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SENATE BILL 668

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dianna J. Duran

AN ACT

RELATING TO ELECTIONS; EXPANDING THE ABSENT VOTER ACT;
REPEALING THE ABSENTEE-EARLY VOTING ACT; CLARIFYING FILING
REQUIREMENTS AND NOMINATING PETITION REQUIREMENTS; PRESCRIBING
CERTAIN ELECTION FORMS; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

Section 1. Section 1-6-2 NMSA 1978 (being Laws 1987,
Chapter 327, Section 6, as amended) is amended to read:

"1-6-2. DEFINITIONS. -- As used in the Absent Voter Act:

A. "absent uniformed services voter" means:

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

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

5 (3) a spouse or dependent of a member
6 referred to in Paragraphs (1) and (2) of this subsection who,
7 by reason of the active duty or service of the member, is
8 absent from the place of residence where the spouse or
9 dependent is otherwise qualified to vote;

10 B. "election" means [~~any~~] a statewide election,
11 general election, primary election or special election to fill
12 vacancies in the office of United States representative and
13 regular or special school district elections [~~except as~~
14 ~~modified by the school election law~~];

15 C. "electronic ballot" means a paper ballot or
16 ballot face designed to be used on an electronic voting
17 machine to cast votes;

18 D. "electronic voting machine" means a computer-
19 controlled machine designed to electronically record and
20 tabulate votes cast;

21 [~~E.~~] E. "federal office" means the office of
22 president, vice president or of [a] senator or representative
23 in congress;

24 [~~F.~~] F. "federal qualified elector" means:

25 (1) an absent uniformed services voter; or

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

4 [~~E. "marksense ballot" means a paper ballot card~~
5 ~~used on an optical scan vote tabulating machine;~~

6 F.] G. "member of the merchant marine" means an
7 individual other than a member of a uniformed service or an
8 individual employed, enrolled or maintained on the Great Lakes
9 or the inland waterways who:

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

15 (2) is enrolled with the United States for
16 employment or training for employment or maintained by the
17 United States for emergency relief service as an officer or
18 crew member of any such vessel;

19 H. "memory cartridge" or "results memory
20 cartridge" means a transportable cassette-type case or memory
21 card used in an electronic voting machine that records and
22 retains the total vote counted and tallied for each candidate
23 on the electronic voting machine;

24 [~~G.~~] I. "overseas voter" means:

25 (1) a person who resides outside the United

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1 States and is qualified to vote in the last place in which the
2 person was domiciled before leaving the United States; or

3 (2) a person who resides outside the United
4 States and, but for such residence, would be qualified to vote
5 in the last place in which the person was domiciled before
6 leaving the United States; and

7 [~~H-~~] J. "uniformed services" means the army, navy,
8 air force, marine corps and coast guard and the commissioned
9 corps of the national oceanic and atmospheric administration."

10 Section 2. Section 1-6-3 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 129, as amended by Laws 1993, Chapter 19,
12 Section 1 and also by Laws 1993, Chapter 21, Section 1) is
13 amended to read:

14 "1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT [~~RIGHT TO~~
15 ~~VOTE~~]. --

16 A. Any voter may vote by absentee ballot for all
17 candidates and on all questions appearing on the ballot [~~at~~
18 ~~his precinct poll~~] as if he were able to cast his ballot in
19 person at [~~the precinct poll~~] his regular polling place on
20 election day.

21 B. Any federal qualified elector may register
22 absentee and vote by an absentee ballot for any federal
23 office. "

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

1 "1-6-4. ABSENTEE BALLOT APPLICATION. --

2 A. Application by a federal qualified elector for
3 an absentee ballot shall be made on the official postcard form
4 prescribed or authorized by the federal government to the
5 county clerk of the county of his residence.

6 B. Application by a voter for an absentee ballot
7 shall be made only on a form prescribed, printed and furnished
8 by the secretary of state to the county clerk of the county in
9 which ~~he~~ the voter resides. The form shall identify the
10 applicant and contain information to establish his
11 qualification for issuance of an absentee ballot under the
12 Absent Voter Act; provided that on the application form for a
13 general election ballot there shall be no box, space or place
14 provided for designation of the voter's political party
15 affiliation.

16 C. Each application for an absentee ballot shall
17 be subscribed by the applicant."

18 Section 4. Section 1-6-4.1 NMSA 1978 (being Laws 1987,
19 Chapter 327, Section 9) is amended to read:

20 "1-6-4.1. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS
21 VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICES. --

22 A. Except as provided in Subsection C of this
23 section, a federal write-in absentee ballot for federal
24 offices in a general election shall be processed in the same
25 manner as provided by law for other absentee ballots.

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1 B. In completing the ballot, the overseas voter
2 may designate a candidate by writing in the name of the
3 candidate or by writing in the name of a political party, in
4 which case the ballot shall be counted for all candidates of
5 that political party for federal office. Any abbreviation,
6 misspelling or other minor variation in the form of the name
7 of a candidate or a political party shall be disregarded in
8 determining the validity of the ballot if the intention of the
9 overseas voter can be ascertained.

10 C. A federal write-in absentee ballot of an
11 overseas voter shall not be counted if:

12 (1) the ballot is submitted from any location
13 in the United States;

14 (2) the application of the overseas voter for
15 [~~a New Mexico~~] an absentee ballot is received by the county
16 clerk less than thirty days before the election; or

17 (3) the [~~New Mexico~~] absentee ballot of the
18 overseas voter is received by the county clerk later than
19 [~~seven~~] 7:00 p. m. on election day. "

20 Section 5. Section 1-6-5 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 131, as amended by Laws 1993, Chapter
22 314, Section 43 and also by Laws 1993, Chapter 316, Section
23 43) is amended to read:

24 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
25 [~~MAKING~~] MARKING AND DELIVERY OF BALLOT IN PERSON.--

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1 A. The county clerk shall mark each completed
2 absentee ballot application with the date and time of receipt
3 in the clerk's office and enter the required information in
4 the absentee ballot register. The county clerk shall then
5 determine if the applicant is a voter, an absent uniformed
6 services voter or an overseas voter.

7 B. If the applicant has no valid certificate of
8 registration on file in the county and he is not a federal
9 qualified elector or if the applicant states he is a federal
10 qualified elector but his application indicates he is not a
11 federal qualified elector, no absentee ballot shall be issued
12 and the county clerk shall mark the application "rejected" and
13 file the application in a separate file from those accepted.

14 C. The county clerk shall notify in writing each
15 applicant of the fact of acceptance or rejection of his
16 application and, if rejected, shall explain why the
17 application was rejected.

