

1 SENATE BILL 617

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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9  
10 AN ACT

11 RELATING TO ELECTIONS; PROHIBITING PROXY VOTING; ALLOWING USE  
12 OF COUNTY CLERK EMPLOYEES AS ELECTION CLERKS; REQUIRING  
13 SUFFICIENT STAFF AND EQUIPMENT AT POLLING LOCATIONS; SETTING,  
14 CLARIFYING AND STANDARDIZING PROCESSES, DATES AND DEADLINES;  
15 PROVIDING DEFINITIONS; ALLOWING ACCESS BY COUNTY CLERKS TO THE  
16 DRIVER'S LICENSE DATABASE; PERMITTING PARTY COMMITTEE  
17 APPOINTMENTS ACCORDING TO PARTY RULES; PRESCRIBING THE ORDER OF  
18 OFFICES ON THE BALLOT; EXEMPTING CERTAIN VOTING RECORDS FROM  
19 THE 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 clerk employees may be appointed to  
2                   assist 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 primary or  
19 general 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. A new section of Chapter 1, Article 3 NMSA  
4 1978 is enacted to read:

5 "[NEW MATERIAL] ELECTION-DAY POLLING PLACES--ADEQUATE  
6 RESOURCES.--

7 A. Each election-day polling place in a primary or  
8 general election that does not contain mail ballot election  
9 precincts or precincts consolidated pursuant to Section 1-3-4  
10 NMSA 1978 shall comply with the requirements for polling places  
11 and precincts as provided in Subsections B and C of this  
12 section, unless the county clerk receives a written waiver from  
13 the secretary of state specifying the location and specific  
14 provision being waived.

15 B. Each polling place shall:

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

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

21 C. Each precinct polling place located within a  
22 single polling place shall have:

23 (1) a separate precinct board and signature  
24 roster for the precinct;

25 (2) at least one optical scan tabulator for

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1 the precinct; and

2 (3) sufficient spaces for at least five voters  
3 to simultaneously and privately mark their ballots, with at  
4 least one of those spaces wheelchair-accessible, for the  
5 precinct."

6 SECTION 7. Section 1-4-5 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 63, as amended) is amended to read:

8 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF  
9 INFORMATION--PENALTY.--

10 A. A qualified elector may apply to a registration  
11 officer or agent for registration.

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

16 (1) a number traceable to the registration  
17 agent or officer;

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

24 (3) a toll-free number for the office of the  
25 county clerk and an address for the web site of the secretary

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1 of state.

2 C. The qualified elector shall subscribe a  
3 certificate of registration as follows:

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

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

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

20 ~~[E. Only when the certificate of registration is~~  
21 ~~properly filled out, subscribed 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 shall it constitute an official public record of the~~  
25 ~~registration of the qualified elector.]~~ It is unlawful for the

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1 qualified elector's month and day of birth or any portion of  
2 the qualified elector's social security number required on the  
3 certificate of registration to be copied, conveyed or used by  
4 anyone other than the person registering to vote, either before  
5 or after it is filed with the county clerk, and by elections  
6 administrators in their official capacity.

7 ~~[F-]~~ E. A person who unlawfully copies, conveys or  
8 uses information from a certificate of registration is guilty  
9 of a fourth degree felony."

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

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

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

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

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

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

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

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

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

23           H. Only when the certificate of registration is  
24 properly filled out, signed by the qualified elector and  
25 accepted for filing by the county clerk as evidenced by the

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1 county clerk's signature or stamp and the date of acceptance  
2 thereon [~~and when notice has been received by the registrant~~]  
3 shall it constitute an official public record of the  
4 registration of the qualified elector. A qualified elector  
5 complies with a voter registration deadline established in the  
6 Election Code when a properly filled-out voter registration  
7 certificate has been received by a county clerk or the  
8 secretary of state, regardless of the date the certificate is  
9 processed.

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

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

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

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

4 (4) a statement informing the applicant that:

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

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

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

20 SECTION 9. Section 1-4-5.5 NMSA 1978 (being Laws 1975,  
21 Chapter 255, Section 78, as amended) is amended to read:

22 "1-4-5.5. REQUESTS FOR VOTER DATA, MAILING LABELS OR  
23 SPECIAL VOTER LISTS.--

24 A. The county clerk or secretary of state shall  
25 furnish voter data, mailing labels or special voter lists only

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1 upon written request to the county clerk or the secretary of  
2 state and after compliance with the requirements of this  
3 section; provided, however, all requesters shall be treated  
4 equally in regard to the charges and the furnishing of the  
5 materials.

