment or training for employment or is maintained by the United States for emergency relief service as an officer or crew member of a vessel described in Paragraph (1) of this subsection;

H. "overseas voter" means:

(1) an absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved;

(2) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(3) a person who resides outside the United

States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States;

I. "uniformed services" means the army, navy, air force, marine corps and coast guard and the commissioned corps of the national oceanic and atmospheric administration; and

J. "voter" means a qualified elector of the municipality."

Section 28. Section 3-9-2 NMSA 1978 (being Laws 1973, Chapter 375, Section 4) is amended to read:

"3-9-2. CERTAIN APPLICATIONS CONSTITUTE REGISTRATION.-- An application from a federal qualified elector or overseas voter shall, when received by the municipal clerk, constitute a registration for purposes of that election."

Section 29. Section 3-9-3 NMSA 1978 (being Laws 1973, Chapter 375, Section 1, as amended) is amended to read:

"3-9-3. ABSENTEE VOTING--REGULAR OR SPECIAL MUNICIPAL ELECTIONS--RIGHT TO VOTE.--

A. Any voter or any overseas voter or federal qualified elector entitled to vote in the municipal election may vote by absentee ballot for all candidates and on all questions appearing on the ballot at such regular or special election at the voter's assigned polling place, as if the voter were able to cast a ballot in person at such polling place.

B. The provisions of this section shall also apply to a regular or special municipal election held in conjunction with any other political subdivision."

Section 30. Section 3-9-4 NMSA 1978 (being Laws 1973, Chapter 375, Section 3, as amended) is amended to read:

"3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--ACCEPTANCE--ISSUANCE OF ABSENTEE BALLOT.--

A. Application by a federal qualified elector or overseas voter shall be made on the federal postcard application form to the municipal clerk.

B. The municipal clerk shall prescribe the form of the absentee ballot application.

C. An application for an absentee ballot may be obtained from the municipal clerk.

D. Upon receipt of a properly completed and delivered application for an absentee ballot, the municipal clerk shall contact the county clerk to determine if the applicant is a qualified elector of the municipality.

E. The municipal clerk shall reject an absentee ballot application for any of the following reasons:

(1) the application is not made on the form provided by the municipal clerk;

(2) the application does not set forth the applicant's full name and address;

(3) the application does not set forth the

applicant's date of birth;

(4) the application is not signed by the applicant; or

(5) the applicant:

(a) has no valid affidavit of registration on file with the county clerk and is not a federal qualified elector or overseas voter;

(b) has a valid affidavit of registration on file with the county clerk, but is not a resident of the municipality; or

(c) is a federal qualified elector or overseas voter, but is not entitled to vote in the municipal election; and

(d) cannot comply with Subparagraph (a), (b) or (c) of this paragraph pursuant to Subsection B of Section 3-8-40 NMSA 1978.

F. If the municipal clerk rejects an absentee ballot application pursuant to Subsection E of this section, the municipal clerk shall mark the application "rejected", enter "rejected" in the absentee ballot register and file the application in a separate file. The municipal clerk shall, within twenty-four hours of rejection of the application, notify the applicant in writing of the reasons for rejection of the application. If the application is incomplete, the municipal clerk shall immediately mail a new application for

an absentee ballot.

G. If the application for absentee ballot is accepted, the municipal clerk shall:

- (1) mark the application "accepted";
- (2) enter the required information in the absentee ballot register; and
- (3) issue to the applicant an absentee ballot.

H. The municipal clerk shall deliver the absentee ballot to the applicant in the office of the municipal clerk if the application for absentee ballot has been accepted and if the application is submitted in person by the applicant or mail an absentee ballot to any qualified elector, federal qualified elector or overseas voter whose application for an absentee ballot was received by mail and has been accepted. The municipal clerk shall notify the county clerk who shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. Names of individuals that have been labeled "absentee ballot" shall appear on a separate list called the "absentee voter list". This list shall be submitted to the municipal clerk by the county clerk in the same manner as provided in Subsection B of Section 3-8-7 NMSA 1978.