18 D. If the county clerk finds that the applicant is
19 [~~determined to be~~] a voter or a federal qualified elector, the
20 county clerk shall mark the application "accepted" and deliver
21 an absentee ballot to the voter in the county clerk's office
22 or mail to the applicant an absentee ballot and the required
23 envelopes for use in returning the ballot. Acceptance of an
24 application of a federal qualified elector constitutes
25 registration for the election in which the ballot is to be

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1 cast. Acceptance of an application from an overseas voter who
2 is not an absent uniformed services voter constitutes a
3 request for changing information on the certificate of
4 registration of any such voter. No absent voter shall be
5 permitted to change his party affiliation during those periods
6 when change of party affiliation is prohibited by the Election
7 Code. Upon delivery of an absentee ballot to the voter in the
8 county clerk's office or mailing of an absentee ballot to
9 ~~[any]~~ an applicant who is a voter, an appropriate designation
10 shall be made on the signature line of the signature roster
11 next to the name of the ~~[person]~~ voter who has been ~~[sent]~~
12 provided or mailed an absentee ballot.

13 E. If an application for an absentee ballot is
14 delivered in person to the county clerk and is accepted, the
15 county clerk shall ~~[deliver the]~~ provide the voter an absentee
16 ballot and it shall be marked by the applicant in a voting
17 booth of a type prescribed by the secretary of state ~~[in the~~
18 ~~courthouse]~~, sealed in the proper envelopes and otherwise
19 properly executed and returned to the county clerk or his
20 authorized representative before the ~~[applicant]~~ voter leaves
21 the office of the county clerk. The act of marking the
22 absentee ballot in the office of the county clerk shall be a
23 convenience to the voter in the delivery of the absentee
24 ballot and does not make the office of the county clerk a
25 polling place subject to the requirements of a polling place

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1 in the Election Code other than is provided in this
2 subsection. It shall be unlawful to solicit votes, display or
3 otherwise make accessible any posters, signs or other forms of
4 campaign literature whatsoever in the clerk's office.

5 Absentee ballots may be marked in person during the regular
6 hours and days of business at the county clerk's office from
7 8:00 a. m. on the fortieth day preceding the election up until
8 5:00 p. m. on the Saturday immediately prior to the date of the
9 election.

10 F. In marking the absentee ballot, the voter may be
11 assisted by one person of the voter's [own] choice [upon the
12 execution with the county clerk of an affidavit for assistance
13 stating therein that the voter meets at least one of the
14 conditions for receiving such assistance as is set forth by
15 the provisions of Section 1-12-12 NMSA 1978].

16 G. Commencing with the twentieth day prior to an
17 election, an absent voter may vote in person at the county
18 clerk's office or on an electronic voting machine at an
19 alternate location established by the county clerk. In class
20 A counties, the county clerk shall establish not less than
21 four alternate locations as a convenience to the voters.
22 Absentee voting may be done at the county clerk's office or an
23 alternate location from the twentieth day prior to the
24 election through the Saturday immediately prior to the
25 election. The county clerk shall ensure that procedures

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1 established for processing an absent voter application and for
2 voting by absentee ballot are complied with at each alternate
3 location.

4 [F-] H. Absentee ballots shall be air mailed to
5 applicants temporarily domiciled inside or outside the
6 continental limits of the United States not later than on the
7 Thursday immediately prior to the date of the election.

8 [G-] I. No absentee ballot shall be delivered or
9 mailed by the county clerk to any person other than the
10 applicant for such ballot.

11 [H-] J. The county clerk shall accept and process
12 with respect to a primary or general election for any federal
13 office, any otherwise valid voter registration application
14 from an absent uniformed services voter or overseas voter if
15 the application is received not less than thirty days before
16 the election. The county clerk shall also accept and process
17 federal write-in absentee ballots from overseas voters in
18 general elections for federal offices in accordance with the
19 provisions of Section 103 of the federal Uniformed and
20 Overseas Citizens Absentee Voting Act.

21 K. The secretary of state and each county clerk
22 shall make reasonable efforts to publicize and inform voters
23 of the times and locations for absentee voting. "

24 Section 6. A new section of the Absent Voter Act is
25 enacted to read:

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1 " [NEW MATERIAL] PREPARATION OF ELECTRONIC VOTING

2 MACHINES. --

3 A. Five days before an electronic voting machine is
4 used for absentee voting as provided in Section 1-6-9.1 NMSA
5 1978, the county clerk may begin to prepare, inspect and seal
6 the voting machine in accordance with the specifications for
7 electronic voting machines adopted by the secretary of state.

8 B. One day before any electronic voting machine is
9 used for absentee voting, the county clerk shall certify to
10 the secretary of state and all county party chairmen the type
11 and serial number of each voting machine to be used. "

12 Section 7. A new section of the Absent Voter Act is
13 enacted to read:

14 " [NEW MATERIAL] SECRETARY OF STATE--EMERGENCY AUTHORITY. --

15 The secretary of state shall have emergency authority to
16 prescribe by regulation procedures to accommodate the special
17 absentee ballot requirements brought on by activation of the
18 New Mexico national guard and reserve units or for individuals
19 who are overseas voters, and procedures for a special write-in
20 absentee ballot available at least ninety days prior to an
21 election to cover candidates for federal offices. "

22 Section 8. Section 1-6-6 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 132, as amended) is amended to read:

24 "1-6-6. ABSENTEE BALLOT REGISTER. --

25 A. For each election, the county clerk shall keep an

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1 "absentee ballot register" in which he shall enter:

2 (1) the name and [~~county~~] address of each
3 absentee ballot applicant;

4 (2) the date and time of receipt of the
5 application;

6 (3) whether the application was accepted or
7 rejected;

8 (4) the date of [~~delivery or~~] issue of an
9 absentee ballot in the county clerk's office or at an alternate
10 location or the mailing of an absentee ballot to the applicant;

11 (5) the applicant's precinct;

12 (6) whether the applicant is a voter, a federal
13 voter, a federal qualified elector or an overseas citizen
14 voter; and

15 (7) the date and time the completed absentee
16 ballot was received from the applicant by the county clerk or
17 the absent voter in the county clerk's office or at an
18 alternate location.

19 B. Within twenty-four hours after receipt of a
20 voter's application for an absentee ballot, the county clerk
21 shall mail either the ballot or a notice of rejection to the
22 applicant.

23 C. The absentee ballot register is a public record
24 open to public inspection in the county clerk's office during
25 regular office hours.