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

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

17 D. The secretary of state shall prescribe the form  
18 of the affidavit.

19 E. As used in this section:

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

23 (2) "governmental purposes" means  
24 noncommercial purposes relating in any way to the structure,  
25 operation or decision-making of a federal, state or local

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1 government;

2 (3) "mailing labels" means prepared mailing  
3 labels of selected voters arranged in the order in which  
4 requested and providing only the name and address of the voter;

5 (4) "special voter list" means a prepared list  
6 of selected voters arranged in the order in which requested;  
7 and

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

10 SECTION 10. Section 1-4-11 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 67, as amended) is amended to read:

12 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF  
13 CERTIFICATES.--

14 A. Upon receipt of a complete certificate of  
15 registration, if the certificate of registration is in proper  
16 form, the county clerk shall determine if the qualified elector  
17 applying for registration is already registered in the  
18 registration records of the county. If the qualified elector  
19 is not already registered in the county and if the certificate  
20 of registration is received within the time allowed by law for  
21 filing certificates of registration in the county clerk's  
22 office, the county clerk shall sign or stamp, in the space  
23 provided therefor on each copy of the certificate, the  
24 qualified elector's name and the date the certificate was  
25 accepted for filing in the county registration records. Voter

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1 information shall be handed or mailed immediately to the  
2 qualified elector and to no other person.

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

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

23 [~~G.~~] D. If the qualified elector does not register  
24 in person, indicates that the qualified elector has not  
25 previously voted in a general election in New Mexico and does

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1 not provide the registration officer with the required  
2 identification, the registration officer shall indicate this on  
3 the qualified elector's certificate of registration and the  
4 county clerk shall note this on the appropriate precinct  
5 signature roster."

6 SECTION 11. Section 1-4-12 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 68, as amended) is amended to read:

8 "1-4-12. DUTIES OF COUNTY CLERK--FILING OF  
9 CERTIFICATES.--

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

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

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

17 B. The county clerk shall, on Monday of each week,  
18 process all certificates of registration that are in proper  
19 form and that were received in [~~his~~] the county clerk's office  
20 up to 5:00 p.m. on the preceding Friday. The county clerk  
21 shall not process certificates of registration when the  
22 registration books are closed pursuant to Section 1-4-8 NMSA  
23 1978, during the county canvass or during the period of time  
24 following the county canvass when voter credit is entered into  
25 the voter registration electronic management system, provided

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1 such credit is entered for all voters no later than forty-five  
2 days following an election.

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

6 SECTION 12. Section 1-5-1 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 103, as amended) is amended to read:

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

11 SECTION 13. Section 1-5-14 NMSA 1978 (being Laws 1969,  
12 Chapter 240, Section 118, as amended) is amended to read:

13 "1-5-14. FILE MAINTENANCE ~~[LISTS]~~ REPORTS--VOTER FILE  
14 UPDATES.--

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

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

25 C. ~~[The county clerk shall also furnish copies of~~

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

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

17 SECTION 14. Section 1-5-31 NMSA 1978 (being Laws 1989,  
18 Chapter 298, Section 2, as amended) is amended to read:

19 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary  
20 of state shall:

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

24 B. provide to each county clerk the computer  
25 software necessary for the use and maintenance of the

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1 ~~[statewide computerized]~~ voter registration electronic  
2 management system; ~~[and]~~

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

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

15 SECTION 15. Section 1-6-22.1 NMSA 1978 (being Laws  
16 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274,  
17 Section 1, as amended) is amended to read:

18 "1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING  
19 IN LIEU OF POLLING PLACE.--

20 A. Notwithstanding the provisions of Sections  
21 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in  
22 November of each odd-numbered year, a board of county  
23 commissioners may designate a precinct as a mail ballot  
24 election precinct if, upon a written request of the county  
25 clerk, it finds that the precinct has fewer than one hundred

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1 voters and the nearest polling place for an adjoining precinct  
2 is more than twenty miles driving distance from the boundary  
3 for the precinct in question.

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

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1 absentee ballot, which will be counted upon confirmation that  
2 the voter has not returned the absentee ballot.

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

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

14 SECTION 16. 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 17. 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 18.** 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 19.** 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 20.** Section 1-8-26 NMSA 1978 (being Laws 1975,  
13 Chapter 295, Section 12, as amended by Laws 2014, Chapter 40,  
14 Section 5 and by Laws 2014, Chapter 81, Section 5) is amended  
15 to read:

16           "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS  
17 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

18           A. Declarations of candidacy by preprimary  
19 convention designation for any statewide office or for the  
20 office of United States representative shall be filed with the  
21 proper filing officer on the first Tuesday in February of each  
22 even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

23           B. Declarations of candidacy for any other office  
24 to be nominated in the primary election shall be filed with  
25 the proper filing officer on the second Tuesday of March of

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1 each even-numbered year between the hours of 9:00 a.m. and  
2 5:00 p.m.

3 C. Certificates of designation shall be submitted  
4 to the secretary of state on the first Tuesday following the  
5 preprimary convention at which the candidate's designation  
6 took place between the hours of 9:00 a.m. and 5:00 p.m.