I. It is the duty of the municipal clerk to verify the signature roster and absentee voter list to ensure that

all names of individuals who have been issued absentee ballots have been labeled "absentee ballot" on the signature roster and their names listed on the absentee voter list. If not, the municipal clerk shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. The municipal clerk shall then enter the name and all required information on the absentee voter list.

J. If the application for an absentee ballot is delivered in person to the municipal clerk during regular hours and days of business and is accepted, the municipal clerk shall issue the voter the absentee ballot and it shall be marked by the applicant in a voting booth in the municipal clerk's office, sealed in the proper envelopes and otherwise properly executed and returned to the municipal clerk or the clerk's authorized representative before the applicant leaves the office of the municipal clerk.

K. The act of marking the absentee ballot in the office of the municipal clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the municipal clerk a polling place subject to the requirements of a polling place in the Municipal Election Code other than as provided in this subsection. During the period of time between the date a person may first apply in person for an absentee ballot and the final date for such

application and marking of the ballot in the office of the municipal clerk, it is unlawful to solicit votes or display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office.

L. Absentee ballots shall be mailed to federal qualified electors and overseas voters whose applications have been accepted not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Friday immediately prior to the date of the election.

M. Absentee ballots shall be issued to voters whose applications have been approved not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Friday immediately prior to the date of the election.

N. No absentee ballot shall be delivered or mailed by the municipal clerk to any person other than the applicant for such ballot."

Section 31. A new section of the Municipal Election Code is enacted to read:

"EARLY VOTING--USE OF ABSENTEE VOTING PROCEDURES.--

A. An early voter may vote in person on a voting machine beginning at 8:00 a.m. on the twentieth day before the election at the municipal clerk's office during regular hours and days of business until 5:00 p.m. on the Friday immediately before the date of the election.

B. Upon receipt of a properly completed

application for an absentee ballot, the municipal clerk shall contact the county clerk to determine if the applicant is a qualified elector of the municipality.

C. If the application is accepted, the municipal clerk shall:

- (1) mark the application accepted; and
- (2) enter the required information in the absentee ballot register.

D. Upon acceptance of the application, the voter shall be allowed to vote.

E. The municipal clerk shall notify the county clerk, who shall make an appropriate designation on the signature roster next to the voter's name indicating that the voter has voted early."

Section 32. Section 3-9-5 NMSA 1978 (being Laws 1973, Chapter 375, Section 6, as amended) is amended to read:

"3-9-5. ABSENTEE BALLOT REGISTER.--

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

- (1) in numerical sequence, the name and municipal address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or

rejected;

(4) the date of delivery to the voter in person in the office of the municipal clerk, or mailing of an absentee ballot to the applicant, the method of delivery and, if mailed, the address to which the ballot was mailed;

(5) the applicant's precinct and district number, if applicable;

(6) whether the applicant is a voter, an overseas voter or a federal qualified elector;

(7) affidavits of voters who did not receive absentee ballots; and

(8) the date and time the completed ballot was received from the applicant by the municipal clerk.

B. The absentee ballot register is a public record open to public inspection in the municipal clerk's office during regular office hours and shall be preserved for two years after the date of the election. The municipal clerk shall have an updated absentee ballot register available for public inspection Monday through Friday during regular office hours."

Section 33. Section 3-9-6 NMSA 1978 (being Laws 1973, Chapter 375, Section 7, as amended) is amended to read:

"3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE BALLOT ENVELOPES.--

A. The form of the absentee ballot shall be, as

nearly as practicable, in the same form as prescribed by the municipal clerk for other ballots. However, to reduce weight and bulk for transport of absentee ballots, the size and weight of the paper for envelopes, ballots and instructions shall be reduced as much as is practicable. The ballots shall provide for sequential numbering.

B. Absentee ballots and envelopes shall be delivered by the printer to the municipal clerk not later than thirty-five days prior to the date of the election to be held.

C. The municipal clerk shall prescribe the form of:

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

(2) official mailing envelopes for use in returning the official inner envelope to the municipal clerk;

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

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

D. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the municipal clerk and overseas voters and federal qualified electors shall be printed in black in the form prescribed by postal regulations and the federal

Uniformed and Overseas Citizens Absentee Voting Act. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the municipal clerk shall be printed in green in substantially similar form. All official inner envelopes shall be printed in green.