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1 D. The county clerk shall deliver to the [absentee]
2 absent voter precinct board on election day a complete list of
3 all absentee ballot applicants with applicable information
4 shown in the absentee ballot register for each applicant up to
5 [~~noon of the day~~] 5:00 p.m. on the Saturday preceding the
6 election. The county clerk shall deliver a signature roster
7 containing the same information as the lists to the [absentee]
8 absent voter precinct board.

9 E. The county clerk shall transmit to the secretary
10 of state and to the county chairman of each of the major
11 political parties in the county a complete copy of entries made
12 in the absentee ballot register. Such transmissions shall be
13 made once each week beginning four weeks immediately prior to
14 the election. A final copy shall be transmitted on the Friday
15 immediately following the election. "

16 Section 9. Section 1-6-7 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 133, as amended) is amended to read:

18 "1-6-7. FORM OF ABSENTEE BALLOT.--As soon as candidates
19 and questions to be voted upon have been determined for each
20 election, the county clerk shall procure a supply of suitable
21 absentee ballots. The absentee [~~ballot~~] ballots shall be
22 numbered and shall be, as nearly as [~~practicable~~] possible, in
23 the same form as prescribed by the secretary of state for
24 emergency ballots. However, to reduce weight and bulk for
25 transport of absentee ballots, the size and weight of the paper

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1 for envelopes, ballots and instructions shall be reduced as
2 much as possible. Absentee ballots shall be printed at least
3 forty days prior to the date of a primary election and forty-
4 nine days prior to the date of a general election. Absentee
5 ballots for any other election shall be printed at least
6 thirty-five days prior to the date of the election."

7 Section 10. Section 1-6-8 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 134, as amended) is amended to read:

9 "1-6-8. ABSENTEE BALLOT ENVELOPES. --

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

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

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

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

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

24 B. Official transmittal envelopes and official
25 mailing envelopes for transmission of absentee ballot materials

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

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

16 Section 11. Section 1-6-9 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 135, as amended) is amended to read:

18 "1-6-9. MANNER OF VOTING BY ABSENTEE BALLOT. --

19 A. Any person voting [~~under provisions of~~] pursuant
20 to the Absent Voter Act shall secretly mark his absentee ballot
21 in the manner provided in the Election Code for marking
22 emergency paper ballots, place it in the official inner
23 envelope and securely seal the envelope. The voter shall then
24 place the official inner envelope inside the official mailing
25 envelope and securely seal the envelope. The voter shall then

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1 complete the form on the reverse of the official mailing
2 envelope, which shall include an affirmation by the voter under
3 penalty of perjury that the facts stated in the form are true.

4 B. Federal qualified electors shall either deliver or
5 mail the official mailing envelope to the county clerk of their
6 county of residence or deliver it to a person designated by
7 federal authority to receive executed ballots for transmission
8 to the county clerk of the county of residence or former
9 residence as the case may be. Voters shall either deliver or
10 mail the official mailing envelope to the county clerk of their
11 county of residence. "

12 Section 12. Section 1-6-9.1 NMSA 1978 (being Laws 1991,
13 Chapter 105, Section 13, as amended) is amended to read:

14 "1-6-9.1. [~~USING THE MARKSENSE BALLOT. -- Any person~~] VOTING
15 BY ELECTRONIC BALLOT. -- An absent voter voting on [the
16 marksense] an electronic ballot shall secretly mark the ballot
17 [by completing the arrow () () in pencil directly to the
18 right of the candidate's name or the proposed question. The
19 voter shall then place the marked ballot in the official inner
20 envelope and securely seal the envelope and then place the
21 official inner envelope inside the official mailing envelope
22 and securely seal the envelope. The voter shall then complete
23 the form on the reverse of the official mailing envelope] in
24 accordance with the instructions on that ballot, and the vote
25 cast shall be recorded on an electronic voting machine. "

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1 Section 13. Section 1-6-10 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 136, as amended) is amended to read:

3 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK. --

4 A. The county clerk shall mark on each completed
5 official mailing envelope the date and time of receipt in the
6 clerk's office, record this information in the absentee ballot
7 register and safely keep the official mailing envelope unopened
8 in a locked and number-sealed ballot box, except as provided in
9 Subsection H of Section 1-6-14 NMSA 1978, until it is delivered
10 on election day to the proper absent voter precinct board or
11 until it is canceled and destroyed in accordance with law.

12 B. The county clerk shall accept completed official
13 mailing envelopes until 7:00 p.m. on election day. Any
14 completed official mailing envelope received after that time
15 shall not be delivered to a precinct board but shall be
16 preserved by the county clerk until the time for election
17 contests has expired. In the absence of a restraining order
18 after expiration of the time for election contests, the county
19 clerk shall destroy all late official mailing envelopes without
20 opening or permitting the contents to be examined, cast,
21 counted or canvassed. Before their destruction, the county
22 clerk shall count the numbers of late absentee ballots from
23 voters, federal voters, overseas citizen voters and federal
24 qualified electors and report the number from each category to
25 the secretary of state.

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1 C. At 5:00 p.m. on the Monday immediately preceding
2 the date of election, the county clerk shall record the numbers
3 of the unused absentee ballots and shall publicly destroy in
4 the county clerk's office all such unused ballots. The county
5 clerk shall execute a certificate of [~~such~~] destruction which
6 shall include the numbers on the absentee ballots destroyed. A
7 copy of the certificate of destruction shall be sent to the
8 secretary of state. "

9 Section 14. Section 1-6-11 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 137, as amended) is amended to read:

11 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER
12 PRECINCTS. --

13 A. On election day, the county clerk shall deliver
14 the absentee ballots received [~~by him~~] prior to 7:00 p.m. on
15 election day to the special deputy county clerks for delivery
16 to the absent voter precinct boards. The absentee ballots for
17 each absent voter precinct shall be separately wrapped, and the
18 special deputy county clerk shall issue a receipt for all
19 ballots [~~taken by him~~] delivered for the county clerk. Upon
20 delivery of the absentee ballots to the absent voter precinct
21 board, the special deputy county clerk shall remain in the
22 polling place of the absent voter precinct until he has
23 observed the opening of the official mailing envelope, the
24 deposit of the ballot in the locked ballot box and the listing
25 of the names on the official mailing envelope in the signature

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1 rosters. Upon [~~such~~] delivery of absentee ballots, the special
2 deputy county clerk shall obtain a receipt executed by the
3 presiding judge and each election judge and he shall return
4 [~~such~~] the receipt to the county clerk for filing. The
5 receipts shall specify the number of envelopes received by the
6 special deputy county clerk from the county clerk for each
7 absent voter precinct and the number of envelopes received by
8 the absent voter precinct board from the special deputy county
9 clerk.