7 D. Declarations of candidacy for retention for  
8 all affected judicial offices shall be filed with the proper  
9 filing officer between the hours of 9:00 a.m. and 5:00 p.m.  
10 on the [~~second Tuesday in March of each even-numbered year~~]  
11 twenty-third day after the primary election.

12 E. No candidate's name shall be placed on the  
13 ballot until the candidate has been notified in writing by  
14 the proper filing officer that the declaration of candidacy,  
15 the petition, if required, and the certificate of  
16 registration of the candidate on file are in proper order and  
17 that the candidate, based on those documents, is qualified to  
18 have the candidate's name placed on the ballot. The proper  
19 filing officer shall mail the notice no later than 5:00 p.m.  
20 on the Tuesday following the filing date.

21 F. If a candidate is notified by the proper  
22 filing officer that the candidate is not qualified to have  
23 the candidate's name appear on the ballot, the candidate may  
24 challenge that decision by filing a petition with the  
25 district court within ten days of the notification. The

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1 district court shall hear and render a decision on the matter  
2 within ten days after the petition is filed. The decision of  
3 the district court may be appealed to the supreme court  
4 within five days after the decision is rendered. The supreme  
5 court shall hear and render a decision on the appeal  
6 forthwith."

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

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

11 A. Certified voting systems shall be used in all  
12 polling locations in all statewide elections.

13 B. The secretary of state shall provide to the  
14 county clerk of each county at least one [~~voting system~~]  
15 optical scan tabulator for use in each polling location in  
16 the general and primary elections. At the request of a  
17 county clerk, the secretary of state shall provide additional  
18 optical scan tabulators for use in a polling place to  
19 accommodate the anticipated number of voters in that polling  
20 place and to preserve the secrecy of the ballot. The request  
21 shall be made no later than the first Monday in August of  
22 each odd-numbered year.

23 C. The secretary of state shall provide to the  
24 county clerk of each county a sufficient number of check-in  
25 stations for use in each polling location in the primary and

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1 general elections when electronic rosters or their  
2 equivalents are used. The number of check-in stations at a  
3 polling location shall be capable of accommodating the number  
4 of voters who appeared to vote in person on election day from  
5 the precincts represented in a consolidated precinct in the  
6 same election held four years earlier or the number of voters  
7 who actually voted in that polling location four years  
8 earlier, whichever is greater; provided that no polling  
9 location shall be provided fewer than two check-in stations.  
10 No later than the last Tuesday in June of each odd-numbered  
11 year, the secretary of state shall determine how many voters  
12 a check-in station can accommodate in a day and develop a  
13 formula so that a check-in station is in use no more than  
14 seventy-five percent of the time. No later than the first  
15 Monday in August of the odd-numbered year, the county clerk  
16 in each county shall provide to the secretary of state the  
17 number of check-in stations required per polling location  
18 based on the formula provided by the secretary of state.  
19 Nothing in this section prohibits the board of county  
20 commissioners from acquiring additional check-in stations for  
21 use in an election, in addition to those provided by the  
22 secretary of state.

23           ~~[G.]~~ D. The county clerk shall ensure that an  
24 adequate number of voting booths are provided to ensure that  
25 voters in each polling location may cast their ballots in

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1 secret."

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

4 "1-9-7. VOTING SYSTEMS--ACQUISITION.--

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

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

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

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1           D. Except for intercounty acquisitions of  
2 equipment approved by the secretary of state, a previously  
3 owned voting system shall have a warranty equal to the  
4 warranty required of a new voting system."

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

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

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

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- 1 K. county treasurer;
- 2 L. county assessor;
- 3 M. county sheriff;
- 4 N. probate judge; and
- 5 O. ~~[other issues as]~~ in the order prescribed by

6 the secretary of state:

- 7 (1) judicial offices in retention
- 8 elections;
- 9 (2) local government ballot questions
- 10 authorized by the board of county commissioners; and
- 11 (3) other questions prescribed by the
- 12 secretary of state."

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

15 "1-10-10. BALLOTS--SAMPLE.--

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

22 B. The sample ballots shall be the same in all  
23 respects as the official ballots, except that, if printed,  
24 they shall be printed on colored paper and shall not contain  
25 the facsimile signature of the county clerk or any

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1 endorsement on the back thereof. Each sample ballot shall be  
2 marked in large black capital letters, "SAMPLE BALLOT".

3 C. Printed sample ballots shall be made available  
4 in reasonable quantities to all interested persons [~~for~~  
5 ~~distribution to the voters within the appropriate precincts.~~

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

10 SECTION 25. Section 1-12-7.1 NMSA 1978 (being Laws  
11 1969, Chapter 240, Section 112, as amended) is amended to  
12 read:

13 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF  
14 VOTERS--USE DURING ELECTION.--

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

24 B. At each polling location where physical  
25 rosters are used, the presiding judge of the precinct board

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1 shall assign one judge or election clerk of the board to be  
2 in charge of one copy of the checklist of voters, which shall  
3 be used to confirm the registration and voting of each person  
4 offering to vote.