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

Section 34. Section 3-9-7 NMSA 1978 (being Laws 1973, Chapter 375, Section 8, as amended) is amended to read:

"3-9-7. MANNER OF VOTING--USE OF AN ELECTRONIC VOTING DEVICE.--

A. Any person voting an absentee ballot under the provisions of the Municipal Election Code shall secretly mark the ballot as instructed on the ballot, place the marked ballot in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope.

B. Overseas voters and federal qualified electors shall either deliver their ballots in person or mail the official mailing envelope to the municipal clerk of their municipality of residence or deliver it to a person designated by federal authority to receive executed ballots for transmission to the municipal clerk of the municipality of residence. A voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the municipal clerk in person or by mail, provided that the voter has subscribed the outer envelope of the absentee ballot.

C. When an electronic voting device is used by the voter to cast an absentee vote, the municipal clerk shall ensure that each absentee voting machine is located within the office of the municipal clerk. The area shall be secured by lock and key. Each day during the time the absentee voting machine is used for absentee voting, the municipal clerk shall, in the presence of one other employee of the municipality, unlock the office where the voting machine is located. Each day, at the close of regular office hours, the municipal clerk shall, in the presence of one other municipal employee, secure the office where the voting machine is located. Each day immediately after unlocking or locking the office where the voting machine is located, the municipal clerk and the employee present shall sign or initial the

absentee voting daily report. The municipal clerk shall prescribe the form of the absentee voting daily report, which shall include the following information:

- (1) the voting machine serial number;
- (2) the beginning and ending public counter number for the day;
- (3) the beginning and ending protective counter number for the day;
- (4) the closing seal number, if any;
- (5) the total number of voters for the day;

and

- (6) a place for the date and signature of the municipal clerk and the municipal employee.

D. Voting shall be conducted substantially in the manner provided in the Municipal Election Code. The absentee voting daily report shall be submitted to the absent voter precinct on election day, along with any voting machines used."

Section 35. Section 3-9-8 NMSA 1978 (being Laws 1973, Chapter 375, Section 9, as amended) is amended to read:

"3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED BALLOTS BY MUNICIPAL CLERK.--

A. The municipal clerk shall mark on each completed official outer envelope the date and time of receipt in the municipal clerk's office, record this information in

the absentee ballot register and safely and securely keep the official outer envelope unopened until it is delivered on election day to the proper precinct board or until it is canceled and destroyed in accordance with law. Once a ballot is officially accepted by the municipal clerk and recorded in the absentee ballot register, it cannot be returned to the voter for any reason.

B. The municipal clerk shall accept completed official outer envelopes received by mail or delivered in person to the municipal clerk's office by the voter signing the official outer envelope, by a member of the voter's immediate family or by the caregiver to the voter until 7:00 p.m. on election day. Any completed outer envelope received after that time and date shall be marked as to the time and date received, shall not be delivered to the precinct board and shall be preserved until the time for election contests has expired. In the absence of a court order, after the expiration of the time for election contests, the municipal clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the municipal clerk shall count the numbers of late ballots from voters, overseas voters and federal qualified electors and record the number from each category in the absentee ballot register.

C. After 5:00 p.m. and not later than 8:00 p.m. on the Friday immediately preceding the date of the election, the municipal clerk shall record the numbers of the unused absentee ballots and shall publicly destroy in the municipal clerk's office all unused ballots. The municipal clerk shall execute a certificate of such destruction, which shall include the numbers on the ballots destroyed, and the certificate shall be placed within the absentee ballot register.

D. At 7:00 p.m. on the day of the election, the municipal clerk shall determine the number of ballots that were mailed and have not been received and execute a "certificate of unreceived absentee ballots". The certificate shall be placed in the absentee ballot register and shall become an official part of the register. The municipal clerk shall determine the form of the certificate of unreceived absentee ballots."