10 B. At 7:00 a.m. on election day, the county clerk
11 shall deliver the electronic voting machines used for absentee
12 voting to the absent voter precinct board. The machines shall
13 not be used to vote on or count additional ballots for that
14 election, except that the absent voter precinct board may count
15 and tally any paper absentee ballots on the voting machine
16 after any ballots already counted and tallied have been secured
17 in a locked ballot box and provided a blank memory cartridge is
18 used. A special deputy county clerk shall issue a receipt for
19 each voting machine. Upon delivery of a voting machine, the
20 special deputy shall obtain a receipt executed by the presiding
21 judge and each election judge specifying the serial number and
22 the seal number of the machine and shall verify the public
23 counter number on the machine, and he shall return the receipt
24 to the county clerk for filing. Thereafter, the absent voter
25 precinct board shall proceed as specified in Sections 1-6-14

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1 through 1-6-25 NMSA 1978. "

2 Section 15. Section 1-6-14 NMSA 1978 (being Laws 1971,
3 Chapter 317, Section 11, as amended) is amended to read:

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

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

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

20 C. The accredited challengers may examine the
21 official mailing envelope and may challenge the ballot of any
22 absent voter for the following reasons:

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

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

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

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

11 D. If the official mailing envelopes have been
12 properly subscribed and the voters have not been challenged:

13 (1) the election judges shall open the official
14 mailing envelopes and deposit the ballots in their still-sealed
15 official inner envelopes in the locked ballot box; and

16 (2) the election clerks shall enter the absent
17 voter's name and residence address as shown on the official
18 mailing envelope in the signature rosters and shall mark the
19 notation "AB" opposite the voter's name in the "Notations"
20 column of the signature rosters.

21 E. Prior to the closing of the polls, the election
22 judges and the presiding election judge may either remove the
23 absentee ballots from the official inner envelopes and count
24 and tally the results of absentee balloting or, under the
25 personal supervision of the presiding election judge and one

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1 election judge from each party, [~~register the results of each~~
2 ~~absentee ballot on a~~] count and tally the absentee ballot on an
3 electronic voting machine the same as if the absent voter had
4 been present and voted in person. It [~~shall be~~] is unlawful
5 for any person to disclose the results of [~~such~~] a count and
6 tally [~~or such registration on a voting machine~~] of absentee
7 ballots prior to the closing of the polls.

8 F. Absentee ballots shall be counted and tallied [~~or~~
9 ~~registered on a lever voting machine or~~] by hand or on an
10 electronic voting machine as provided in the Election Code
11 [~~provided that any county with a population in excess of one~~
12 ~~hundred thousand shall count and tally or register absentee~~
13 ~~ballots on an electronic voting machine~~].

14 G. Absent voter precinct polls shall close at the
15 time prescribed by the Election Code for other polling places,
16 and the results of the election shall be certified as
17 prescribed by the secretary of state.

18 H. The county clerk may convene the absent voter
19 precinct board no more than three days before the day of the
20 election to alphabetize, enter on the roster and sort the
21 absentee ballots by legislative district; provided that no
22 member of the absent voter precinct board shall open an
23 official mailing envelope or count and canvass any absentee
24 ballot prior to the day of the election. "

25 Section 16. Section 1-6-15 NMSA 1978 (being Laws 1977,

underscored material = new
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1 Chapter 222, Section 13, as amended) is amended to read:

2 "1-6-15. CANVASS--RECOUNT OR RECHECK--DISPOSITION. -- [~~Where~~
3 ~~no~~] If voting machines are not used to register absentee
4 ballots, [~~such~~] the absentee ballots shall be canvassed,
5 recounted and disposed of in the manner provided by the
6 Election Code for the canvassing, recounting and disposition of
7 emergency paper ballots. [~~Where~~] If voting machines are used
8 to register absentee ballots, [~~such~~] the ballots shall be
9 canvassed and rechecked in the manner provided by the Election
10 Code for the canvassing and recheck of ballots cast on a voting
11 machine; provided, in the event of a contest, voting machines
12 used to register [~~absentee~~] paper ballots shall not be
13 rechecked but the [~~absentee~~] paper ballots shall be recounted
14 in the manner provided by the Election Code for the recounting
15 of emergency paper ballots. As used in this section, "voting
16 machines" means [~~lever voting machines or~~] electronic voting
17 machines as provided in the Election Code."

18 Section 17. Section 1-6-16 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 141, as amended by Laws 1989, Chapter 368,
20 Section 2 and also by Laws 1989, Chapter 392, Section 15) is
21 amended to read:

22 "1-6-16. VOTING IN PERSON PROHIBITED. --

23 A. Except as provided in Section 1-6-16.1 NMSA 1978,
24 no person who has been issued an [~~absent voter~~] absentee ballot
25 shall vote in person at his precinct poll.

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1 B. At any time prior to 5:00 p.m. on the Monday
2 immediately preceding the date of the election, any person
3 whose absentee ballot application has been accepted and who was
4 mailed an absentee ballot but who has not received the absentee
5 ballot may execute, in the office of the county clerk of the
6 county where he is registered to vote, a sworn affidavit
7 stating that he did not receive or vote his absentee ballot.
8 Upon receipt of the sworn affidavit, the county clerk shall
9 issue the voter a replacement absentee ballot.

10 C. The secretary of state shall prescribe the form of
11 the affidavit and the manner in which the county clerk shall
12 void the first ballot mailed to the applicant. "

13 Section 18. Section 1-6-16.1 NMSA 1978 (being Laws 1989,
14 Chapter 368, Section 1, as amended) is amended to read:

15 "1-6-16.1. ABSENTEE BALLOT-- CONDUCT OF ELECTION-- WHEN NOT
16 TIMELY RECEIVED-- EMERGENCY PROCEDURE FOR VOTING AND COUNTING. --

17 A. [~~Any applicant~~] A voter who applies for an
18 absentee ballot [~~who~~] but has not received the absentee ballot
19 by mail as of the date of the election may present himself at
20 his assigned [~~precinct~~] polling place and, after executing an
21 affidavit of nonreceipt of absentee ballot, shall be permitted
22 to vote on an emergency paper ballot [~~or a marksense ballot~~].

23 B. The completed ballot shall be placed in an
24 official inner envelope substantially as prescribed by Section
25 1-6-8 NMSA 1978 and sealed. The official inner envelope shall

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1 then be placed in an official envelope substantially as
2 prescribed for a transmittal envelope or mailing envelope in
3 Section 1-6-8 NMSA 1978. This envelope shall contain a form on
4 its back that identifies the voter by name and signature roster
5 number and ~~[the]~~ a printed statement to the effect that the
6 voter made application for an absentee ballot but had not
7 received it as of the date of the election and is permitted to
8 vote by emergency paper ballot ~~[or a marksense ballot]~~.

