

1 SENATE BILL 356

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Daniel Ivey-Soto

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9
10 AN ACT

11 RELATING TO ELECTIONS; PROHIBITING PROXY VOTING; ALLOWING USE
12 OF COUNTY EMPLOYEES AS ELECTION CLERKS; REQUIRING SUFFICIENT
13 STAFF AND EQUIPMENT AT POLLING LOCATIONS; SETTING, CLARIFYING
14 AND STANDARDIZING PROCESSES, DATES AND DEADLINES; PROVIDING
15 DEFINITIONS; ALLOWING ACCESS BY COUNTY CLERKS TO THE DRIVER'S
16 LICENSE DATABASE; PERMITTING PARTY COMMITTEE APPOINTMENTS
17 ACCORDING TO PARTY RULES; PRESCRIBING THE ORDER OF OFFICES ON
18 THE BALLOT; EXEMPTING CERTAIN VOTING RECORDS FROM THE
19 INSPECTION OF PUBLIC RECORDS ACT UNTIL AFTER ALL RECOUNTS,
20 CONTESTS AND CANVASSING ARE COMPLETED; ENSURING THAT MISTAKEN
21 CANCELLATION OF REGISTRATION WILL NOT VOID A PROVISIONAL
22 BALLOT; RESTRICTING THE HOLDING OF OTHER ELECTIONS WITHIN FIFTY
23 DAYS OF A GENERAL ELECTION; PRESCRIBING RECOUNT PROCEDURES;
24 PROVIDING STANDARDS FOR CONSOLIDATED PRECINCTS; AUTHORIZING
25 SCHOOL BOARDS TO SET THE TIMES FOR ALTERNATE VOTING LOCATIONS;

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1 REQUIRING ELECTIONS FOR CHANGING THE NUMBER OF SCHOOL BOARD
2 MEMBERS TO BE HELD DURING A REGULAR SCHOOL ELECTION; UPDATING
3 FORMS; PROVIDING FOR A PENALTY; AMENDING, REPEALING AND
4 ENACTING SECTIONS OF THE NMSA 1978.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. A new section of the Election Code is enacted
8 to read:

9 "[NEW MATERIAL] POWER OF ATTORNEY--PROHIBITED USE.--A
10 power of attorney or other form of proxy is not valid for use
11 by a person in any procedure or transaction concerning
12 elections, including voter registration, petition signature,
13 voter-registration cancellation, absentee ballot requests or
14 voting another person's ballot."

15 SECTION 2. Section 1-1-22 NMSA 1978 (being Laws 2005,
16 Chapter 270, Section 1) is amended to read:

17 "1-1-22. COMPUTATION OF TIME--DEADLINES.--For the purpose
18 of the Election Code, time periods of less than eleven days
19 shall be computed as calendar days; provided, however, that if
20 an actual deadline falls on a weekend or state-recognized
21 holiday, the next business day shall be the deadline, unless
22 the deadline is expressed as a day of the week, in which case
23 that day remains the actual deadline."

24 SECTION 3. Section 1-2-12 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 32, as amended) is amended to read:

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1 "1-2-12. PRECINCT BOARD--NUMBER FOR EACH PRECINCT.--

2 A. For primary, general and special federal
3 elections, the precinct board shall consist of:

- 4 (1) a presiding judge;
- 5 (2) two election judges; and
- 6 (3) one election clerk.

7 B. The county clerk, in appointing precinct boards
8 for primary, general and special federal elections:

9 (1) shall appoint presiding judges and
10 election judges so that at least one election judge shall not
11 be of the same political party, if any, as the presiding judge;
12 and

13 (2) may appoint teams of presiding judges and
14 election judges for absent voter precincts, recount precinct
15 boards and alternate voting locations, provided that each team
16 meets the requirements pursuant to Paragraph (1) of this
17 subsection.

18 C. For all other elections, the precinct board
19 shall consist of:

- 20 (1) a presiding judge;
- 21 (2) one election judge; and
- 22 (3) one election clerk.

23 D. If the county clerk determines that additional
24 election clerks are needed, the clerk may appoint such
25 additional election clerks as the clerk deems necessary.

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1 E. County employees may be appointed to serve as
2 election clerks on a precinct board."

3 SECTION 4. Section 1-2-20 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 39, as amended) is amended to read:

5 "1-2-20. MESSENGERS--COMPENSATION.--

6 A. The county clerk may appoint messengers to
7 deliver ballot boxes, poll books, keys, election supplies and
8 other materials pertaining to the election. Messengers may
9 also be authorized to collect absentee ballots and removable
10 media storage devices from polling places and deliver [~~those~~
11 ~~absentee ballots~~] them to locations designated by the county
12 clerk.

13 B. Messengers shall be paid mileage as provided in
14 the Per Diem and Mileage Act each way over the usually traveled
15 route. The mileage shall be paid within thirty days following
16 the date of election if funds are available for payment."

17 SECTION 5. Section 1-3-4 NMSA 1978 (being Laws 1975,
18 Chapter 255, Section 30, as amended) is amended to read:

19 "1-3-4. CONSOLIDATION OF PRECINCTS.--

20 A. Precincts may be consolidated by the board of
21 county commissioners for the following elections:

- 22 (1) primary and general elections;
- 23 (2) statewide special elections;
- 24 (3) countywide special elections; and
- 25 (4) elections to fill vacancies in the office

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1 of [the] United States [~~house of representatives~~]
2 representative.

3 B. Precincts may be consolidated by the governing
4 body of a municipality for municipal candidate and bond
5 elections, unless otherwise prohibited.

6 C. Precincts may be consolidated by the local
7 school board for school district candidate and bond elections,
8 unless otherwise prohibited.

9 D. When precincts are consolidated for a primary
10 and general election, the resolution required by Section 1-3-2
11 NMSA 1978, in addition to the other matters required by law,
12 shall state therein which precincts have been consolidated and
13 the designation of the polling place. In addition, when
14 consolidating precincts for primary and general elections:

15 (1) any voter of the county shall be allowed
16 to vote in any consolidated precinct polling location in the
17 county;

18 (2) each consolidated precinct in a non-school
19 district election shall be [~~comprised~~] composed of no more than
20 ten precincts;

21 (3) each consolidated precinct shall comply
22 with the provisions of Section 1-3-7 NMSA 1978;

23 (4) each consolidated precinct polling
24 location shall have a broadband internet connection and real-
25 time access to the statewide voter registration electronic

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1 management system;

2 (5) the county clerk may maintain any
3 alternative voting locations previously used in the same
4 election open for voting on election day for any voter in the
5 county, in addition to the polling location established in each
6 consolidated precinct; and

7 (6) the board of county commissioners may
8 permit rural precincts to be exempted from operating as or
9 being a part of a consolidated precinct; provided that if the
10 precinct is not designated as a mail ballot election precinct
11 pursuant to Section 1-6-22.1 NMSA 1978 and the polling place
12 for the rural precinct does not have real-time access to the
13 statewide voter registration electronic management system,
14 voters registered in a rural precinct as described in this
15 paragraph are permitted to vote in any consolidated precinct
16 polling location on election day only by use of a provisional
17 paper ballot, which shall be counted after the county clerk
18 confirms that the voter did not also vote in the rural
19 precinct.

20 E. When precincts are consolidated for a municipal
21 election, school election or special county election, the
22 proclamation, in addition to the other matters required by law,
23 shall state which precincts have been consolidated and the
24 designation of the polling place. Precincts consolidated for a
25 municipal election, school election or special county election

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1 may allow any voter to vote in any consolidated precinct in the
2 county, which shall be stated in the proclamation.

3 F. When precincts are consolidated for a statewide
4 special election or for a special election to fill a vacancy in
5 the office of [~~the~~] United States [~~house of representatives~~]
6 representative, within twenty-one days after the proclamation
7 of election is issued by the governor, the board of county
8 commissioners shall pass a resolution that, in addition to
9 other matters required by law, shall state which precincts have
10 been consolidated and the designation of the polling place.
11 Precincts consolidated for a statewide special election or for
12 a special election to fill a vacancy in the office of [~~the~~]
13 United States [~~house of representatives~~] representative may
14 allow any voter to vote in any consolidated precinct in the
15 county, which shall be stated in the resolution.

16 G. Unless the county clerk receives a written
17 waiver from the secretary of state specifying the location and
18 specific provision being waived, each consolidated precinct
19 polling location shall:

20 (1) have ballots available for voters from
21 every precinct that is able to vote in the consolidated
22 precinct;

23 (2) have at least one optical scan tabulator
24 programmed to read every ballot style able to be cast in the
25 consolidated precinct;

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1 (3) have at least one voting system available
2 to assist disabled voters to cast and record their votes;

3 (4) have sufficient spaces for at least five
4 voters to simultaneously and privately mark their ballots, with
5 at least one of those spaces wheelchair-accessible;

6 (5) have sufficient check-in stations to
7 accommodate voters throughout the day as provided in Section
8 1-9-5 NMSA 1978;

9 [~~5~~] (6) have a secure area for storage of
10 preprinted ballots or for storage of paper ballot stock and a
11 system designed to print ballots at a polling location;

12 [~~6~~] (7) issue a ballot to voters who have
13 provided the required voter identification after the voter has
14 signed a signature roster or an electronic equivalent approved
15 by the voting system certification committee or after the voter
16 has subscribed an application to vote on a form approved by the
17 secretary of state; and

18 [~~7~~] (8) be in a location that is accessible
19 and compliant with the requirements of the federal Americans
20 with Disabilities Act of 1990.

21 H. As a prerequisite to consolidation, the
22 authorizing resolution must find that consolidation will make
23 voting more convenient and accessible to voters of the
24 consolidated precinct and does not result in delays for voters
25 in the voting process and the consolidated precinct voting

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1 location will be centrally located within the consolidated
2 precinct."

3 SECTION 6. Section 1-4-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 63, as amended) is amended to read:

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

7 A. A qualified elector may apply to a registration
8 officer or agent for registration.

9 B. The registration officer or agent or qualified
10 elector shall fill out each of the blanks on the certificate of
11 registration by typing or printing in ink. The qualified
12 elector shall be given a receipt that shall contain:

13 (1) a number traceable to the registration
14 agent or officer;

15 (2) a statement informing the qualified
16 elector that if the qualified elector does not receive
17 confirmation of the qualified elector's registration within
18 fifteen days of the receipt date, the qualified elector should
19 contact the office of the county clerk in the county where the
20 qualified elector resides; and

21 (3) a toll-free number for the office of the
22 county clerk and an address for the web site of the secretary
23 of state.