5 C. The presiding judge of the precinct board  
6 shall assign one judge or election clerk to be in charge of  
7 the signature roster.

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

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1 identification is provided, the voter's provisional paper  
2 ballot shall be qualified and the voter shall not vote on any  
3 other type of ballot.

4 E. The judge or election clerk shall locate [~~that~~  
5 ~~list number and~~] the name on the signature roster and shall  
6 require the voter to sign the voter's usual signature or, if  
7 unable to write, to make the voter's mark opposite the  
8 voter's printed name. If the voter makes the voter's mark,  
9 it shall be witnessed by one of the judges or election clerks  
10 of the precinct board.

11 F. If the signature roster indicates that the  
12 voter is required to present a physical form of  
13 identification before voting, the judge or election clerk  
14 shall ask the voter for the required physical form of  
15 identification. If the voter does not provide the required  
16 identification, the voter shall be allowed to vote on a  
17 provisional paper ballot; provided, however, that if the  
18 voter brings the required physical form of identification to  
19 the polling place after casting a provisional paper ballot,  
20 that ballot shall be qualified. [~~and the voter shall not~~  
21 ~~vote on any other type of ballot.~~

22 F.] G. The judge or election clerk shall follow  
23 the procedures provided for in Sections 1-12-7.2 and 1-12-8  
24 NMSA 1978 if a person whose name does not appear on the  
25 signature roster requests to vote or a person is required to

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1 vote on a provisional paper ballot.

2 [G-] H. A voter shall not be permitted to vote  
3 until the voter has properly signed the voter's usual  
4 signature or made the voter's mark in the signature roster."

5 SECTION 26. Section 1-12-10.1 NMSA 1978 (being Laws  
6 2003, Chapter 356, Section 2, as amended) is amended to read:

7 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING  
8 INFORMATION.--

9 A. The secretary of state shall ~~[issue rules~~  
10 ~~describing the voter information]~~ provide voting information,  
11 which the county clerks shall display, in accordance with the  
12 federal Help America Vote Act of 2002, in each polling place  
13 ~~[on election day]~~ and in each county clerk's office and  
14 ~~[alternate]~~ at any location where ~~[absentee or early]~~ voting  
15 is taking place.

16 B. The county clerk shall ensure that in each  
17 polling place ~~[shall post]~~ there is posted the phone numbers  
18 of the county clerk and the secretary of state ~~[and a map of~~  
19 ~~the precincts represented in that polling place and an~~  
20 ~~alphabetical list of the voters in each precinct represented~~  
21 ~~in that polling place]."~~

22 SECTION 27. Section 1-12-13 NMSA 1978 (being Laws 1969,  
23 Chapter 240, Section 266, as amended) is amended to read:

24 "1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO  
25 VOTER IN MARKING BALLOT.--

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1           A. When a voter who is eligible for assistance  
2 pursuant to Section 1-12-12 NMSA 1978 requires assistance in  
3 marking a ballot or using the voting system, the voter shall  
4 announce this fact before receiving the ballot or using the  
5 voting system.

6           B. The voter's request for assistance shall be  
7 noted by the voter's name in the signature roster and  
8 initialed by the presiding judge.

9           C. After noting the request for assistance in the  
10 signature roster, the voter shall be permitted assistance in  
11 marking the ballot or using the voting system as provided in  
12 Section 1-12-15 NMSA 1978.

13           D. Any person who swears falsely in order to  
14 secure assistance is guilty of [~~perjury~~] a misdemeanor."

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

17           "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST  
18 VOTER.--

19           A. In any [~~primary, general or statewide special~~]  
20 election, if a voter who has requested assistance in marking  
21 the ballot is blind, has a physical disability, has an  
22 inability to read or write or is a member of a language  
23 minority who has requested assistance pursuant to Subsection  
24 D of Section 1-12-12 NMSA 1978, the voter may be accompanied  
25 into the voting [~~machine~~] booth only by a person of the

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1 voter's own choice other than the voter's employer or an  
2 agent of that employer, an officer or agent of the voter's  
3 union or a candidate whose name appears on the ballot in this  
4 election.

5 B. The name of the person providing assistance to  
6 a voter pursuant to this section shall be recorded on the  
7 signature roster.

8 C. A person who provides assistance to a voter  
9 when the person knows the voter does not require assistance  
10 pursuant to Section 1-12-12 NMSA 1978 is guilty of a  
11 misdemeanor."

12 SECTION 29. Section 1-12-25.4 NMSA 1978 (being Laws  
13 2003, Chapter 356, Section 7, as amended) is amended to read:

14 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

15 A. Upon closing of the polls, provisional paper  
16 ballots shall be delivered to the county clerk, who shall  
17 determine if the ballots will be counted prior to  
18 certification of the election.

19 B. A provisional paper ballot shall not be  
20 counted if the registered voter did not sign either the  
21 signature roster or the ballot's envelope.