9 C. The presiding election judge shall put all ~~[such]~~
10 emergency absentee ballots in a special envelope provided for
11 that purpose by the county clerk, seal it and return it to the
12 county clerk along with the machine tally sheets. The sealed
13 envelope shall not be put in the locked ballot box.

14 D. Upon receipt of the envelope containing ~~[such]~~
15 emergency absentee ballots, the county clerk, no later than
16 forty-eight hours after the close of the election, shall remove
17 the transmittal envelopes and, without removing or opening the
18 inner envelopes, determine ~~[that]~~:

19 (1) ~~[such]~~ if a voter did in fact make
20 application for an absentee ballot; and

21 (2) ~~[no such]~~ if an absentee ballot was received
22 by the county clerk from the voter by 7:00 p.m. on election
23 day.

24 E. Upon making ~~[such]~~ that determination, the county
25 clerk shall remove the inner envelope without opening it,

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1 ~~[destroy the transmittal envelope]~~ retain the transmittal
2 envelope with the other election returns and place the unopened
3 inner envelope in a secure ~~[place]~~ container to be transmitted
4 to the county canvassing board to be tallied and included in
5 the canvass of that county for the appropriate precinct.

6 F. The secretary of state shall prescribe and furnish
7 the necessary envelopes for purposes of this section and shall
8 adopt rules and regulations deemed necessary to preserve the
9 secrecy of ~~[the ballot]~~ emergency paper ballots. "

10 Section 19. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
11 Chapter 353, Section 1) is amended to read:

12 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING. --

13 A. After the close of the period for requesting
14 absentee ~~[voter]~~ ballots by mail, any voter who is unable to go
15 to the polls due to unforeseen illness or disability resulting
16 in his confinement in a hospital, sanatorium, nursing home or
17 residence and who is unable to vote at his regular polling
18 place ~~[voting booth or voting apparatus or machinery]~~ or
19 alternate location may request in writing that an alternative
20 ballot be made available to him. The written request shall be
21 signed by the voter and a health care provider under penalty of
22 perjury.

23 B. The alternative ballot shall be made available by
24 the clerk of the county in which the voter resides to any
25 authorized representative of the voter who through his

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1 representative has presented the written request to the office
2 of the clerk.

3 C. Before releasing the alternative ballot, the
4 county clerk shall compare the signature on the written request
5 with the signature on the voter's affidavit of registration.
6 If the county clerk determines that the signature on the
7 written request is not the signature of the voter, he shall
8 reject the request for an alternative ballot.

9 D. The voter shall mark the alternative ballot, place
10 it in an identification envelope similar to that used for
11 absentee ballots, fill out and sign the envelope and return the
12 ballot to the office of the clerk of the county in which the
13 voter resides no later than the time of closing of the polls on
14 election day. The voter's name shall be compared to the roster
15 of voters and the alternative ballot shall only be counted if
16 there is no signature for that voter on the roster of the
17 precinct where that voter's name appears.

18 E. Alternative ballots shall be processed and counted
19 in the same manner as absentee ballots.

20 F. The secretary of state shall prescribe the form of
21 alternative ballots and shall distribute an appropriate number
22 of alternative ballots to each county clerk. "

23 Section 20. Section 1-6-17 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 142) is amended to read:

25 "1-6-17. CANCELLATION OF ABSENTEE BALLOT AT DEATH. -- If any

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1 person voting under the provisions of the Absent Voter Act dies
2 after mailing or delivering his absentee ballot to the county
3 clerk but before the absentee ballot is ~~[delivered to the~~
4 ~~deceased person's precinct board, his]~~ counted, the official
5 outer envelope shall be marked "[~~cancelled by board of~~
6 ~~registration]~~ canceled" and preserved by the county clerk in
7 the same manner as provided for other uncast ballots in
8 Subsection B of Section [3-6-10B NMSA 1953] 1-6-10 NMSA 1978."

9 Section 21. Section 1-6-21 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 93, as amended) is amended to read:

11 "1-6-21. CONSOLIDATION OF ABSENT VOTER PRECINCTS. -- Absent
12 voter precincts may be consolidated [if] by the governing
13 authority if it deems it desirable and so directs by
14 resolution. "

15 Section 22. Section 1-6-23 NMSA 1978 (being Laws 1975,
16 Chapter 255, Section 95, as amended) is amended to read:

17 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE-- HOURS ON
18 ELECTION DAY. -- The county clerk shall determine the hours [in]
19 during which the absent voter precinct polling place shall be
20 open for delivery and counting of ballots [~~shall be set by the~~
21 ~~county clerk or statutorily appointed supervisor of the~~
22 ~~election]~~. "

23 Section 23. Section 1-6-24 NMSA 1978 (being Laws 1969,
24 Chapter 54, Section 5, as amended) is amended to read:

25 "1-6-24. ABSENT VOTER PRECINCT BOARD APPOINTMENT. --

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1 A. The county clerk of each county shall appoint [~~and~~
2 ~~compensate~~] absent voter precinct board members and their
3 respective alternates for each absent voter precinct [~~in the~~
4 ~~manner specified in the Election Code for other precinct board~~
5 ~~members~~] and shall compensate them as provided in Section
6 1-2-16 NMSA 1978.

7 B. A minimum of three precinct board members shall be
8 appointed to the absent voter precinct board with no more than
9 two members belonging to the same political party. "

10 Section 24. A new section of the Absent Voter Act is
11 enacted to read:

12 "[NEW MATERIAL] SECURITY--COUNTING AND CANVASSING. --The
13 secretary of state shall adopt rules for protecting the
14 integrity, security and secrecy of the absentee ballots,
15 including procedures specifying that machines and ballot
16 containers remain locked and that ballots not be removed prior
17 to election day; procedures for voting by absentee ballot;
18 separation of absentee ballots voted on electronic voting
19 machines twenty days before the election from those received
20 through the mail; disposition of absentee ballots rejected by a
21 voting machine; handling of, counting and canvassing of
22 absentee ballots; and sorting of absentee ballots by
23 representative districts for canvassing purposes. "

24 Section 25. Section 1-8-30 NMSA 1978 (being Laws 1973,
25 Chapter 228, Section 4, as amended) is amended to read:

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1 "1-8-30. PRIMARY ELECTION LAW-DECLARATION OF CANDIDACY--
2 NOMINATING PETITION-- FILING AND FORM --

3 A. As used in the Primary Election Law, "nominating
4 petition" means the authorized form used for obtaining the
5 required number of signatures of voters, which is signed on
6 behalf of the person wishing to become a candidate for a
7 political office in the primary election requiring a nominating
8 petition.