24 C. The qualified elector shall subscribe a
25 certificate of registration as follows:

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

4 (2) if any qualified elector seeking to
5 register is unable to read and write either the English or
6 Spanish language or is unable to read or write because of some
7 physical disability, the certificate of such person shall be
8 filled out by a registration officer or agent and the name of
9 the qualified elector so registering shall be subscribed by the
10 making of the qualified elector's mark.

11 D. When properly executed by the registration agent
12 or officer or qualified elector, the original of the
13 certificate of registration shall be presented, either in
14 person or by mail by the qualified elector or by the
15 registration agent or officer, to the county clerk of the
16 county in which the qualified elector resides.

17 ~~[E. Only when the certificate of registration is~~
18 ~~properly filled out, subscribed by the qualified elector and~~
19 ~~accepted for filing by the county clerk as evidenced by the~~
20 ~~county clerk's signature or stamp and the date of acceptance~~
21 ~~thereon shall it constitute an official public record of the~~
22 ~~registration of the qualified elector.]~~ It is unlawful for the
23 qualified elector's month and day of birth or any portion of
24 the qualified elector's social security number required on the
25 certificate of registration to be copied, conveyed or used by

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1 anyone other than the person registering to vote, either before
2 or after it is filed with the county clerk, and by elections
3 administrators in their official capacity.

4 ~~[F.]~~ E. A person who unlawfully copies, conveys or
5 uses information from a certificate of registration is guilty
6 of a fourth degree felony."

7 **SECTION 7.** Section 1-4-5.1 NMSA 1978 (being Laws 1993,
8 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
9 as amended) is amended to read:

10 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

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

23 D. A qualified elector who has filed for an order
24 of protection pursuant to the provisions of the Family Violence
25 Protection Act and who presents a copy of that order from a

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1 state or tribal court to the registration officer shall not be
2 required to provide physical residence address information on
3 the certificate of registration.

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

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

13 G. ~~Upon~~ Within one business day after receipt of
14 a certificate of registration, the secretary of state shall
15 send the certificate to the county clerk in the county where
16 the qualified elector resides. Within one business day after
17 receipt of a certificate of registration of another county, a
18 county clerk shall send the certificate of registration to the
19 county clerk in the county where the qualified elector resides.

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

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1 registration of the qualified elector. A qualified elector
2 complies with a voter registration deadline established in the
3 Election Code when a properly filled-out voter registration
4 certificate has been received by a county clerk or the
5 secretary of state, regardless of the date the certificate is
6 processed.

7 I. The secretary of state shall prescribe the form
8 of the certificate of registration, which form shall be a
9 postpaid mail-in format and shall be printed in Spanish and
10 English. The certificate of registration form shall be clear
11 and understandable to the average person and shall include
12 brief but sufficient instructions to enable the qualified
13 elector to complete the form without assistance. The form
14 shall also include:

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

18 (2) the question "Will you be at least
19 eighteen years of age on or before the next general election
20 [~~day~~]" and boxes for the applicant to check to indicate
21 whether the applicant will be eighteen years of age or older on
22 or before the next general election [~~day~~];

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

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1 (4) a statement informing the applicant that:

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

11 (b) if the applicant does not submit the
12 required identification, the applicant will be required to do
13 so when voting in person or absentee; and

14 (5) a statement requiring the applicant to
15 swear or affirm that the information supplied by the applicant
16 is true."

17 SECTION 8. Section 1-4-5.5 NMSA 1978 (being Laws 1975,
18 Chapter 255, Section 78, as amended) is amended to read:

19 "1-4-5.5. REQUESTS FOR VOTER DATA, MAILING LABELS OR
20 SPECIAL VOTER LISTS.--

21 A. The county clerk or secretary of state shall
22 furnish voter data, mailing labels or special voter lists only
23 upon written request to the county clerk or the secretary of
24 state and after compliance with the requirements of this
25 section; provided, however, all requesters shall be treated

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1 equally in regard to the charges and the furnishing of the
2 materials.

3 B. In furnishing voter data, mailing labels or
4 special voter lists, the county clerk or secretary of state
5 shall not provide data or lists that include voters' social
6 security numbers, codes used to identify agencies where voters
7 have registered, a voter's day and month of birth or voters'
8 telephone numbers if prohibited by voters.

9 C. Each requester of voter data, mailing labels or
10 special voter lists shall sign an affidavit that the voter
11 data, mailing labels and special voter lists shall be used for
12 governmental or election and election campaign purposes only
13 and shall not be made available or used for unlawful purposes.

14 D. The secretary of state shall prescribe the form
15 of the affidavit.

16 E. As used in this section:

17 (1) "election campaign purposes" means
18 relating in any way to a campaign in an election conducted by a
19 federal, state or local government;

20 (2) "governmental purposes" means
21 noncommercial purposes relating in any way to the structure,
22 operation or decision-making of a federal, state or local
23 government;

24 (3) "mailing labels" means prepared mailing
25 labels of selected voters arranged in the order in which

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1 requested and providing only the name and address of the voter;

2 (4) "special voter list" means a prepared list
3 of selected voters arranged in the order in which requested;

4 and

5 (5) "voter data" means selected information
6 derived from the voter file."

7 SECTION 9. Section 1-4-11 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 67, as amended) is amended to read:

9 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
10 CERTIFICATES.--

11 A. Upon receipt of a complete certificate of
12 registration, if the certificate of registration is in proper
13 form, the county clerk shall determine if the qualified elector
14 applying for registration is already registered in the
15 registration records of the county. If the qualified elector
16 is not already registered in the county and if the certificate
17 of registration is received within the time allowed by law for
18 filing certificates of registration in the county clerk's
19 office, the county clerk shall sign or stamp, in the space
20 provided therefor on each copy of the certificate, the
21 qualified elector's name and the date the certificate was
22 accepted for filing in the county registration records. Voter
23 information shall be handed or mailed immediately to the
24 qualified elector and to no other person.

25 B. If the qualified elector is already registered

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

14 C. The county clerk shall reject any certificate of
15 registration that does not legibly contain the qualified
16 elector's name, address, social security number and date of
17 birth, along with a signature or usual mark. The county clerk
18 shall reject any certificate of registration in which the
19 question regarding citizenship is not answered or is answered
20 in the negative.

21 [~~G.~~] D. If the qualified elector does not register
22 in person, indicates that the qualified elector has not
23 previously voted in a general election in New Mexico and does
24 not provide the registration officer with the required
25 identification, the registration officer shall indicate this on

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1 the qualified elector's certificate of registration and the
2 county clerk shall note this on the appropriate precinct
3 signature roster."

4 SECTION 10. Section 1-4-12 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 68, as amended) is amended to read:

6 "1-4-12. DUTIES OF COUNTY CLERK--FILING OF
7 CERTIFICATES.--

8 A. Certificates of registration, if in proper form,
9 shall be processed and filed by the county clerk as follows:

10 (1) a voter [~~identification card~~] information
11 document shall be delivered or mailed to the voter; and

12 (2) the original certificate shall be filed
13 alphabetically by surname and inserted into the county register
14 pursuant to Section 1-5-5 NMSA 1978.

15 B. The county clerk shall, on Monday of each week,
16 process all certificates of registration that are in proper
17 form and that were received in [~~his~~] the county clerk's office
18 up to 5:00 p.m. on the preceding Friday. The county clerk
19 shall not process certificates of registration when the
20 registration books are closed pursuant to Section 1-4-8 NMSA
21 1978, during the county canvass or during the period of time
22 following the county canvass when voter credit is entered into
23 the voter registration electronic management system, provided
24 such credit is entered for all voters no later than forty-five
25 days following an election.

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1 ~~[G. The contents of certificates of registration,~~
2 ~~except for the voter's social security number and date of~~
3 ~~birth, are public records.]"~~

4 SECTION 11. Section 1-5-1 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 103, as amended) is amended to read:

6 "1-5-1. SHORT TITLE.--~~[Sections 1-5-1 through 1-5-29]~~
7 Chapter 1, Article 5 NMSA 1978 may be cited as the "Voter
8 Records System Act"."

9 SECTION 12. Section 1-5-14 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 118, as amended) is amended to read:

11 "1-5-14. FILE MAINTENANCE ~~[LISTS]~~ REPORTS--VOTE FILE
12 UPDATES.--

13 A. At least once a month, the ~~[county clerk]~~
14 secretary of state shall have made from the state voter file a
15 file maintenance ~~[list]~~ report of additions, deletions and
16 changes, if any, to each of the county ~~[register]~~ registers.
17 The file maintenance report shall indicate whether each entry
18 listed is an addition, deletion or change to the county
19 register.

20 B. ~~[One copy of the list]~~ A digital version of the
21 file maintenance report shall be stored by the ~~[county clerk]~~
22 secretary of state for at least one year.

23 C. ~~[The county clerk shall also furnish copies of~~
24 ~~the list to the county chairman of each of the major political~~
25 ~~parties in the county. The copy of the chairman's list shall~~

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1 ~~indicate whether each item is an addition, deletion or change.~~
2 ~~The file maintenance list]~~ Upon request, the secretary of state
3 shall furnish an updated voter file to the state chair of each
4 of the qualified political parties in the state. Upon request,
5 the county clerk shall provide a file maintenance report or an
6 updated voter file to the county chair of each of the qualified
7 political parties in the county.

8 D. File maintenance reports and updated voter files
9 shall be provided in a manipulable digital format and shall not
10 include the voter's social security number, codes used to
11 identify the agency where the voter registered, the voter's day
12 and month of birth, ~~the voter's email address, or, if~~
13 prohibited by the voter, the voter's telephone number [if
14 prohibited by the voter]."

15 SECTION 13. Section 1-5-31 NMSA 1978 (being Laws 1989,
16 Chapter 298, Section 2, as amended) is amended to read:

17 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary
18 of state shall:

19 A. assist county clerks by devising uniform
20 procedures and forms that are compatible with the [~~statewide~~
21 ~~computerized~~] voter registration electronic management system;

22 B. provide to each county clerk the computer
23 software necessary for the use and maintenance of the
24 [~~statewide computerized~~] voter registration electronic
25 management system; [~~and~~]

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1 C. provide to each county clerk, through an
2 agreement with the motor vehicle division of the taxation and
3 revenue department, access to the division's driver's license
4 database for the purpose of verifying voter registrations,
5 processing absentee ballots and qualifying provisional ballots;
6 and

7 [~~G.~~] D. adopt such rules [and regulations] as are
8 necessary to establish and administer the [~~statewide~~
9 ~~computerized~~] voter registration electronic management system
10 and to [~~require deadlines and time limits for the updating of~~
11 ~~voter files~~] regulate the use of the driver's license database
12 by county clerks."