Section 36. Section 3-9-11 NMSA 1978 (being Laws 1985, Chapter 208, Section 99, as amended by Laws 1995, Chapter 98, Section 3 and also by Laws 1995, Chapter 200, Section 10) is amended to read:

"3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
PRECINCT BOARDS.--

A. Before opening any official mailing envelope, an election judge shall determine that the required signature has been executed on the reverse side of the official mailing

envelope.

B. If the signature is missing, an election judge shall write "rejected" on the front of the official mailing envelope. The election clerks shall write the notation "rejected - missing signature" in the "notations" column on the absentee voter list. An election judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope, write the voter's name on the front of the envelope and deposit it in the locked ballot box.

C. Declared challengers certified by the municipal clerk may examine the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:

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

(2) the person offering to vote is not an overseas voter, federal qualified elector or voter as provided in the Municipal Election Code.

Upon the challenge of an absentee ballot, an election judge shall generally follow the same procedure as when ballots are challenged when a person offers to vote in person. If a challenged ballot is not to be counted, it shall not be opened and shall be placed in an envelope provided for

challenged ballots.

D. If the official mailing envelopes have properly executed signatures and the voters have not been challenged:

(1) an election judge shall open the official mailing envelopes and deposit the ballots in their still sealed official inner envelopes in the locked ballot box; and

(2) the election clerks shall mark the notation "AB" opposite the voter's name in the "notations" column of the absentee voter list.

E. Prior to the closing of the polls, an election judge may remove the absentee ballots from the official inner envelopes and either count and tally the results of absentee balloting by hand or register the results of each absentee ballot on a voting machine the same as if the absent voter had been present and voted in person. It shall be unlawful for any person to disclose the results of such count and tally or such registration on a voting machine of absentee ballots prior to the closing of the polls.

F. The municipal clerk shall, prior to the opening of the polls on election day, notify the absent voter precinct board in writing whether absentee ballots are to be counted and tallied or registered on a voting machine. The procedures shall be such as to ensure the secrecy of the ballot.

G. Absent voter precinct polls shall be closed at

7:00 p.m. on the day of the election by the absent voter precinct board."

Section 37. Section 3-9-12 NMSA 1978 (being Laws 1985, Chapter 208, Section 100) is amended to read:

"3-9-12. CANVASS--RECOUNT OR RECHECK--DISPOSITION.--
Where no voting machines are used to register absentee ballots, such ballots shall be canvassed, recounted and disposed of in the manner provided by the Municipal Election Code for the canvassing, recounting and disposition of paper ballots. Where voting machines are used to register absentee ballots, such ballots shall be canvassed and rechecked in the manner provided by the Municipal Election Code for the canvassing and recheck of ballots cast on a voting machine; provided, in the event of a contest, voting machines used to register absentee ballots shall not be rechecked, but the absentee ballots shall be recounted in the manner provided by the Municipal Election Code."

Section 38. Section 3-9-13.1 NMSA 1978 (being Laws 2003, Chapter 244, Section 19) is amended to read:

"3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

A. A voter who has submitted an application for an absentee ballot that was accepted by the municipal clerk but who has not received the absentee ballot by mail as of the

date of the election may go to the assigned polling place and, after executing an affidavit of nonreceipt of absentee ballot, shall be issued a ballot in lieu of an absentee ballot by the presiding judge, and shall be allowed to mark the ballot.

B. The voter shall place the completed ballot issued in lieu of an absentee ballot in an official inner envelope, substantially in the form prescribed pursuant to Section 3-9-6 NMSA 1978, which shall be sealed by the voter. The official inner envelope shall then be placed by the voter, in the presence of the presiding judge, in an official outer envelope substantially as prescribed for a transmittal envelope or mailing envelope pursuant to Section 3-9-6 NMSA 1978. The presiding judge shall fill in the information on the back of the envelope that identifies the voter by name and signature roster number and contains the printed affidavit that the voter made application for an absentee ballot, which the voter believes to have been accepted by the municipal clerk, that the voter swears an absentee ballot had not been received as of the date of the election and that the voter was issued a ballot in lieu of an absentee ballot, and that the ballot was marked by the voter and submitted to the presiding judge.