9 B. In making a declaration of candidacy, the
10 candidate at the same time shall file a nominating petition,
11 which shall be on [~~forms~~] the form prescribed by law.

12 C. The nominating petition shall be on paper
13 approximately eight and one-half inches wide and fourteen
14 inches long with numbered lines for signatures spaced
15 approximately three-eighths of an inch apart and shall be in
16 the following form:

17 "NOMINATING PETITION

18 I, the undersigned, a registered voter of the county of
19 _____, New Mexico, and a member of the
20 _____ party, hereby nominate _____,
21 who resides at _____ in the county of
22 _____, New Mexico, for the party nomination for the
23 office of _____, to be voted for at the
24 primary election to be held on the first Tuesday of June, [19]
25 _____, and I declare that I am a resident of the state,

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1 district, county or area to be represented by the office for
2 which the person being nominated is a candidate. I also
3 declare that I have not signed, and will not sign, any
4 nominating petition for more persons than the number of
5 candidates necessary to fill such office at the next ensuing
6 general election.

- 7 1. _____
- 8 (usual (name printed (address as (city or
- 9 signature) as registered) registered) rt. no.)
- 10 2. _____
- 11 (usual (name printed (address as (city or
- 12 signature) as registered) registered) rt. no.)."

13 D. In October of odd-numbered years, the secretary of
14 state shall furnish to each county clerk a sample of a
15 nominating petition form, a copy of which shall be made
16 available by the county clerk upon request of any candidate.

17 ~~[E. The signature of the voter shall not be counted~~
18 ~~unless the voter was a registered member of the candidate's~~
19 ~~party ten days prior to the filing of the nominating petition.~~
20 ~~The signature of the voter shall not be counted unless the~~
21 ~~entire line indicates the voter's usual signature, his name~~
22 ~~printed as registered and his address as registered and his~~
23 ~~city or route number and is upon the form furnished by the~~
24 ~~secretary of state to the county clerks or a duplicate thereof.~~

25 F.] E. When more than one sheet is required for a

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1 petition, each of the sheets shall be in the form prescribed by
2 this section and all sheets shall be firmly secured by a staple
3 or other suitable fastening. "

4 Section 26. Section 1-8-31 NMSA 1978 (being Laws 1973,
5 Chapter 228, Section 5, as amended by Laws 1993, Chapter 314,
6 Section 47 and also by Laws 1993, Chapter 316, Section 47) is
7 amended to read:

8 "1-8-31. PRIMARY ELECTION LAW- -NOMINATING PETITION- -
9 SIGNATURES TO BE COUNTED. - -

10 A. [~~Each signer of~~] A person who signs a nominating
11 petition shall sign but one petition for the same office unless
12 more than one candidate is to be elected to [~~such~~] that office,
13 and in that case a person may sign not more than the number of
14 nominating petitions equal to the number of candidates to be
15 elected to the office [~~shall be signed~~].

16 B. A person who signs a nominating petition shall
17 indicate his residential address as registered; provided that
18 if the person did not register with a residential address, he
19 may indicate his mailing address as stated on his current
20 certificate of registration.

21 [~~B.-~~] C. A signature shall be counted on a nominating
22 petition unless there is evidence presented that the person
23 signing:

24 (1) [~~is not a~~] was not a registered member of the
25 candidate's political party ten days prior to the filing of the

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1 nominating petition;

2 (2) failed to provide information required by the
3 nominating petition sufficient to determine that the person is
4 a qualified voter of the state, district, county or area to be
5 represented by the office for which the person seeking the
6 nomination is a candidate;

7 [~~(2)~~] (3) has signed more than one petition for
8 the same office, except as provided in Subsection A of this
9 section, or has signed one petition more than once;

10 [~~(3)~~] (4) is not of the same political party as
11 the candidate named in the nominating petition as shown by the
12 signer's certificate of registration; or

13 [~~(4)~~] (5) is not the person whose name appears on
14 the nominating petition.

15 [~~C.~~] D. The procedures set forth in this section
16 shall be used to validate signatures on any petition required
17 by the Election Code, except that Paragraphs (1) and (4) of
18 Subsection C of this section shall not apply to petitions filed
19 by unaffiliated candidates or petitions filed by candidates of
20 minor political parties. "

21 Section 27. Section 1-8-44 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 182, as amended) is amended to read:

23 "1-8-44. PRIMARY ELECTION LAW - WITHDRAWAL OF CANDIDATES--
24 DATE OF WITHDRAWAL. -- [~~No~~] A candidate [~~shall~~] seeking to
25 withdraw from a primary election [~~unless he withdraws~~] shall

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1 withdraw no later than the first [Friday after the filing date]
2 Tuesday in April before that primary election."

3 Section 28. Section 1-8-49 NMSA 1978 (being Laws 1977,
4 Chapter 322, Section 5) is amended to read:

5 "1-8-49. INDEPENDENT CANDIDATES FOR GENERAL [OR UNITED
6 STATES REPRESENTATIVE SPECIAL] ELECTIONS- - CANDIDATES FOR
7 PRESIDENT AND VICE PRESIDENT. -- [If the person filing the
8 declaration of independent candidacy is a candidate for
9 president of the United States, he shall also file the names
10 and addresses of the required number of presidential electors
11 who intend to vote for such independent candidate in the
12 electoral college.]

13 A. Nomination as an independent candidate for
14 president or vice president shall be made by filing a
15 declaration of independent candidacy with the proper filing
16 officer. The candidate for president shall also at the same
17 time file a nominating petition with the required number of
18 signatures.

19 B. In making a declaration of independent candidacy
20 for president, the candidate shall submit a sworn statement in
21 the following form:

22 "DECLARATION OF INDEPENDENT CANDIDACY FOR PRESIDENT
23 I, _____ (candidate's name), being duly
24 sworn, say that I am a citizen of the United States,
25 have been a resident of the United States for at least

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1 fourteen years and have attained the age of thirty-
2 five.

3 I desire to become a candidate for the office of
4 president of the United States at the general election
5 to be held on the date set by law for this year. I
6 will be eligible and legally qualified to hold this
7 office at the beginning of its term.