13 SECTION 14. Section 1-6-22.1 NMSA 1978 (being Laws
14 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274,
15 Section 1, as amended) is amended to read:

16 "1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING
17 IN LIEU OF POLLING PLACE.--

18 A. Notwithstanding the provisions of Sections
19 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in
20 November of each odd-numbered year, a board of county
21 commissioners may designate a precinct as a mail ballot
22 election precinct if, upon a written request of the county
23 clerk, it finds that the precinct has fewer than one hundred
24 voters and the nearest polling place for an adjoining precinct
25 is more than twenty miles driving distance from the boundary

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1 for the precinct in question.

2 B. If a precinct is designated a mail ballot
3 election precinct, in addition to the notice required pursuant
4 to Section 1-3-8 NMSA 1978, the county clerk shall notify by
5 [~~registered~~] mail with delivery confirmation all voters in that
6 precinct at least forty-two days before an election that each
7 voter will be sent an absentee ballot twenty-eight days before
8 the election and that there will be no polling place for the
9 precinct on election day. The county clerk shall include in
10 the notice a card informing the voter that if the voter does
11 not want to receive an absentee ballot for that election, the
12 voter should return the card before the date the county clerk
13 is scheduled to mail out absentee ballots. The [~~card~~] notice
14 shall also inform the voter that a voting system equipped for
15 persons with disabilities will be available at all early voting
16 sites before election day and in the office of the county clerk
17 on election day in case the voter prefers to vote in person and
18 not by mail. In addition, the notice shall inform the voter if
19 the county is consolidating precincts on election day and, if
20 so, the ability of the voter to cast a ballot at any
21 consolidated precinct on election day if the voter chooses not
22 to receive an absentee ballot, or to cast a provisional ballot
23 at any consolidated precinct if the voter does not receive an
24 absentee ballot, which will be counted upon confirmation that
25 the voter has not returned the absentee ballot.

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1 C. The county clerk shall mail each voter in the
2 mail ballot election precinct an absentee ballot on the twenty-
3 eighth day before an election, unless the voter has requested
4 otherwise, along with a notice that there will be no polling
5 place in that precinct on election day.

6 D. The county clerk shall keep a sufficient number
7 of ballots from a mail ballot election precinct such that if a
8 voter from that precinct does not receive an absentee ballot
9 before election day, the voter may vote on an absentee ballot
10 in the office of the county clerk on election day in lieu of
11 voting on the missing ballot."

12 **SECTION 15.** Section 1-8-1 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 151, as amended) is amended to read:

14 "1-8-1. NOMINATING PROCEDURES--MAJOR POLITICAL
15 PARTIES--MINOR POLITICAL PARTIES.--

16 A. Any major political party in New Mexico, as
17 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate its
18 candidates, other than its presidential candidates, by secret
19 ballot at the next succeeding primary election as prescribed in
20 the Primary Election Law.

21 B. Any minor political party in New Mexico, as
22 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate
23 candidates for public office in the manner prescribed in its
24 party rules and regulations and according to the provisions of
25 the Election Code."

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1 SECTION 16. Section 1-8-2 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 152, as amended) is amended to read:

3 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--
4 DESIGNATED NOMINEES.--

5 A. If the rules of a minor political party require
6 nomination by political convention:

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

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

20 B. The names certified to the secretary of state
21 shall be filed on the twenty-first day following the primary
22 election in the year of the general election and shall be
23 accompanied by a petition containing a list of signatures and
24 addresses of voters totaling not less than one percent of the
25 total number of votes cast at the last preceding general

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1 election for the office of governor [~~or president of the United~~
2 ~~States, as the case may be~~]:

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

4 (2) in the district for offices other than
5 statewide offices.

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

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

18 (1) in the county for countywide offices; and

19 (2) in the district for offices other than
20 countywide offices.

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

25 D. Except in the case of a political party

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1 certified the year of the election, persons certified as
2 nominees shall be members of that party before the day the
3 governor issues the primary election proclamation. When a
4 political party is certified the year of the election, persons
5 certified as nominees shall be members of that party before the
6 day the petition is filed pursuant to Sections 1-7-2 and 1-7-4
7 NMSA 1978 and shall not have been a candidate in a pre-primary
8 convention or political nominating convention in the same
9 election cycle.

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

14 SECTION 17. Section 1-8-7 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 157, as amended) is amended to read:

16 "1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF
17 CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE
18 PRIMARY.--

19 A. Vacancies on the general election ballot may be
20 filled as provided in Subsection B of this section if after a
21 primary election there is no nominee of a major political party
22 for a public office to be filled in the general election and if
23 the vacancy was caused by:

24 (1) the death of a candidate after filing of
25 the declaration of candidacy or after certification as a

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1 convention-designated nominee and before the primary election;
2 or

3 (2) the resignation or death of a person
4 holding a public office after the ~~[date for filing a~~
5 ~~declaration of candidacy or after the date required for~~
6 ~~certification as a convention-designated nominee, and before~~
7 ~~the primary election]~~ last Friday before the first Tuesday in
8 March, when such office was not included in the governor's
9 proclamation and is required by law to be filled at the next
10 succeeding general election after the vacancy is created.

11 B. The vacancy may be filled subsequent to the
12 primary election by the central committee of the state or
13 county political party, as the case may be, as provided by
14 Subsection A of Section 1-8-8 NMSA 1978. The name of the
15 person to fill the vacancy on the general election ballot shall
16 be filed with the proper filing officer within fifteen days
17 after the primary election, and when so filed, it shall be
18 placed on the general election ballot as the political party's
19 nominee for such office."

20 SECTION 18. Section 1-8-8 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 158, as amended) is amended to read:

22 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
23 AFTER PRIMARY.--

24 A. If after a primary election a vacancy occurs,
25 for any cause, in the list of the nominees of a qualified

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1 political party for any public office to be filled in the
2 general election, or a vacancy occurs because of the
3 resignation or death of a person holding a public office not
4 included in the governor's proclamation and which office is
5 required by law to be filled at the next succeeding general
6 election, or a vacancy occurs because a new public office is
7 created and was not included in the governor's proclamation but
8 is capable by law of being filled at the next succeeding
9 general election, the vacancy on the general election ballot
10 may be filled by:

11 (1) the central committee of the state
12 political party filing the name of its nominee for the office
13 with the proper filing officer when the office is a federal
14 office, state office, district office or multicounty
15 legislative district office; and

16 (2) the central committee of the county
17 political party filing the name of its nominee for the office
18 with the proper filing officer when the office is a magistrate
19 office, county office or legislative district office where the
20 district is entirely within the boundaries of a single county.

21 B. Appointments made pursuant to Subsection A of
22 this section shall qualify pursuant to Section 1-8-18 NMSA
23 1978.

24 C. The county or state central committee members
25 making the appointment pursuant to Subsection A of this section

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1 shall be as provided for in the rules of the respective party;
2 provided that, at a minimum, the committee shall include those
3 members residing within the boundaries of the area to be
4 represented by the public office.

5 ~~[G.]~~ D. Appointments to fill vacancies in the list
6 of a party's nominees shall be made and filed at least
7 fifty-six days prior to the general election.

8 ~~[D.]~~ E. When the name of a nominee is filed as
9 provided in this section, the name shall be placed on the
10 general election ballot as the party's candidate for that
11 office."

12 SECTION 19. Section 1-8-14 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 163) is amended to read:

14 "1-8-14. PRIMARY ELECTION LAW--PROCLAMATION--DUTIES OF
15 SECRETARY OF STATE.--Upon the proclamation being filed, the
16 secretary of state shall immediately:

17 A. publish the proclamation for five consecutive
18 days in at least four daily newspapers of general circulation
19 in the state; ~~[and]~~

20 B. post the proclamation and any amended
21 proclamation on the secretary of state's web site; and

22 ~~[B.]~~ C. send ~~[by certified mail]~~ an authenticated
23 copy of the proclamation or any amended proclamation to each
24 county clerk along with a copy of the text in an editable
25 electronic format."

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1 SECTION 20. Section 1-8-16 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 165, as amended) is amended to read:

3 "1-8-16. PRIMARY ELECTION LAW--PROCLAMATION--AMENDMENT.--
4 The governor may amend the proclamation between the time of its
5 issuance and the first Tuesday in March to include a newly
6 created public office that is capable by law of being filled at
7 the next succeeding general election, or any existing office
8 becoming vacant by removal, resignation or death when such
9 vacancy occurs no later than the last Friday before the first
10 Tuesday in March, or to provide for any corrections or
11 omissions."

12 SECTION 21. Section 1-9-5 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 188, as amended) is amended to read:

14 "1-9-5. REQUIREMENT TO USE VOTING SYSTEMS--SUFFICIENT
15 CHECK-IN STATIONS AND VOTING BOOTHS--

16 A. Certified voting systems shall be used in all
17 polling locations in all statewide elections.

18 B. The secretary of state shall provide to the
19 county clerk of each county at least one [~~voting system~~]
20 optical scan tabulator for use in each polling location in the
21 general and primary elections. At the request of a county
22 clerk, the secretary of state shall provide additional voting
23 systems for use in a polling place to accommodate the
24 anticipated number of voters in that polling place and to
25 preserve the secrecy of the ballot.

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1 C. The secretary of state shall provide to the
2 county clerk of each county a sufficient number of check-in
3 stations for use in each polling location in the primary and
4 general elections when electronic rosters or their equivalents
5 are used. The number of check-in stations at a polling
6 location shall be capable of accommodating the number of voters
7 who appeared to vote in person on election day from the
8 precincts represented in a consolidated precinct in the same
9 election held four years earlier or the number of voters who
10 actually voted in that polling location four years earlier,
11 whichever is greater, divided by five hundred and rounded up to
12 the next whole number; provided that no polling location shall
13 be provided fewer than two check-in stations. The county clerk
14 in each county is responsible for providing the secretary of
15 state with the number of check-in stations required based on
16 the above calculation. Nothing in this section prohibits the
17 board of county commissioners from acquiring additional
18 check-in stations for use in an election, in addition to those
19 provided by the secretary of state.