22 C. If there is no record of the voter ever having  
23 been registered in the county, the voter shall be offered the  
24 opportunity to register and the provisional paper ballot  
25 shall not be counted.

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1           D. If the voter was registered in the county, the  
2 registration was later canceled and the county clerk  
3 determines that the cancellation was in error, or that the  
4 voter's name should not have been placed on the list of  
5 voters whose registrations were to be canceled, the voter's  
6 registration shall be immediately restored and the  
7 provisional paper ballot counted.

8           E. If the county clerk determines that the  
9 cancellation was not in error, the voter shall be offered the  
10 opportunity to register at the voter's correct address, and  
11 the provisional paper ballot shall not be counted.

12           F. If the voter is a registered voter in the  
13 county, but has voted on a provisional paper ballot at a  
14 polling place other than the voter's designated polling  
15 place, the county canvassing board shall ensure that only  
16 those votes for the positions or measures for which the voter  
17 was eligible to vote are counted.

18           G. If the county clerk finds that the voter who  
19 voted on a provisional paper ballot at the polls has also  
20 voted an absentee ballot in that election, the provisional  
21 paper ballot shall not be counted.

22           H. The county canvassing board shall prepare a  
23 tally displaying the number of provisional paper ballots  
24 received, the number found valid and counted, the number  
25 rejected and not counted and the reason for not counting the

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1 ballots as part of the canvassing process and forward it to  
2 the secretary of state immediately upon certification of the  
3 election.

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

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

10 "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT  
11 BOXES AND OTHER ELECTION MATERIALS.--

12 A. The following election returns and materials  
13 shall not be placed in the ballot box and shall be returned  
14 immediately to the county clerk along with the locked ballot  
15 box:

- 16 (1) one ballot box key in an envelope
- 17 addressed to the county clerk;
- 18 (2) one signature roster;
- 19 (3) one tally sheet; and
- 20 (4) all unused election supplies not
- 21 destroyed pursuant to the Election Code. [~~and~~

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

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1            [B-] C. The election judge of the party different  
2 from that of the presiding judge shall place the other ballot  
3 box key in the envelope addressed to the district court and  
4 immediately mail it to the district court."

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

7            "1-12-69. DISPOSITION OF PAPER BALLOTS.--

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

13            B. Paper ballots marked by voters and all records  
14 related to voting in any election in which no federal  
15 candidate appears on the ballot shall be retained and  
16 preserved for forty-five days after adjournment of the state  
17 or county canvassing board, whichever is later.

18            C. In precincts where a recount or judicial  
19 inquiry or inspection of contents is sought, the county clerk  
20 shall hold ballots marked by voters and records related to  
21 voting in those precincts intact [~~subject to order of the~~  
22 ~~district court or other authority having jurisdiction of the~~  
23 ~~contest or inspection~~] until forty-five days following the  
24 recount, judicial inquiry or inspection of contents is  
25 completed, whichever is later.

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1           D. Paper ballots marked by voters and records  
2 related to voting in any election shall only be destroyed  
3 ~~[pursuant to rules promulgated]~~ using a destruction method  
4 approved by the state records ~~[center]~~ administrator for  
5 destruction of public records.

6           E. The state records ~~[center]~~ administrator is  
7 authorized to receive for storage and destruction paper  
8 ballots marked by voters and records related to voting in any  
9 election in which a federal candidate appears on the ballot.  
10 At least three days prior to sending the ballots and records  
11 to the state records ~~[center]~~ administrator, the county clerk  
12 shall notify the county chair of each political party that  
13 participated in the election. The chairs or their designees  
14 may inspect the boxes prior to their sealing for delivery.

15           F. At least three days prior to the destruction  
16 by the county clerk of paper ballots marked by voters and  
17 records related to voting, the county clerk shall notify the  
18 county chair of each political party participating in the  
19 election of the time, place and date thereof. The chair of  
20 each political party may be present or may have the chair's  
21 accredited representative present.

22           G. Paper ballots marked by voters, their  
23 digitized equivalents and records related to voting are  
24 exempt from the Inspection of Public Records Act until  
25 forty-five days following any recount, contest or other

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1 judicial inquiry or until forty-five days after adjournment  
2 of the state or county canvassing board, whichever is later.  
3 Any inspection of paper ballots marked by voters, their  
4 digitized equivalents or records related to voting shall be  
5 conducted in such a manner as to secure the secrecy of the  
6 ballot."

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

9 "1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--  
10 No municipal, school, county or special district election  
11 shall be held within [~~forty-two~~] fifty days prior to or  
12 following any statewide election. This section does not  
13 prohibit a local government ballot question authorized by the  
14 board of county commissioners from appearing on the general  
15 election ballot."