8 The name of my vice presidential running mate, whom I
9 selected, is _____. The names and addresses
10 of the required number of presidential electors who intend
11 to vote for me and for my vice presidential running mate in
12 the electoral college are:

13	_____	_____
14	<u>(name)</u>	<u>(name)</u>
15	_____	_____
16	<u>(residence address)</u>	<u>(residence address)</u>
17	_____	_____
18	<u>(mailing address)</u>	<u>(mailing address)</u>
19	_____	_____
20	<u>(city)</u>	<u>(city)</u>
21	_____	_____
22	<u>(state and zip code)</u>	<u>(state and zip code)</u>
23	_____	_____
24	<u>(name)</u>	<u>(name)</u>
25	_____	_____

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(residence address) (residence address)

(mailing address) (mailing address)

(city) (city)

(state and zip code) (state and zip code)

=====

(name)

=====

(residence address)

=====

(mailing address)

=====

(city)

=====

(state and zip code)

I submit with this statement a nominating petition
in the form and manner prescribed by the Election
Code. I make the foregoing affidavit under oath,
knowing that any false statement herein constitutes a
felony punishable in accordance with the criminal laws
of New Mexico.

=====

(declarant)

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(residence address)

(mailing address)

(city)

(state and zip code)

Subscribed and sworn to me this _____ day of

_____, _____

(year)

notary public

My commission expires:

_____".

C. In making a declaration of independent candidacy for vice president, the candidate shall submit a sworn statement in the following form:

"DECLARATION OF INDEPENDENT CANDIDACY FOR VICE PRESIDENT

I, _____ (candidate's name), being duly sworn, say that I am a citizen of the United States, have been a resident of the United States for at least fourteen years and have attained the age of thirty-five.

I have been selected by independent presidential candidate _____ as his vice presidential running

1 mate and desire to be that candidate for vice president.
2 I will be eligible and legally qualified to hold this
3 office at the beginning of its term.

4 I make the foregoing affidavit under oath, knowing
5 that any false statement herein constitutes a felony
6 punishable in accordance with the criminal laws of New
7 Mexico.

8 _____
9 (declarant)

10 _____
11 (residence address)

12 _____
13 (mailing address)

14 _____
15 (city)

16 _____
17 (state and zip code)

18 Subscribed and sworn to me this _____ day of

19 _____,

20 (year)

21 _____

22 notary public

23 My commission expires:

24 _____".

25 D. The independent presidential electors whom the

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1 independent candidate for president is required to name shall be
2 registered voters of New Mexico; they may or may not be affiliated
3 with a political party in New Mexico. United States senators,
4 United States representatives and persons holding federal offices
5 of trust or profit are not eligible to be electors.

6 E. When independent candidates for president and vice
7 president appear on the general election ballot, a vote for that
8 pair of nominees is a vote for that presidential candidate's
9 electors.

10 F. If the independent candidates for president and vice
11 president receive the highest number of votes at the general
12 election, the independent presidential candidate's electors shall
13 be the presidential electors of the state of New Mexico. As such,
14 each elector shall be granted a certificate of election by the
15 state canvassing board, and each elector shall be subject to the
16 provisions of Sections 1-15-5 through 1-15-10 NMSA 1978. "

17 Section 29. Section 1-8-50 NMSA 1978 (being Laws 1977,
18 Chapter 322, Section 6) is amended to read:

19 "1-8-50. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES
20 REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITION FORM --

21 A. As used in Sections [~~3-8-27.1 through 3-8-27.8 NMSA~~
22 ~~1953]~~ 1-8-45 through 1-8-52 NMSA 1978, "nominating petition" means
23 the authorized form [~~or forms~~] used for obtaining the required
24 number of signatures of voters [~~which~~] that is signed on behalf of
25 the person wishing to become an independent candidate for a

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1 political office in a general or United States representative
2 special election requiring a nominating petition.

3 B. In making a declaration of candidacy, the candidate
4 shall file a nominating petition at the same time, which shall be
5 on forms prescribed by law.

6 ~~[B.]~~ C. The nominating petition for an independent
7 candidate for any office except president of the United States
8 shall be on paper approximately eight and one-half inches wide and
9 fourteen inches long with numbered lines for signatures spaced
10 approximately three-eighths of an inch apart and shall be in the
11 following form:

12 "NOMINATING PETITION FOR INDEPENDENT CANDIDACY
13 FOR ANY OFFICE EXCEPT PRESIDENT OF THE UNITED STATES

14 I, the undersigned, a registered voter of the
15 county of _____, New Mexico, hereby
16 nominate _____, who
17 resides at _____ in the county of
18 _____, New Mexico, as an independent candidate
19 for the office of _____, to be voted
20 for at the general election [~~United States~~
21 ~~representative special election~~] to be held on November
22 _____, [19] _____, or United States representative
23 special election to be held on

24 _____,
25 (month) (day) (year)

underscored material = new
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1 and I declare that I am a resident of the state,
2 district, county or area to be represented by the office
3 for which the person being nominated is a candidate. I
4 also declare that I have not signed, and will not sign,
5 any nominating petition for more persons than the number
6 of candidates necessary to fill [~~such~~] the office at the
7 next ensuing general election or at a United States
8 representative special election.

- 9 1. _____
- 10 (usual (name printed (address as (city)
- 11 signature) as registered) registered)
- 12 2. _____
- 13 (usual (name printed (address as (city). "
- 14 signature) as registered) registered)

15 D. The nominating petition for an independent
16 candidate for the office of president of the United States
17 shall be on paper approximately eight and one-half inches
18 wide and fourteen inches long with numbered lines for
19 signatures spaced approximately three-eighths of an inch
20 apart and shall be in the following form:

21 "NOMINATING PETITION FOR INDEPENDENT CANDIDACY
22 FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES

23 I, the undersigned, a registered voter of the
24 county of _____, New Mexico, by endorsement
25 hereon, petition that the name of _____

1 be printed on the general election ballot as an
2 independent candidate for the office of president of
3 the United States, to be voted on at the general
4 election to be held on November __, __. I also
5 declare that I am that person whose name appears
6 hereon and that I have not signed, nor will I sign,
7 any nominating petition for any other candidate
8 seeking the office of president of the United States
9 at the next ensuing general election."

10 [C.] E. The secretary of state shall
11 furnish to each county clerk a sample of the
12 nominating petition form, a copy of which shall be
13 made available by the county clerk upon request of
14 any candidate as provided by the Election Code.

15 ~~[D. The signature of the voter shall not be counted~~
16 ~~unless the entire line is filled out in full and is upon the~~
17 ~~form prescribed by this section.~~

18 E.] F. When more than one sheet is required for a
19 petition, each of the sheets shall be in the form prescribed
20 by this section, and all sheets shall be firmly secured by a
21 staple or other suitable fastening. "

22 Section 30. Section 1-12-7 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 246, as amended by Laws 1993, Chapter
24 314, Section 54 and also by Laws 1993, Chapter 316, Section
25 54) is amended to read:

. 127051. 1

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[bracketed material] = delete

1 "1-12-7. CONDUCT OF ELECTION-- PERSONS NOT PERMITTED TO
2 VOTE. --

3 A. No person shall vote in any primary, general or
4 statewide special election unless he is a voter of the
5 precinct in which he offers to vote. A valid original
6 certificate of registration in the county register is prima
7 facie evidence of being a voter in the precinct.