20 [~~C.~~] D. The county clerk shall ensure that an
21 adequate number of voting booths are provided to ensure that
22 voters in each polling location may cast their ballots in
23 secret."

24 SECTION 22. Section 1-9-7 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 190, as amended) is amended to read:

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1 "1-9-7. VOTING SYSTEMS--ACQUISITION.--

2 A. The secretary of state shall provide to the
3 county clerk of each county a sufficient number of voting
4 systems as required by the Election Code for the conduct of
5 primary and general elections.

6 B. When authorized by the state board of finance,
7 the board of county commissioners may acquire new or previously
8 owned voting systems. No less than ninety days prior to each
9 primary and general election, the board of county commissioners
10 of each county may make application to the state board of
11 finance for any additional voting systems to be acquired by a
12 county in excess of the number of voting systems required by
13 the Election Code for the conduct of primary and general
14 elections.

15 C. The additional voting systems shall be of a type
16 certified by the secretary of state. They shall be purchased
17 by the state board of finance. Unless paid in full by the
18 county at the time of purchase, the cost of the voting systems,
19 including all transportation costs, shall be paid out of the
20 voting system revolving fund. The state board of finance shall
21 cause to be delivered to each county clerk the additional
22 voting systems.

23 D. Except for intercounty acquisitions of equipment
24 approved by the secretary of state, a previously owned voting
25 system shall have a warranty equal to the warranty required of

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1 a new voting system."

2 SECTION 23. Section 1-10-8 NMSA 1978 (being Laws 1977,
3 Chapter 222, Section 31, as amended) is amended to read:

4 "1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF
5 OFFICES.--The ballot used in the primary and general elections
6 shall contain, when applicable, the offices to be voted on in
7 the following order:

- 8 A. president and vice president;
- 9 B. United States senator;
- 10 C. United States representative;
- 11 D. ~~[candidates for]~~ non-judicial state offices to
12 be voted on at large, in the order prescribed by the secretary
13 of state;
- 14 E. state senator;
- 15 F. state representative;
- 16 G. other ~~[district candidates]~~ districted offices,
17 in the order prescribed by the secretary of state;
- 18 H. ~~[metropolitan and magistrate judges]~~ judicial
19 offices in partisan contests, in the order prescribed by the
20 secretary of state;
- 21 I. county commissioners;
- 22 J. county clerk;
- 23 K. county treasurer;
- 24 L. county assessor;
- 25 M. county sheriff;

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- 1 N. probate judge; ~~and~~
2 O. judicial offices in retention contests, in the
3 order prescribed by the secretary of state;
4 ~~[-]~~ P. other issues as prescribed by the secretary
5 of state; and
6 Q. local government ballot questions authorized by
7 the board of county commissioners."

8 SECTION 24. Section 1-10-10 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 209, as amended) is amended to read:

10 "1-10-10. BALLOTS--SAMPLE.--

11 A. ~~[At the time of printing the official ballots]~~
12 The county clerk shall ~~[cause to be printed]~~ make available in
13 both English and Spanish a number of sample ballots in a
14 quantity ~~[equal to ten percent of the number of voters in each~~
15 ~~precinct]~~ and in a printed or electronic format as prescribed
16 by the secretary of state.

17 B. The sample ballots shall be the same in all
18 respects as the official ballots, except that, if printed, they
19 shall be printed on colored paper and shall not contain the
20 facsimile signature of the county clerk or any endorsement on
21 the back thereof. Each sample ballot shall be marked in large
22 black capital letters, "SAMPLE BALLOT".

23 C. Sample ballots shall be made available ~~[in~~
24 ~~reasonable quantities]~~ to all interested persons ~~[for~~
25 ~~distribution to the voters within the appropriate precincts.~~

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1 D. ~~Nothing in this section shall preclude any~~
2 ~~person from having printed at his own expense sample ballots]~~
3 at the county clerk's office, in each polling place and on the
4 county's web site, if the county maintains a web site."

5 SECTION 25. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 112, as amended) is amended to read:

7 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
8 VOTERS--USE DURING ELECTION.--

9 A. At each election day polling location, other
10 than a consolidated precinct where any voter in the county may
11 vote, the precinct board [using voter lists] shall post
12 securely at or near the entrance of the polling place one copy
13 of an alphabetical list of voters and a map of the precincts
14 represented in that polling place for use of the voters prior
15 to voting. The posted copy shall not contain a listing of
16 voter addresses, years, months or days of birth [unique
17 identifiers] or social security numbers.

18 B. At each polling location where physical rosters
19 are used, the presiding judge of the precinct board shall
20 assign one judge or election clerk of the board to be in charge
21 of one copy of the checklist of voters, which shall be used to
22 confirm the registration and voting of each person offering to
23 vote.

24 C. The presiding judge of the precinct board shall
25 assign one judge or election clerk to be in charge of the

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1 signature roster.

2 D. The judge or election clerk assigned to [~~the~~
3 ~~checklist of voters used for confirmation of~~] confirm
4 registration [~~and voting~~] shall determine that each person
5 offering to vote is registered and, in the case of a primary
6 election, that the voter is registered in a party designated on
7 the primary election ballot. If the person's registration is
8 confirmed [~~by the presence of the person's name on the~~
9 ~~checklist of voters~~] and the voter provides the required voter
10 identification, the judge or election clerk shall announce to
11 the judges or election clerks the list number and the name of
12 the voter as shown on the checklist of voters. If the voter
13 does not provide the required voter identification, the voter
14 shall be allowed to vote on a provisional paper ballot and
15 shall provide the required voter identification to the county
16 clerk's office before 5:00 p.m. on the second day following the
17 election, or to the precinct board before the polls close, or
18 the voter's provisional ballot shall not be qualified. If the
19 required voter identification is provided, the voter's
20 provisional paper ballot shall be qualified and the voter shall
21 not vote on any other type of ballot.

22 E. The judge or election clerk shall locate [~~that~~
23 ~~list number and~~] the name on the signature roster and shall
24 require the voter to sign the voter's usual signature or, if
25 unable to write, to make the voter's mark opposite the voter's

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1 printed name. If the voter makes the voter's mark, it shall be
2 witnessed by one of the judges or election clerks of the
3 precinct board.

4 F. If the signature roster indicates that the voter
5 is required to present a physical form of identification before
6 voting, the judge or election clerk shall ask the voter for the
7 required physical form of identification. If the voter does
8 not provide the required identification, the voter shall be
9 allowed to vote on a provisional paper ballot; provided,
10 however, that if the voter brings the required physical form of
11 identification to the polling place after casting a provisional
12 paper ballot, that ballot shall be qualified. ~~[and the voter
13 shall not vote on any other type of ballot.~~

14 ~~F.]~~ G. The judge or election clerk shall follow the
15 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA
16 1978 if a person whose name does not appear on the signature
17 roster requests to vote or a person is required to vote on a
18 provisional paper ballot.

19 ~~G.]~~ H. A voter shall not be permitted to vote
20 until the voter has properly signed the voter's usual signature
21 or made the voter's mark in the signature roster."

22 **SECTION 26.** Section 1-12-10.1 NMSA 1978 (being Laws 2003,
23 Chapter 356, Section 2, as amended) is amended to read:

24 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING
25 INFORMATION.--

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1 A. The secretary of state shall ~~[issue rules~~
2 ~~describing the voter information]~~ provide voting information,
3 which the county clerks shall display, in accordance with the
4 federal Help America Vote Act of 2002, in each polling place
5 ~~[on election day]~~ and in each county clerk's office and
6 ~~[alternate]~~ at any location where ~~[absentee or early]~~ voting is
7 taking place.

8 B. The county clerk shall ensure that in each
9 polling place ~~[shall post]~~ there is posted the phone numbers of
10 the county clerk and the secretary of state ~~[and a map of the~~
11 ~~precincts represented in that polling place and an alphabetical~~
12 ~~list of the voters in each precinct represented in that polling~~
13 ~~place]."~~

14 SECTION 27. Section 1-12-12 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 265, as amended) is amended to read:

16 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
17 ASSISTANCE.--A voter may request assistance in voting only if
18 the voter:

- 19 A. is blind;
20 B. is physically disabled;
21 C. is unable to read or write; or
22 D. is a member of a language minority who has an
23 inability to read well enough to exercise the elective
24 franchise ~~[or~~

25 E. ~~requires assistance in operating the voting~~

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1 ~~system]."~~

2 SECTION 28. Section 1-12-15 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 267, as amended) is amended to read:

4 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST
5 VOTER.--

6 A. In any [~~primary, general or statewide special~~]
7 election, if a voter who has requested assistance in marking
8 the ballot is blind, has a physical disability, has an
9 inability to read or write or is a member of a language
10 minority who has requested assistance pursuant to Subsection D
11 of Section 1-12-12 NMSA 1978, the voter may be accompanied into
12 the voting [~~machine~~] booth only by a person of the voter's own
13 choice other than the voter's employer or an agent of that
14 employer, an officer or agent of the voter's union or a
15 candidate whose name appears on the ballot in this election.

16 B. The name of the person providing assistance to a
17 voter pursuant to this section shall be recorded on the
18 signature roster.

19 C. A person who provides assistance to a voter when
20 the person knows the voter does not require assistance pursuant
21 to Section 1-12-12 NMSA 1978 is guilty of a fourth degree
22 felony."

23 SECTION 29. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
24 Chapter 356, Section 7, as amended) is amended to read:

25 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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1 A. Upon closing of the polls, provisional paper
2 ballots shall be delivered to the county clerk, who shall
3 determine if the ballots will be counted prior to certification
4 of the election.

5 B. A provisional paper ballot shall not be counted
6 if the registered voter did not sign either the signature
7 roster or the ballot's envelope.

8 C. If there is no record of the voter ever having
9 been registered in the county, the voter shall be offered the
10 opportunity to register and the provisional paper ballot shall
11 not be counted.

12 D. If the voter was registered in the county, the
13 registration was later canceled and the county clerk determines
14 that the cancellation was in error, or that the voter's name
15 should not have been placed on the list of voters whose
16 registrations were to be canceled, the voter's registration
17 shall be immediately restored and the provisional paper ballot
18 counted.

19 E. If the county clerk determines that the
20 cancellation was not in error, the voter shall be offered the
21 opportunity to register at the voter's correct address, and the
22 provisional paper ballot shall not be counted.