C. The presiding judge shall place all ballots issued in lieu of absentee ballots in a special envelope provided for that purpose by the municipal clerk, seal the

envelope and return it to the municipal clerk along with the machine tally sheets after the closing of the polls. The sealed envelope shall not be placed in the locked ballot box.

D. The municipal clerk shall, upon receipt of the envelope containing ballots in lieu of absentee ballots, and no later than forty-eight hours after the close of the polls for the election, remove the transmittal envelopes and without removing or opening the inner envelopes, determine:

(1) if the voter did in fact make application for an absentee ballot that was accepted by the municipal clerk;

(2) if an absentee ballot was mailed by the municipal clerk to the voter; and

(3) whether an absentee ballot was received by the municipal clerk from the voter by 7:00 p.m. on election day.

E. If the municipal clerk determines that the ballot in lieu of absentee ballot is valid, that an absentee ballot was mailed to the voter and that no absentee ballot was received from the voter by the municipal clerk, the municipal clerk shall remove the inner envelope without opening it, retain the transmittal envelope with the other election returns and place the inner envelope, unopened, in a secure and locked container to be transmitted to the canvassing board to be tallied and included in the canvass of the election

returns for the municipality.

F. If the municipal clerk determines that the ballot in lieu of absentee ballot is not valid because the application for absentee ballot was rejected and no ballot was mailed to the voter, or that a ballot was received from the voter by the municipal clerk not later than 7:00 p.m. on election day, the municipal clerk shall write "rejected invalid ballot" on the front of the transmittal envelope and the transmittal envelope shall not be sent to the canvassing board for counting and tallying. The municipal clerk shall retain the unopened transmittal envelope in a safe and secure manner and shall notify the district attorney in writing of the alleged violation of the Municipal Election Code. A copy of the notification to the district attorney shall be sent by first class mail to the voter and to the secretary of state.

G. The municipal clerk shall furnish and shall prescribe the form of the necessary envelopes to be used in accordance with the purposes of this section, and shall take steps to preserve the secrecy of any ballots cast pursuant to this section."

Section 39. Section 3-9-16 NMSA 1978 (being Laws 1973, Chapter 375, Section 14, as amended) is amended to read:

"3-9-16. PENALTIES.--

A. A person who knowingly votes or offers to vote an absentee ballot to which the person is not lawfully

entitled to vote or offer to vote is guilty of a fourth degree felony.

B. A municipal official or employee or any other person who knowingly furnishes absentee ballots to persons who are not entitled to such ballots under the provisions of the Municipal Election Code is guilty of a fourth degree felony.

C. A municipal official or employee, precinct board member or any other person who knowingly destroys or otherwise disposes of an absentee ballot other than in the manner provided by the Municipal Election Code is guilty of a fourth degree felony.

D. A person who knowingly or willfully makes any false statement in any application for an absentee ballot or in the absentee ballot register or in any certificate required by the Municipal Election Code is guilty of a fourth degree felony.

E. A person who knowingly possesses an executed or unexecuted absentee ballot outside the physical confines of the municipal clerk's office when the ballot is not the personal ballot of that person or who otherwise knowingly authorizes, aids or abets the unlawful removal of an executed or unexecuted absentee ballot from the physical confines of the municipal clerk's office is guilty of a fourth degree felony.

F. A municipal clerk who knowingly possesses an

executed or unexecuted absentee ballot outside the physical confines of the municipal clerk's office when that ballot is not the personal ballot of the municipal clerk, or who otherwise knowingly authorizes, aids or abets the unlawful removal of an executed or unexecuted absentee ballot that is not the personal ballot of the municipal clerk from the physical confines of the municipal clerk's office, is guilty of a fourth degree felony."

Section 40. REPEAL.--

A. Laws 1995, Chapter 98, Section 3 is repealed.

B. Sections 3-8-15 and 3-8-40.1 NMSA 1978 (being Laws 1985, Chapter 208, Section 23 and Laws 1999, Chapter 278, Section 45, as amended) are repealed.