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

18 "1-13-9. POST-ELECTION DUTIES--COUNTY CANVASS--VOTING  
19 MACHINE RECHECK.--

20 A. During the official canvass of an election,  
21 the county canvassing board, upon written request of any  
22 candidate in the election or upon receipt of a written  
23 petition of twenty-five voters of the county, shall make, in  
24 the presence of the district judge, a recheck and comparison  
25 of the results shown on the official returns being canvassed

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1 with the results appearing [~~and registered~~] on the [~~counter~~  
2 ~~dials~~] alphanumeric printout of the contest, candidates and  
3 vote totals of each voting machine used in the election.

4 ~~[B. For the purpose of making the recheck and~~  
5 ~~comparison, the county canvassing board may unlock and raise~~  
6 ~~the cover of the counter compartment and check the figures~~  
7 ~~shown by the counter dials on the voting machine. At the~~  
8 ~~conclusion of the recheck and comparison, the voting machine~~  
9 ~~shall again be locked.~~

10 ~~G.]~~ B. The necessary corrections, if any, shall  
11 be made on the returns, and the results of the election, as  
12 shown by the recheck and comparison, shall be declared."

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

15 "1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING  
16 BOARD--CERTIFYING RESULTS.--

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

24 B. On the thirty-first day after any primary,  
25 general or district special election, the county canvassing

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1 board shall issue to those candidates entitled by law  
2 election certificates, or certificate of nomination in the  
3 case of the primary election, to all county officers,  
4 magistrates and to members of the legislature elected from  
5 districts wholly within the county. In addition, the county  
6 canvassing board shall declare the results, immediately after  
7 completion of the canvass, of the election and of all  
8 questions affecting only the county.

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

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

19 "1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT  
20 BOX.--Once the ballot box has been locked by the precinct  
21 board after its first count and tally, no person shall open  
22 the ballot box or remove its contents except [~~as~~] by court  
23 order or as otherwise provided by the Election Code."

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

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1 "1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING  
2 BALLOTS.--

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

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

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

19 SECTION 37. Section 1-14-6 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 339) is amended to read:

21 "1-14-6. CONTEST OF ELECTION--PRESERVATION OF BALLOTS.-  
22 -Either the contestant or contestee, within the time provided  
23 by the Election Code for the preservation of ballots, may  
24 give written notice [~~by registered mail~~] with delivery  
25 confirmation to the county clerk of those counties wherein

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1 [he] the contestant or contestee wishes the ballots preserved  
2 that a contest is pending in a designated court, and  
3 thereupon it is the duty of the county clerk to preserve the  
4 ballots of all precincts named in the notice of contest and  
5 answer until the contest has been finally determined."

6 SECTION 38. Section 1-14-13.2 NMSA 1978 (being Laws  
7 2009, Chapter 233, Section 1) is amended to read:

8 "1-14-13.2. POST-ELECTION DUTIES--VOTING SYSTEM  
9 CHECK.--

10 A. At least ninety days prior to each general  
11 election, the secretary of state shall contract with an  
12 auditor qualified by the state auditor to audit state  
13 agencies to oversee a check on the accuracy of precinct  
14 electronic vote tabulators, alternate voting location  
15 electronic vote tabulators and absent voter precinct  
16 electronic vote tabulators. The voting system check shall be  
17 conducted for all federal offices, for governor and for the  
18 statewide elective office, other than the office of the  
19 governor, for which the winning candidate won by the smallest  
20 percentage margin of all candidates for statewide office in  
21 New Mexico. The voting system check is waived for any office  
22 for which a recount is conducted.

23 B. For each selected office, the auditor shall  
24 publicly select a random sample of precincts from a pool of  
25 all precincts in the state no later than twelve days after

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1 the election. The random sample shall be chosen in a process  
2 that will ensure, with at least ninety percent probability  
3 for the selected offices, that faulty tabulators would be  
4 detected if they would change the outcome of the election for  
5 a selected office. The auditor shall select precincts  
6 starting with the statewide office with the largest winning  
7 margin and ending with the precincts for the statewide office  
8 with the smallest winning margin and then, in the same  
9 manner, select precincts from each congressional district.  
10 The size of the random sample for each office shall be  
11 determined as provided in Table 1 of this subsection. When a  
12 precinct is selected for one office, it shall be used in lieu  
13 of selecting a different precinct when selecting precincts  
14 for another office in the same congressional district, or for  
15 any statewide office. If the winning margin in none of the  
16 offices for which a voting system check is required is less  
17 than fifteen percent, a voting system check for that general  
18 election shall not be required.