23 F. If the voter is a registered voter in the
24 county, but has voted on a provisional paper ballot at a
25 polling place other than the voter's designated polling place,

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1 the county canvassing board shall ensure that only those votes
2 for the positions or measures for which the voter was eligible
3 to vote are counted.

4 G. If the county clerk finds that the voter who
5 voted on a provisional paper ballot at the polls has also voted
6 an absentee ballot in that election, the provisional paper
7 ballot shall not be counted.

8 H. The county canvassing board shall prepare a
9 tally displaying the number of provisional paper ballots
10 received, the number found valid and counted, the number
11 rejected and not counted and the reason for not counting the
12 ballots as part of the canvassing process and forward it to the
13 secretary of state immediately upon certification of the
14 election.

15 I. The secretary of state shall issue rules to
16 ensure securing the secrecy of the provisional paper ballots,
17 especially during canvassing, reviewing or recounting, and
18 protecting against fraud in the voting process."

19 **SECTION 30.** Section 1-12-31 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 291, as amended) is amended to read:

21 "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT
22 BOXES AND OTHER ELECTION MATERIALS.--

23 A. The following election returns and materials
24 shall not be placed in the ballot box and shall be returned
25 immediately to the county clerk along with the locked ballot

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1 box:

2 (1) one ballot box key in an envelope
3 addressed to the county clerk;

4 (2) one signature roster;

5 (3) one tally sheet; and

6 (4) all unused election supplies not destroyed
7 pursuant to the Election Code. [~~and~~

8 ~~(5)]~~ B. The removable media storage device shall
9 not be placed in the ballot box and shall be returned
10 immediately to the county clerk either by messenger or along
11 with the locked ballot box.

12 [~~B-~~] C. The election judge of the party different
13 from that of the presiding judge shall place the other ballot
14 box key in the envelope addressed to the district court and
15 immediately mail it to the district court."

16 **SECTION 31.** Section 1-12-69 NMSA 1978 (being Laws 1977,
17 Chapter 222, Section 72, as amended) is amended to read:

18 "1-12-69. DISPOSITION OF PAPER BALLOTS.--

19 A. Paper ballots marked by voters and all records
20 related to voting in any election in which a federal candidate
21 appears on the ballot shall be retained and preserved for a
22 period of twenty-two months from the date of the election.

23 B. Paper ballots marked by voters and all records
24 related to voting in any election in which no federal candidate
25 appears on the ballot shall be retained and preserved for

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1 forty-five days after adjournment of the state or county
2 canvassing board, whichever is later.

3 C. In precincts where a recount or judicial inquiry
4 or inspection of contents is sought, the county clerk shall
5 hold ballots marked by voters and records related to voting in
6 those precincts intact subject to order of the district court
7 or other authority having jurisdiction of the contest or
8 inspection.

9 D. Paper ballots marked by voters and records
10 related to voting in any election shall only be destroyed
11 [~~pursuant to rules promulgated~~] using a destruction method
12 approved by the state records center and archives for
13 destruction of public records.

14 E. The state records center and archives is
15 authorized to receive for storage and destruction paper ballots
16 marked by voters and records related to voting in any election
17 in which a federal candidate appears on the ballot. At least
18 three days prior to sending the ballots and records to the
19 state records center and archives, the county clerk shall
20 notify the county chair of each political party that
21 participated in the election. The chairs or their designees
22 may inspect the boxes prior to their sealing for delivery.

23 F. At least three days prior to the destruction by
24 the county clerk of paper ballots marked by voters and records
25 related to voting, the county clerk shall notify the county

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1 chair of each political party participating in the election of
2 the time, place and date thereof. The chair of each political
3 party may be present or may have the chair's accredited
4 representative present.

5 G. Paper ballots marked by voters and records
6 related to voting are exempt from the Inspection of Public
7 Records Act until forty-five days following any recount,
8 contest or other judicial inquiry or until forty-five days
9 after adjournment of the state or county canvassing board,
10 whichever is later. Any inspection of paper ballots marked by
11 voters or records related to voting shall be conducted in such
12 a manner as to secure the secrecy of the ballot."

13 SECTION 32. Section 1-12-71 NMSA 1978 (being Laws 1977,
14 Chapter 222, Section 7) is amended to read:

15 "1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No
16 municipal, school, county or special district election shall be
17 held within [~~forty-two~~] fifty days prior to or following any
18 statewide election. This section does not prohibit a local
19 government ballot question authorized by the board of county
20 commissioners from appearing on the general election ballot."

21 SECTION 33. Section 1-13-9 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 312, as amended) is amended to read:

23 "1-13-9. POST-ELECTION DUTIES--COUNTY CANVASS--VOTING
24 MACHINE RECHECK.--

25 A. During the official canvass of an election, the

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1 county canvassing board, upon written request of any candidate
2 in the election or upon receipt of a written petition of
3 twenty-five voters of the county, shall make, in the presence
4 of the district judge, a recheck and comparison of the results
5 shown on the official returns being canvassed with the results
6 appearing [~~and registered~~] on the [~~counter dials~~] alphanumeric
7 printout of the contest, candidates and vote totals of each
8 voting machine used in the election.

9 B. [~~For the purpose of making the recheck and~~
10 ~~comparison, the county canvassing board may unlock and raise~~
11 ~~the cover of the counter compartment and check the figures~~
12 ~~shown by the counter dials on the voting machine. At the~~
13 ~~conclusion of the recheck and comparison, the voting machine~~
14 ~~shall again be locked.~~

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

18 SECTION 34. Section 1-13-13 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 316, as amended) is amended to read:

20 "1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--
21 CERTIFYING RESULTS.--

22 A. The county canvassing board shall complete the
23 canvass of the returns and declare the results within ten days
24 from the date of the election. A county canvassing board in a
25 county with more than two hundred fifty thousand voters shall

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1 complete the canvass of the returns and declare the results
2 within thirteen days from the date of the election.

3 B. On the thirty-first day after any primary,
4 general or district special election, the county canvassing
5 board shall issue to those candidates entitled by law election
6 certificates, or certificate of nomination in the case of the
7 primary election, to all county officers, magistrates and to
8 members of the legislature elected from districts wholly within
9 the county. In addition, the county canvassing board shall
10 declare the results, immediately after completion of the
11 canvass, of the election and of all questions affecting only
12 the county.

13 C. The county canvassing board, immediately after
14 completion of the canvass, shall also certify to the state
15 canvassing board the number of votes cast for all other
16 candidates and questions respectively and shall immediately
17 deliver to the county [~~chairman~~] chair of each political party
18 that participated in the election a certificate showing the
19 total number of votes cast for each candidate in the election
20 in the county."

21 SECTION 35. Section 1-13-14 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 317) is amended to read:

23 "1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT BOX.--
24 Once the ballot box has been locked by the precinct board after
25 its first count and tally, no person shall open the ballot box

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1 or remove its contents except [~~as~~] by court order or as
2 otherwise provided by the Election Code."

3 SECTION 36. Section 1-13-21 NMSA 1978 (being Laws 1971,
4 Chapter 317, Section 21, as amended) is amended to read:

5 "1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING
6 BALLOTS.--

7 A. The county clerk shall not clear the votes
8 recorded on the removable storage media devices until at least
9 [~~thirty~~] forty-five days after adjournment of the state
10 canvassing board.

11 B. The county clerk shall not clear and shall keep
12 locked those removable media storage devices from voting
13 systems used to tabulate votes for precincts where a recount,
14 judicial inquiry or inspection is sought, subject to order of
15 the district court or other authority having jurisdiction of
16 the contest or inspection.

17 C. Beginning forty-five days after the adjournment
18 of the state or county canvassing board, whichever is later, or
19 forty-five days after completion of a recount or judicial
20 inquiry, the county clerk may transfer ballots from the locked
21 ballot boxes for disposition pursuant to Section 1-12-69 NMSA
22 1978."

23 SECTION 37. Section 1-14-13.2 NMSA 1978 (being Laws 2009,
24 Chapter 233, Section 1) is amended to read:

25 "1-14-13.2. POST-ELECTION DUTIES--VOTING SYSTEM CHECK.--
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1 A. At least ninety days prior to each general
2 election, the secretary of state shall contract with an auditor
3 qualified by the state auditor to audit state agencies to
4 oversee a check on the accuracy of precinct electronic vote
5 tabulators, alternate voting location electronic vote
6 tabulators and absent voter precinct electronic vote
7 tabulators. The voting system check shall be conducted for all
8 federal offices, for governor and for the statewide elective
9 office, other than the office of the governor, for which the
10 winning candidate won by the smallest percentage margin of all
11 candidates for statewide office in New Mexico.

12 B. For each selected office, the auditor shall
13 publicly select a random sample of precincts from a pool of all
14 precincts in the state no later than twelve days after the
15 election. The random sample shall be chosen in a process that
16 will ensure, with at least ninety percent probability for the
17 selected offices, that faulty tabulators would be detected if
18 they would change the outcome of the election for a selected
19 office. The auditor shall select precincts starting with the
20 statewide office with the largest winning margin and ending
21 with the precincts for the statewide office with the smallest
22 winning margin and then, in the same manner, select precincts
23 from each congressional district. The size of the random
24 sample for each office shall be determined as provided in Table
25 1 of this subsection. When a precinct is selected for one

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1 office, it shall be used in lieu of selecting a different
2 precinct when selecting precincts for another office in the
3 same congressional district, or for any statewide office. If
4 the winning margin in none of the offices for which a voting
5 system check is required is less than fifteen percent, a voting
6 system check for that general election shall not be required.