8 B. No person shall vote in any primary election
9 whose party affiliation is not designated on his original
10 certificate of registration.

11 C. No ~~[voter]~~ person at any primary election shall
12 be permitted to vote for the candidate of any party other
13 than the party designated on his ~~[original]~~ current
14 certificate of registration ~~[at the time the governor issues~~
15 ~~the primary election proclamation.]~~

16 ~~D. No person shall vote in any primary, general or~~
17 ~~statewide special election whose name and certificate of~~
18 ~~registration number appears on the list of voters purged from~~
19 ~~the rolls. The list shall be placed with the signature~~
20 ~~rosters and delivered to the polls with the other election~~
21 ~~supplies by the county clerk and shall consist of those~~
22 ~~voters in the precinct purged since the last preceding~~
23 ~~general election]. "~~

24 Section 31. Section 1-15-23 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 373) is amended to read:

. 127051. 1

underscored material = new
[bracketed material] = delete

1 "1-15-23. EXPIRING TERM AND [~~NEXT~~] SUCCEEDING TERM -
2 BALLOT--WRITE-IN. --

3 A. If the same individual is a candidate at a
4 general election for both the expiring term and the [~~next~~]
5 succeeding term, his name shall appear but once on the
6 ballot, and the name of the office, followed by the words,
7 "full and expiring terms".

8 B. Provisions shall be made in the general election
9 to permit any voter to write in a separate name for the
10 expiring term and a separate name for the next succeeding
11 term. A voter may write in the name of any candidate he
12 chooses for either term, and such vote shall be valid and
13 counted even though the candidate's name is printed on the
14 paper ballot or ballot label. "

15 Section 32. Section 1-22-2 NMSA 1978 (being Laws 1985,
16 Chapter 168, Section 4, as amended) is amended to read:

17 "1-22-2. DEFINITIONS. --As used in the School Election
18 Law:

19 A. "board" means the governing authority of the
20 local school district;

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

23 C. "proper filing officer" means the county clerk
24 or, in the case of a multicounty school district, the clerk
25 of the county in which the administrative office of the

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1 school district is situate;

2 D. "magistrate" means the magistrate whose office
3 is situated in the municipality where the administrative
4 office of the school district is located or in close
5 proximity to the municipality;

6 E. "school district election" means [~~any~~] a regular
7 or special school district election [~~except~~] but does not
8 include a recall election; and

9 F. "superintendent" means the superintendent of
10 schools of the local school district. "

11 Section 33. Section 1-22-7 NMSA 1978 (being Laws 1985,
12 Chapter 168, Section 9) is amended to read:

13 "1-22-7. DECLARATION OF CANDIDACY-- FILING DATE--
14 PENALTY. --

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

23 B. [~~A declaration of candidacy for membership on~~
24 ~~the board to~~] A candidate for a school board position that
25 will be filled at a special school district election shall

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1 ~~[be filed]~~ file a declaration of candidacy with the proper
2 filing officer during the period commencing at 9:00 a. m. on
3 the forty-eighth day before the election and ending at 5:00
4 p. m. on the same day.

5 C. ~~[Any person knowingly making]~~ A candidate shall
6 file for only one school board position during a filing
7 period.

8 D. A person who knowingly makes a false statement
9 in his declaration of candidacy is guilty of a fourth degree
10 felony and shall be sentenced pursuant to the provisions of
11 Section 31-18-15 NMSA 1978. "

12 Section 34. Section 1-22-19 NMSA 1978 (being Laws 1985,
13 Chapter 168, Section 21, as amended) is amended to read:

14 "1-22-19. ABSENTEE VOTING. --

15 A. ~~[Any registered qualified elector of the school~~
16 ~~district who cannot be present at his precinct polling place~~
17 ~~on the day of the school district election because of~~
18 ~~illness, injury or disability; who will be absent from his~~
19 ~~school district of residence because his duties, occupation,~~
20 ~~business or vacation requires him to be elsewhere; or who~~
21 ~~cannot attend his precinct polling place because of the~~
22 ~~tenets of his religion]~~ A voter may vote in a school district
23 election by absentee ballot for all candidates and on all
24 questions appearing on the ballot ~~[at the election]~~ in his
25 precinct as if he were ~~[able to cast]~~ casting his ballot in

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1 person at the [~~precinct~~] polling place on election day.

2 B. The provisions of the Absent Voter Act of the
3 Election Code apply to absentee voting in school district
4 elections, provided that absentee ballots may be marked in
5 person during the regular hours and days of business at the
6 county clerk's office from 8:00 a.m. on the twenty-fifth day
7 preceding the election until 5:00 p.m. on the Friday
8 immediately prior to the date of the election. Absentee
9 ballots shall be printed at least thirty days prior to the
10 date of the election. Provisions may be made by the board in
11 the proclamation for absentee voting by electronic voting
12 machine from 8:00 a.m. on the twentieth day preceding an
13 election until 5:00 p.m. on the Friday immediately prior to
14 the date of the election.

15 C. A regular precinct board may be designated to
16 serve as the absent voter precinct board. [~~Members~~] A member
17 of the absent voter precinct board shall receive the same
18 compensation as [~~other~~] a regular precinct board [~~members,~~
19 ~~but in no case shall~~] member. A regular precinct board
20 member who also serves as a member of the absent voter
21 precinct board shall not be entitled to extra compensation
22 for serving on [~~the absent voter precinct~~] more than one
23 board. "

24 Section 35. REPEAL. -- Sections 1-6-5.2 and 1-6A-1 through
25 1-6A-12 NMSA 1978 (being Laws 1991, Chapter 105, Section 11,
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1 Laws 1993, Chapter 37, Sections 1 through 9 and Laws 1995,
2 Chapter 165, Sections 4 through 6, as amended) are repealed.

3 Section 36. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect
5 immediately.

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1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSI ON, 1999

3
4
5 March 6, 1999

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7 Mr. Presi dent:

8
9 Your RULES COMMITTEE, to whom has been referred

10
11 SENATE BILL 668

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 JUDICIARY COMMITTEE.
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18 Respectfully submit ted,

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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

4

5

6 Date _____

7

8

9 The roll call vote was 5 For 0 Against

10 Yes: 5

11 No: 0

12 Excused: Altamirano, Campos, Romero

13 Absent: None

14

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16 S0668RU1

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