19 Table 1

20 Winning margin between top	Number of precincts in the
21 two candidates for the	state to be tested for that
22 office according to the	office
23 county canvasses	
24 Percent	
25 greater than 15	no precincts for that

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1	office	
2	greater than 14	
3	but less than or equal to 15	4
4	greater than 13	
5	but less than or equal to 14	4
6	greater than 12	
7	but less than or equal to 13	5
8	greater than 11	
9	but less than or equal to 12	5
10	greater than 10	
11	but less than or equal to 11	6
12	greater than 9.0	
13	but less than or equal to 10	6
14	greater than 8.0	
15	but less than or equal to 9.0	7
16	greater than 7.0	
17	but less than or equal to 8.0	9
18	greater than 6.0	
19	but less than or equal to 7.0	10
20	greater than 5.5	
21	but less than or equal to 6.0	11
22	greater than 5.0	
23	but less than or equal to 5.5	13
24	greater than 4.5	
25	but less than or equal to 5.0	14

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1	greater than 4.0	
2	but less than or equal to 4.5	16
3	greater than 3.5	
4	but less than or equal to 4.0	18
5	greater than 3.0	
6	but less than or equal to 3.5	22
7	greater than 2.5	
8	but less than or equal to 3.0	26
9	greater than 2.0	
10	but less than or equal to 2.5	32
11	greater than 1.8	
12	but less than or equal to 2.0	37
13	greater than 1.6	
14	but less than or equal to 1.8	42
15	greater than 1.4	
16	but less than or equal to 1.6	47
17	greater than 1.2	
18	but less than or equal to 1.4	54
19	greater than 1.1	
20	but less than or equal to 1.2	59
21	greater than 1.0	
22	but less than or equal to 1.1	65
23	greater than 0.9	
24	but less than or equal to 1.0	73
25	greater than 0.8	

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1 but less than or equal to 0.9 82  
2 greater than 0.7  
3 but less than or equal to 0.8 93  
4 greater than 0.6  
5 but less than or equal to 0.7 109  
6 greater than 0.5  
7 but less than or equal to 0.6 130  
8 0.5 or less [~~automatic recount~~  
9 ~~for that office~~]  
10 165.

11 C. The auditor shall notify the appropriate  
12 county clerks of the precincts that are to be included in the  
13 voting system check upon their selection. The auditor shall  
14 direct the appropriate county clerks to open the locked  
15 ballot boxes, remove ballots from the selected precincts and  
16 compare the original machine count precinct vote totals,  
17 including early absentee and absentee by mail machine count  
18 vote totals, for candidates for offices subject to the voting  
19 system check from the selected precincts for each office with  
20 the respective vote totals of a hand recount of the paper  
21 ballots from those precincts. The county clerks shall report  
22 their results to the auditor within ten days of the notice to  
23 conduct the voting system check unless a county clerk is  
24 aware of a recount in any office that includes one or more  
25 precincts in the county, in which case the county clerk shall

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1 report the results of the post-election audit to the auditor  
2 within ten days following the conclusion of the recount.

3 D. Based on the results of the voting system  
4 check and any other auditing results, the auditor shall  
5 determine the error rate in the sample for each office. If  
6 the winning margin decreases and the error rate based on the  
7 difference between the vote totals of hand recounts of the  
8 paper ballots and the original precinct vote totals exceeds  
9 ninety percent of the winning margin for an office, another  
10 sample equal in size to the original sample shall be selected  
11 and the original precinct vote totals compared to the vote  
12 totals of hand recounts. The error rate based on the first  
13 and second sample shall be reported, and if it exceeds ninety  
14 percent of the winning margin for the office, the state  
15 canvassing board shall order that a full hand recount of the  
16 ballots for that office be conducted.

17 E. The auditor shall report the results of the  
18 voting system check to the secretary of state upon completion  
19 of the voting system check and release the results to the  
20 public.

21 F. Persons designated as county canvass observers  
22 may observe the hand recount described in Subsection C of  
23 this section. Observers shall comply with the procedures  
24 governing county canvass observers as provided in Section  
25 1-2-31 NMSA 1978.

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

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

10           SECTION 39. Section 1-14-16 NMSA 1978 (being Laws 2008,  
11 Chapter 41, Section 3) is amended to read:

12           "1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

13           A. Immediately after filing of the application  
14 for recount or recheck, or notice of an automatic recount,  
15 the appropriate canvassing board shall issue an order to the  
16 county clerk of each county where a precinct specified in the  
17 application or notice is located commanding the county clerk  
18 to convene [~~the absent voter~~] a recount precinct board at the  
19 county seat on a day specified in the order, which date shall  
20 not be more than ten days after the filing of the application  
21 for a recount or recheck or notice of an automatic recount.

22           B. Upon receipt of the order, the county clerk  
23 shall appoint a recount precinct board pursuant to the  
24 provisions of Section 1-2-12 NMSA 1978 and shall send notices  
25 [~~by registered mail~~] of the names of the recount precinct

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1 board members and the date fixed for the recount or recheck  
2 to the district judge for the county [~~the absent voter~~  
3 ~~precinct board members~~] and the county chair of each of the  
4 political parties that participated in the election for the  
5 office in question. The county clerk shall keep a log of how  
6 each person was notified and confirmation that the notice was  
7 received. Presiding judges and election judges on the  
8 recount precinct board shall be appointed from among those  
9 persons who served as precinct board members in the most  
10 recent election.