7 Table 1

8	Winning margin between top	Number of precincts in the
9	two candidates for the	state to be tested for that
10	office according to the	office
11	county canvasses	
12	Percent	
13	greater than 15	no precincts for that office
14	greater than 14	
15	but less than or equal to 15	4
16	greater than 13	
17	but less than or equal to 14	4
18	greater than 12	
19	but less than or equal to 13	5
20	greater than 11	
21	but less than or equal to 12	5
22	greater than 10	
23	but less than or equal to 11	6
24	greater than 9.0	
25	but less than or equal to 10	6

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1	greater than 8.0	
2	but less than or equal to 9.0	7
3	greater than 7.0	
4	but less than or equal to 8.0	9
5	greater than 6.0	
6	but less than or equal to 7.0	10
7	greater than 5.5	
8	but less than or equal to 6.0	11
9	greater than 5.0	
10	but less than or equal to 5.5	13
11	greater than 4.5	
12	but less than or equal to 5.0	14
13	greater than 4.0	
14	but less than or equal to 4.5	16
15	greater than 3.5	
16	but less than or equal to 4.0	18
17	greater than 3.0	
18	but less than or equal to 3.5	22
19	greater than 2.5	
20	but less than or equal to 3.0	26
21	greater than 2.0	
22	but less than or equal to 2.5	32
23	greater than 1.8	
24	but less than or equal to 2.0	37
25	greater than 1.6	

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1	but less than or equal to 1.8	42
2	greater than 1.4	
3	but less than or equal to 1.6	47
4	greater than 1.2	
5	but less than or equal to 1.4	54
6	greater than 1.1	
7	but less than or equal to 1.2	59
8	greater than 1.0	
9	but less than or equal to 1.1	65
10	greater than 0.9	
11	but less than or equal to 1.0	73
12	greater than 0.8	
13	but less than or equal to 0.9	82
14	greater than 0.7	
15	but less than or equal to 0.8	93
16	greater than 0.6	
17	but less than or equal to 0.7	109
18	greater than 0.5	
19	but less than or equal to 0.6	130
20	0.5 or less	automatic recount
21		for that office.

22 C. The auditor shall notify the appropriate county
23 clerks of the precincts that are to be included in the voting
24 system check upon their selection. The auditor shall direct
25 the appropriate county clerks to open the locked ballot boxes,

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1 remove ballots from the selected precincts and compare the
2 original machine count precinct vote totals, including early
3 absentee and absentee by mail machine count vote totals, for
4 candidates for offices subject to the voting system check from
5 the selected precincts for each office with the respective vote
6 totals of a hand recount of the paper ballots from those
7 precincts. The county clerks shall report their results to the
8 auditor within ten days of the notice to conduct the voting
9 system check unless a county clerk is aware of a recount in any
10 office that includes one or more precincts in the county, in
11 which case the county clerk shall report the results of the
12 post-election audit to the auditor within ten days following
13 the conclusion of the recount.

14 D. Based on the results of the voting system check
15 and any other auditing results, the auditor shall determine the
16 error rate in the sample for each office. If the winning
17 margin decreases and the error rate based on the difference
18 between the vote totals of hand recounts of the paper ballots
19 and the original precinct vote totals exceeds ninety percent of
20 the winning margin for an office, another sample equal in size
21 to the original sample shall be selected and the original
22 precinct vote totals compared to the vote totals of hand
23 recounts. The error rate based on the first and second sample
24 shall be reported, and if it exceeds ninety percent of the
25 winning margin for the office, the state canvassing board shall

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1 order that a full hand recount of the ballots for that office
2 be conducted.

3 E. The auditor shall report the results of the
4 voting system check to the secretary of state upon completion
5 of the voting system check and release the results to the
6 public.

7 F. Persons designated as county canvass observers
8 may observe the hand recount described in Subsection C of this
9 section. Observers shall comply with the procedures governing
10 county canvass observers as provided in Section 1-2-31 NMSA
11 1978.

12 G. If a recount for an office selected for a voting
13 system check is conducted pursuant to the provisions of Chapter
14 1, Article 14 NMSA 1978, the vote totals from the hand count of
15 ballots for that office in precincts selected for the voting
16 system check may be used in lieu of recounting the same ballots
17 for the recount.

18 H. All costs of a voting system check or required
19 hand recount shall be paid in the same manner as automatic
20 recounts."

21 **SECTION 38.** Section 1-14-16 NMSA 1978 (being Laws 2008,
22 Chapter 41, Section 3) is amended to read:

23 "1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

24 A. Immediately after filing of the application for
25 recount or recheck, or notice of an automatic recount, the

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1 appropriate canvassing board shall issue an order to the county
2 clerk of each county where a precinct specified in the
3 application or notice is located commanding the county clerk to
4 convene [~~the absent voter~~] a recount precinct board at the
5 county seat on a day specified in the order, which date shall
6 not be more than ten days after the filing of the application
7 for a recount or recheck or notice of an automatic recount.

8 B. Upon receipt of the order, the county clerk
9 shall appoint a recount precinct board pursuant to the
10 provisions of Section 1-2-12 NMSA 1978 and shall send notices
11 by [~~registered~~] mail with delivery confirmation of the names of
12 the recount precinct board members and the date fixed for the
13 recount or recheck to the district judge for the county [~~the~~
14 ~~absent voter precinct board members~~] and the county chair of
15 each of the political parties that participated in the election
16 for the office in question. Presiding judges and election
17 judges on the recount precinct board shall be appointed from
18 among those persons who served as precinct board members in the
19 most recent election.

20 C. The [~~absent voter~~] recount precinct board,
21 district judge and county clerk shall meet on the date fixed
22 for the recount or recheck, and the ballot boxes and ballot
23 containers or voting machines of the precincts involved in the
24 recount or recheck shall be opened. The [~~absent voter~~] recount
25 precinct board shall recount and retally the ballots, or

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1 recheck the votes cast on the voting machines, as the case may
2 be, for the office in question in the presence of the county
3 clerk, district judge [~~or person designated to act for the~~
4 ~~district judge~~] and any other person who may desire to be
5 present.

6 D. After completion of the recount or recheck, the
7 [~~absent voter~~] recount precinct board shall replace the ballots
8 in the ballot boxes and ballot containers and lock them, or the
9 voting machines shall be locked and resealed, and the precinct
10 board shall certify to the [~~secretary of state~~] proper
11 canvassing board the results of the recount or recheck. The
12 district judge [~~or the person designated to act for the~~
13 ~~district judge~~] and the county clerk shall also certify that
14 the recount or recheck was made in their presence."

15 SECTION 39. Section 1-14-18 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 347, as amended) is amended to read:

17 "1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING
18 BOARDS.--

19 A. Immediately upon receipt of the certificate of
20 recount or recheck from all the [~~absent voter~~] recount precinct
21 boards making a recount or recheck, the proper canvassing board
22 shall meet and recanvass the returns for the office in
23 question.

24 B. In making the recanvass, the proper canvassing
25 board shall be bound by the certificates of recount or recheck

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1 from the [~~absent voter~~] recount precinct boards instead of the
2 original returns from the precinct boards.

3 C. After the recanvass, if it appears that fraud or
4 error has been committed sufficient to change the winner of the
5 election, then the proper canvassing board shall revoke the
6 certificate of nomination or election already issued to any
7 person for that office and shall issue a certificate of
8 nomination or election in favor of the person receiving a
9 plurality of the votes cast at the election as shown by the
10 recount or recheck, and such certificate shall supersede all
11 others and entitle the holder to the same rights and privileges
12 as if such certificate had been originally issued by the
13 canvassing board."

14 SECTION 40. Section 1-14-19 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 348, as amended) is amended to read:

16 "1-14-19. RECOUNT--RECHECK--CANDIDATE FOR DISTRICT
17 JUDGE.--If a recount or recheck is demanded on the election of
18 a district judge and the judge of the district was a candidate
19 for partisan office at the election, the chief justice of the
20 supreme court shall designate a district judge who shall act in
21 such proceedings."

22 SECTION 41. Section 1-14-23 NMSA 1978 (being Laws 2007,
23 Chapter 337, Section 2) is amended to read:

24 "1-14-23. RECOUNT PROCEDURES.--

25 A. To ensure the accuracy of electronic vote

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1 tabulating systems, [~~the secretary of state shall issue rules~~
2 ~~to implement the recount procedures provided for in Subsections~~
3 ~~B and C of this section.~~

4 B.] in a recount, the votes from a random selection
5 of ballots shall be tallied by hand, and the votes from the
6 same ballots shall be tabulated by [~~an~~] the electronic vote
7 tabulating system to be used in the recount. For statewide and
8 federal office, the number of ballots to be tallied and
9 tabulated shall be equal to at least two percent of the ballots
10 cast in each county. For all other offices, the number of
11 ballots to be tallied and tabulated shall be equal to the
12 greater of one hundred, or five percent, of the ballots cast
13 for the office, distributed by county where applicable. If
14 more than one electronic vote tabulating system is to be used
15 in a county, the ballots to be recounted shall be divided among
16 the electronic vote tabulating systems to be used, and the
17 above process shall be performed on each electronic vote
18 tabulating system based on the number of votes to be recounted
19 on each individual electronic vote tabulating system.

20 [~~G. For a statewide or federal office~~] B. If the
21 results of the hand tally and the electronic vote tabulating
22 system tabulation do not differ [~~by one-fourth of one percent~~
23 ~~or less~~], the remaining ballots shall be recounted using that
24 electronic vote tabulating [~~systems. Otherwise, the remaining~~
25 ~~ballots shall be recounted by hand.~~

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1 ~~D. For offices other than statewide or federal~~
2 ~~offices, if the results of the hand tally and the electronic~~
3 ~~vote tabulating system tabulation differ by the greater of one~~
4 ~~percent or less, or two votes, the remaining ballots shall be~~
5 ~~recounted using electronic vote tabulating systems. Otherwise,~~
6 ~~the remaining ballots shall be recounted by hand.~~

7 E.] system. If the results of the hand tally and
8 the electronic vote tabulating system differ, the electronic
9 vote tabulating system shall not be used in the recount and the
10 remaining ballots shall be recounted by hand or on a different
11 electronic vote tabulating system in which the results did not
12 differ.

13 C. When using an electronic vote tabulating system
14 for a recount, a county clerk may permit a visual inspection of
15 the ballots prior to tabulation by the optical scan tabulating
16 system for the purpose of permitting a representative of a
17 candidate to identify individual ballots to be selected for
18 hand tally by the precinct board. Nothing in this section
19 prohibits a candidate from [requesting a] demanding a full hand
20 recount [in accordance with the provisions of Section 1-14-15
21 NMSA 1978]."

22 SECTION 42. Section 1-14-24 NMSA 1978 (being Laws 2008,
23 Chapter 41, Section 1) is amended to read:

24 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND
25 FEDERAL OFFICES--PROCEDURES.--

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1 A. An automatic recount of the vote is required
2 when the canvass of returns for a federal or state office in a
3 primary or general election indicates that the margin between
4 the two candidates receiving the greatest number of votes for
5 the office is less than one-half of one percent of the total
6 votes cast for that office in that election.

7 B. For an office for which ballots were cast in
8 more than one county, the secretary of state shall file notice
9 with the state canvassing board [~~within five days of~~] upon the
10 completion of the state canvass that an automatic recount is
11 required, and the state canvassing board shall order a recount
12 of the ballots for the specified office. For an office in
13 which ballots were cast solely within one county, the secretary
14 of state shall file notice with the state canvassing board
15 within seven days after receiving notice from the county clerk
16 following the completion of the county canvass that an
17 automatic recount is required, and the state canvassing board
18 shall order a recount of the ballots for the specified office.

19 C. Automatic recounts shall be conducted pursuant
20 to the recount procedures established in Sections 1-14-16 and
21 1-14-18 through [~~1-14-22~~] 1-14-23 NMSA 1978.

22 D. For the purposes of this section, "state office"
23 means the office of governor, lieutenant governor, state
24 auditor, state treasurer, attorney general, secretary of state,
25 supreme court justice, court of appeals judge, district judge,

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1 magistrate judge, public regulation commissioner, commissioner
2 of public lands, state senator or state representative."

3 SECTION 43. Section 1-22-2 NMSA 1978 (being Laws 1985,
4 Chapter 168, Section 4, as amended) is amended to read:

5 "1-22-2. DEFINITIONS.--As used in the School Election
6 Law:

7 A. "board" means the governing authority of the
8 [~~local~~] school district;

9 B. "county clerk" means the clerk of each county in
10 which the school district is situate;

11 C. "proper filing officer" means the county clerk
12 or, in the case of a multicounty school district, the clerk of
13 the county in which the administrative office of the school
14 district is situate;

15 D. "magistrate" means the magistrate whose office
16 is situated in the municipality where the administrative office
17 of the school district is located or in close proximity to the
18 municipality;

19 E. "school district election" means a regular or
20 special school district election but does not include a recall
21 election; and

22 F. "superintendent" means the superintendent of
23 schools of the [~~local~~] school district."

24 SECTION 44. Section 1-22-3 NMSA 1978 (being Laws 1985,
25 Chapter 168, Section 5, as amended) is amended to read:

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1 "1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF
2 CANDIDATES.--

3 A. A school district election shall be held in each
4 school district to elect qualified persons to membership on a
5 [~~local school~~] board. No person shall become a candidate for
6 membership on a board unless [~~his~~] the person's record of voter
7 registration shows that [~~he~~] the person is a qualified elector
8 of the state, physically resides in the school district in
9 which [~~he~~] the person is a candidate and [~~physically resided~~]
10 was registered to vote in the district on the date [~~of~~] the
11 [~~school~~] board's proclamation calling a regular school district
12 election is filed in the office of the county clerk.

13 B. A regular school district election shall be held
14 in each school district on the first Tuesday in February of
15 each odd-numbered year.

16 C. [~~A school district~~] An election on a ballot
17 question held at any time other than the date for the regular
18 school district election shall be a special school district
19 election called, conducted and canvassed as provided in the
20 Election Code.

21 D. Except as otherwise provided in the School
22 Election Law, school district elections shall be called,
23 conducted and canvassed as provided in the Election Code."

24 SECTION 45. Section 1-22-5 NMSA 1978 (being Laws 1985,
25 Chapter 168, Section 7, as amended) is amended to read:

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1 "1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

2 A. Whenever a special school district election is
3 to be called or is required by law, the board shall by
4 resolution issue a public proclamation in Spanish and English
5 calling the election. The proclamation shall forthwith be
6 filed by the superintendent with the [~~county clerk of record~~]
7 proper filing officer.

8 B. The proclamation shall specify:

9 (1) the date on which the special election
10 will be held;

11 [~~(2) the positions on the board to be filled;~~

12 [~~(3) the date on which declarations of
13 candidacy are to be filed;~~

14 [~~(4) the date on which declarations of intent
15 to be a write-in candidate are to be filed;~~

16 [~~(5)~~] the questions to be submitted to the
17 voters;

18 [~~(6)~~] (3) the precincts in each county in
19 which the election is to be held and the location of each
20 polling place;

21 [~~(7)~~] (4) the hours each polling place will be
22 open; and

23 [~~(8)~~] (5) the date and time of the closing of
24 the registration books by the [~~county clerk of record~~] proper
25 filing officer as required by law.

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1 C. After filing the proclamation with the [~~county~~
2 ~~clerk of record~~] proper filing officer and not less than fifty
3 days before the date of the election, the [~~county clerk of~~
4 ~~record~~] proper filing officer shall publish the proclamation at
5 least twice in a newspaper of general circulation in the school
6 district. The publication of the proclamation shall conform to
7 the requirements of the federal Voting Rights Act of 1965, as
8 amended."

9 SECTION 46. Section 1-22-6 NMSA 1978 (being Laws 1985,
10 Chapter 168, Section 8, as amended) is amended to read:

11 "1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

12 A. The same precincts that are used in a general
13 election shall be used in a school district election, provided
14 that:

15 (1) if a precinct lies partly within and
16 partly outside of a school district, the part of the precinct
17 lying within the school district constitutes a precinct for a
18 school district election; and

19 (2) all of the area within the exterior
20 boundaries of a school district may constitute one precinct for
21 a school district election.

22 B. In the event that only one candidate has filed a
23 declaration of candidacy for each position to be filled at an
24 election and no declared write-in candidates have filed for any
25 position and there are no questions or bond issues on the

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1 ballot, only one polling place for the election shall be
2 designated and it shall be in the office of the county clerk or
3 a designated polling place in the school district of the county
4 in which the school district is located.

5 C. Except as otherwise provided in the School
6 Election Law, the county clerk shall consolidate precincts for
7 a school district election as provided in the proclamation for
8 that election and shall provide for a polling place within each
9 precinct or consolidated precinct. A consolidated precinct in
10 a school district election shall be composed of no more than
11 twenty precincts."

12 SECTION 47. Section 1-22-7 NMSA 1978 (being Laws 1985,
13 Chapter 168, Section 9, as amended) is amended to read:

14 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--
15 PENALTY.--

16 A. A candidate for a [school] board position that
17 will be filled at a regular school district election shall file
18 a declaration of candidacy with the proper filing officer
19 during the period commencing at 9:00 a.m. on the third Tuesday
20 in December of the even-numbered year immediately preceding the
21 date of the regular school district election and ending at 5:00
22 p.m. on the same day.

23 ~~[B. A candidate for a school board position that~~
24 ~~will be filled at a special school district election shall file~~
25 ~~a declaration of candidacy with the proper filing officer~~

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1 ~~during the period commencing at 9:00 a.m. on the forty-eighth~~
2 ~~day before the election and ending at 5:00 p.m. on the same~~
3 ~~day.~~

4 ~~G.]~~ B. A candidate shall file for only one [~~school~~]
5 board position during a filing period.

6 [~~D.]~~ C. Whoever knowingly makes a false statement
7 in [~~his~~] a declaration of candidacy is guilty of a fourth
8 degree felony and shall be sentenced pursuant to the provisions
9 of Section 31-18-15 NMSA 1978."

10 **SECTION 48.** Section 1-22-8 NMSA 1978 (being Laws 1985,
11 Chapter 168, Section 10, as amended) is amended to read:

12 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF
13 INTENT--FORM.--In making a declaration of candidacy, the
14 candidate shall submit a sworn statement of intent in
15 substantially the following form:

16 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

17 I, _____, (candidate's name on certificate
18 of registration) being first duly sworn, say that I am a voter
19 of Precinct No. _____ of the county of
20 _____, State of New Mexico. I reside at

21 _____
22 and was [~~a resident~~] registered to vote at that place on the
23 date [~~of~~] the school board's proclamation calling the election
24 [~~for which I am a candidate~~] was filed in the office of the
25 county clerk;

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1 I am a qualified elector of the State of New Mexico
2 residing within _____ school district;
3 I desire to become a candidate for the office of
4 [_____] School Board Position No.
5 _____ at the school district election to be held
6 on the date set by law;

7 I will be eligible and legally qualified to hold this
8 office at the beginning of its term; and

9 I make the foregoing affidavit under oath, knowing that
10 any false statement herein constitutes a felony punishable
11 under the criminal laws of New Mexico.

12 _____
13 (Declarant)

14 _____
15 (Mailing Address)

16 _____
17 (Residence Address)

18 Subscribed and sworn to before me this _____ day of
19 _____, [~~19~~] 20 _____.
20 _____.

21 (Notary Public)

22 My commission expires:
23 _____".

24 SECTION 49. Section 1-22-19 NMSA 1978 (being Laws 1985,
25 Chapter 168, Section 21, as amended) is amended to read:

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1 "1-22-19. ABSENTEE VOTING.--

2 A. A voter may vote in a school district election
3 by absentee ballot for all candidates and on all questions
4 appearing on the ballot in [~~his~~] the voter's precinct as if
5 [~~he~~] the voter were casting [~~his~~] the ballot in person at the
6 polling place on election day.

7 B. The provisions of the Absent Voter Act [~~of the~~
8 ~~Election Code~~] apply to absentee voting in school district
9 elections, provided that absentee ballots may be marked in
10 person during the regular hours and days of business at the
11 county clerk's office from 8:00 a.m. on the twenty-fifth day
12 preceding the election until 5:00 p.m. on the Friday
13 immediately prior to the date of the election. Absentee
14 ballots shall be printed at least thirty days prior to the date
15 of the election. In addition, provisions may be made by the
16 board in the proclamation for absentee voting by electronic
17 voting machine [~~from 8:00 a.m.~~] at alternate voting locations
18 at any time beginning on the twentieth day preceding an
19 election [~~until 5:00 p.m. on the Friday~~] through the Saturday
20 immediately prior to the date of the election.

21 C. A regular precinct board may be designated to
22 serve as the absent voter precinct board. A member of the
23 absent voter precinct board shall receive the same compensation
24 as a regular precinct board member. A regular precinct board
25 member who also serves as a member of the absent voter precinct

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1 board shall not be entitled to extra compensation for serving
2 on the absent voter precinct board."

3 SECTION 50. Section 22-5-3 NMSA 1978 (being Laws 1969,
4 Chapter 103, Section 2, as amended) is amended to read:

5 "22-5-3. SCHOOL BOARD MEMBERSHIP--OPTIONAL FORM.--

6 A. The local school board of any school district in
7 this state may by resolution provide for the local board of
8 that district to be composed of seven qualified electors of the
9 state who reside within the district. The resolution shall
10 provide that the board consist of seven separate positions, and
11 each such position shall be designated by number. Qualified
12 electors seeking election to the school board shall file and
13 run for only one of the numbered positions.

14 B. If the resolution provided for in this section
15 is adopted, it shall go into effect within thirty days after
16 its adoption unless a petition signed by the qualified electors
17 of the school district in a number equal to twenty percent of
18 all the voters in the district voting at the last regular
19 school board election is presented to the local board within
20 such thirty days asking that an election be held on the
21 question of increasing the membership of the local board to
22 seven members.

23 C. Upon receipt and verification of the petition,
24 the local school board shall within thirty days call a special
25 school election to vote upon the question of increasing the

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1 membership of the local school board in that district to seven
2 members.

3 D. If the voters of the school district approve the
4 increase in the local school board's membership to seven
5 members, the resolution shall be in effect.

6 E. A resolution adopted pursuant to Subsection A of
7 this section shall conform to the requirements of Section
8 1-22-5 NMSA 1978 and shall provide for the election of two
9 additional school board members at ~~[a special]~~ the next regular
10 school district election. One new member shall be elected to
11 serve until the ~~[second]~~ first regular school board election
12 following the ~~[special school district]~~ member's election. The
13 second new member shall be elected to serve until the ~~[third]~~
14 second regular school board election following ~~[such special~~
15 ~~school district]~~ the member's election. Thereafter, persons
16 elected to fill the additional new positions on the board shall
17 be elected for terms as provided by law."

18 SECTION 51. Section 22-5-3.1 NMSA 1978 (being Laws 1981,
19 Chapter 302, Section 1) is amended to read:

20 "22-5-3.1. LOCAL SCHOOL BOARDS--REVERSION TO FIVE
21 MEMBERS.--

22 A. Any seven-member local school board of a school
23 district in the state may by resolution provide for the local
24 school board of that school district to be composed of five
25 qualified electors of the state who reside within the school

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1 district.

2 B. If the resolution specified in Subsection A of
3 this section is adopted, the existing local school board at the
4 first election at which the terms of three members expire shall
5 by lot:

6 (1) eliminate two positions if the next
7 succeeding election is one at which the terms of two members
8 expire;

9 (2) eliminate two positions if the next
10 succeeding election is one at which the term of one member
11 expires, and at the next election at which the terms of three
12 members expire designate one position for a two-year term;
13 provided that thereafter all terms shall be [~~six-year~~] four-
14 year terms; or

15 (3) eliminate two positions if the next
16 succeeding election is one at which the terms of three members
17 expire, and at the succeeding election designate one position
18 for a two-year term; provided that thereafter all terms shall
19 be [~~six-year~~] four-year terms.

20 C. Any resolution adopted pursuant to the
21 provisions of this section shall be effective thirty days after
22 its adoption unless a petition signed by the qualified electors
23 of the school district in a number equal to at least twenty
24 percent of all voters in the school district voting at the last
25 regular school board election is presented to the local school

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1 board on or before the thirtieth day asking that an election be
2 held on the question of decreasing the membership of the local
3 school board to five members.

4 D. Upon receipt and verification of the petition,
5 the local school board shall within thirty days call a special
6 [~~school~~] election to vote upon the question of decreasing the
7 membership of the local school board in that school district to
8 five members.

9 E. If the voters of the school district approve the
10 decrease in the local school board's membership to five
11 members, the resolution shall be in effect, and the elimination
12 of two members at subsequent elections as provided in
13 Subsection B of this section shall be valid."

14 SECTION 52. Section 22-5-9 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 32, as amended) is amended to read:

16 "22-5-9. LOCAL SCHOOL BOARD VACANCIES.--

17 A. A vacancy occurring in the membership of a local
18 school board shall be filled at an open meeting, at which a
19 quorum of the membership is present, by a majority vote of the
20 remaining members appointing a qualified [~~person~~] elector to
21 fill the vacancy.

22 B. A qualified [~~person~~] elector appointed to fill a
23 vacancy occurring in the membership of a local school board
24 shall hold that office until the next regular school district
25 election when an election shall be held to fill the vacancy for

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1 the unexpired term.

2 C. If a qualified [~~person~~] elector is not appointed
3 to fill the vacancy within forty-five days from the date the
4 vacancy occurred, the [~~state board~~] department shall appoint a
5 qualified [~~person~~] elector to fill the vacancy until the next
6 regular school district election.

7 D. In the event vacancies occur in a majority of
8 the full membership of a local school board, the [~~state board~~]
9 department shall appoint qualified [~~persons~~] electors to fill
10 the vacancies. Those persons appointed shall hold office until
11 the next regular [~~or special~~] school district election when an
12 election shall be held to fill the vacancies for the unexpired
13 terms."

14 SECTION 53. Section 22-7-13 NMSA 1978 (being Laws 1977,
15 Chapter 308, Section 13, as amended) is amended to read:

16 "22-7-13. SPECIAL RECALL ELECTION.--

17 A. The date of the special recall election shall be
18 set no later than [~~ninety~~] one hundred twenty days after the
19 date of the determination by the county clerk but in no event
20 shall the election be held within the period of time prohibited
21 for local government elections pursuant to Section 1-12-71 NMSA
22 1978.

23 B. The question to be submitted to the voters at
24 the special recall election shall be whether [~~or not~~] the named
25 member shall be recalled.

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1 C. A special recall election may be held in
2 conjunction with a regular or a special school district
3 election.

4 D. Whenever a special recall election is called,
5 the county clerk shall give public notice of the special recall
6 election by publishing information regarding the election once
7 each week for four consecutive weeks. The first publication of
8 the information shall be made between forty-five and sixty days
9 before the date of the special recall election. Information
10 regarding the election shall be in compliance with the federal
11 Voting Rights Act of 1965, as amended, and shall include the
12 date when the special recall election will be held, the
13 question to be submitted to the voters, a brief description of
14 the boundaries of each precinct, the location of each polling
15 place, the hours each polling place will be open and the date
16 and time of the closing of the registration books by the county
17 clerk as required by law.

18 E. The ballot shall be in compliance with the
19 federal Voting Rights Act of 1965, as amended, and shall
20 present the voter the choice of voting "for the removal of the
21 named member" or "against the removal of the named member".

22 F. All special recall elections shall be held in
23 compliance with the federal Voting Rights Act of 1965, as
24 amended.

25 G. Except as otherwise provided in the Local School

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1 Board Member Recall Act, special recall elections in a school
2 district shall be conducted as provided in the Election Code."

3 SECTION 54. Section 27-5-9 NMSA 1978 (being Laws 1965,
4 Chapter 234, Section 9, as amended) is amended to read:

5 "27-5-9. TAX LEVIES AUTHORIZED.--

6 A. Subject to the provisions of Subsection B of
7 this section, the board of county commissioners, upon the
8 certification of the board as to the amount needed in the fund,
9 shall impose a levy against the net taxable value, as that term
10 is defined in the Property Tax Code, of the property in the
11 county sufficient to raise the amount certified by the board.

12 B. The question of imposing an indigent hospital
13 levy for the purpose of the Indigent Hospital and County Health
14 Care Act shall be submitted to the electors and voted upon as a
15 separate question at the next subsequent general election or
16 any special election called prior thereto for such purpose.

17 C. Upon finding by the board of county
18 commissioners that an election will be necessary, the board of
19 county commissioners shall meet and order an election to be
20 held at a designated time in the county upon the question of
21 imposing an indigent hospital levy for the purpose of the
22 Indigent Hospital and County Health Care Act in the county. If
23 the question is to be voted upon at a special election, the
24 election shall be held not less than thirty nor more than fifty
25 days after the finding, but in no event shall the election be

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1 held within [~~five~~] fifty days preceding or succeeding any
2 general election held in the county. The order for the
3 election shall be made a part of the official minutes of the
4 board of county commissioners. A copy of the order shall be
5 published in a newspaper of general circulation in the county
6 at least fifteen days before the date set for the election, and
7 an affidavit of publication shall be obtained. At least five
8 days prior to the date for holding the election, the board of
9 county commissioners shall publish in a newspaper of general
10 circulation in the county and post in five conspicuous places
11 in the county a notice of election, which shall be in
12 substantially the following form:

13 "NOTICE OF ELECTION ON SPECIAL INDIGENT HOSPITAL LEVY

14 Notice is given on the _____ day of
15 _____, [~~19~~] 20 ____, there will be held in
16 _____ county of New Mexico an election on
17 the question of imposing an indigent hospital levy for the
18 purposes of the Indigent Hospital and County Health Care Act,
19 such levy to be made annually against the taxable value of the
20 property in the county and limited to an amount sufficient to
21 provide funds necessary to pay claims pursuant to such act.

22 _____
23 Official Title of the Authority".

24 The election shall be held on the date specified in the notice
25 and shall be, if a special election, conducted and canvassed in

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1 substantially the same manner as general elections are
2 conducted and canvassed in the county; provided that the ballot
3 used in any election shall be a special and separate ballot and
4 shall be in substantially the following form:

5 "BALLOT

6 On the question of imposing an indigent hospital
7 levy for the purposes of the Indigent Hospital and County
8 Health Care Act, such levy to be made annually against the
9 taxable value of the property in _____ county of
10 New Mexico, and limited to an amount sufficient to provide
11 funds budgeted and certified as necessary to pay claims
12 pursuant to such act:

13 FOR THE LEVY.....
14 AGAINST THE LEVY.....".

15 D. If the electors vote in favor of an indigent
16 hospital levy, the levy shall become effective in the same
17 manner prescribed by law for all levies upon property within
18 that county, and a levy for those purposes in such an amount as
19 will provide sufficient money for the fund shall be made for
20 each year thereafter.

21 E. Any board of county commissioners that has,
22 prior to the effective date of this section, made a valid
23 imposition of a property tax for the purpose of the Indigent
24 Hospital and County Health Care Act shall not be required to
25 hold an election on the existing tax, and that tax may be

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1 imposed and continue to be imposed in accordance with the
2 provisions of law existing at the time of its imposition.
3 However, if any such tax is not imposed in a given property tax
4 year or if the authorization for its imposition terminates or
5 expires, the election requirements of Subsections B and C of
6 this section shall apply to any subsequent proposed imposition
7 of a property tax for the purpose of the Indigent Hospital and
8 County Health Care Act."

9 SECTION 55. REPEAL.--Section 1-10-11 NMSA 1978 (being
10 Laws 1969, Chapter 240, Section 210, as amended) is repealed.