11 C. The [~~absent voter~~] recount precinct board,  
12 district judge and county clerk shall meet on the date fixed  
13 for the recount or recheck, and the ballot boxes and ballot  
14 containers or voting machines of the precincts involved in  
15 the recount or recheck shall be opened. The [~~absent voter~~]  
16 recount precinct board shall recount and retally the ballots,  
17 or recheck the votes cast on the voting machines, as the case  
18 may be, for the office in question in the presence of the  
19 county clerk, district judge [~~or person designated to act for~~  
20 ~~the district judge~~] and any other person who may desire to be  
21 present.

22 D. After completion of the recount or recheck,  
23 the [~~absent voter~~] recount precinct board shall replace the  
24 ballots in the ballot boxes and ballot containers and lock  
25 them, or the voting machines shall be locked and resealed,

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1 and the precinct board shall certify to the [~~secretary of~~  
2 ~~state~~] proper canvassing board the results of the recount or  
3 recheck. The district judge [~~or the person designated to act~~  
4 ~~for the district judge~~] and the county clerk shall also  
5 certify that the recount or recheck was made in their  
6 presence."

7 SECTION 40. Section 1-14-18 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 347, as amended) is amended to read:

9 "1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING  
10 BOARDS.--

11 A. Immediately upon receipt of the certificate of  
12 recount or recheck from all the [~~absent voter~~] recount  
13 precinct boards making a recount or recheck, the proper  
14 canvassing board shall meet and recanvass the returns for the  
15 office in question.

16 B. In making the recanvass, the proper canvassing  
17 board shall be bound by the certificates of recount or  
18 recheck from the [~~absent voter~~] recount precinct boards  
19 instead of the original returns from the precinct boards.

20 C. After the recanvass, if it appears that fraud  
21 or error has been committed sufficient to change the winner  
22 of the election, then the proper canvassing board shall  
23 revoke the certificate of nomination or election already  
24 issued to any person for that office and shall issue a  
25 certificate of nomination or election in favor of the person

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1 receiving a plurality of the votes cast at the election as  
2 shown by the recount or recheck, and such certificate shall  
3 supersede all others and entitle the holder to the same  
4 rights and privileges as if such certificate had been  
5 originally issued by the canvassing board."

6 SECTION 41. Section 1-14-19 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 348, as amended) is amended to read:

8 "1-14-19. RECOUNT--RECHECK--CANDIDATE FOR DISTRICT  
9 JUDGE.--If a recount or recheck is demanded on the election  
10 of a district judge and the judge of the district was a  
11 candidate for partisan office at the election, the chief  
12 justice of the supreme court shall designate a district judge  
13 who shall act in such proceedings."

14 SECTION 42. Section 1-14-23 NMSA 1978 (being Laws 2007,  
15 Chapter 337, Section 2) is amended to read:

16 "1-14-23. RECOUNT PROCEDURES.--

17 A. To ensure the accuracy of electronic vote  
18 tabulating systems, [~~the secretary of state shall issue rules~~  
19 ~~to implement the recount procedures provided for in~~  
20 ~~Subsections B and C of this section.~~

21 B.] in a recount, the votes from a random  
22 selection of ballots shall be tallied by hand, and the votes  
23 from the same ballots shall be tabulated by [~~an~~] the  
24 electronic vote tabulating [system] systems to be used in the  
25 recount. For statewide and federal office, the number of

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1 ballots to be tallied and tabulated shall be equal to [~~at~~  
2 ~~least~~] the greater of one hundred, or two percent, of the  
3 ballots cast in each county. For all other offices, the  
4 number of ballots to be tallied and tabulated shall be equal  
5 to the greater of one hundred, or five percent, of the  
6 ballots cast for the office, distributed by county where  
7 applicable. If more than one electronic vote tabulating  
8 system is to be used in a county, the ballots to be recounted  
9 shall be divided among the electronic vote tabulating systems  
10 to be used, and the above process shall be performed on each  
11 electronic vote tabulating system based on the number of  
12 votes to be recounted on each individual electronic vote  
13 tabulating system.

14 ~~[G. For a statewide or federal office]~~ B. If the  
15 results of the hand tally and the electronic vote tabulating  
16 system tabulation do not differ [~~by one-fourth of one percent~~  
17 ~~or less~~], the remaining ballots shall be recounted using that  
18 electronic vote tabulating [~~systems. Otherwise, the~~  
19 ~~remaining ballots shall be recounted by hand.~~

20 ~~D. For offices other than statewide or federal~~  
21 ~~offices, if the results of the hand tally and the electronic~~  
22 ~~vote tabulating system tabulation differ by the greater of~~  
23 ~~one percent or less, or two votes, the remaining ballots~~  
24 ~~shall be recounted using electronic vote tabulating systems.~~  
25 ~~Otherwise, the remaining ballots shall be recounted by hand.~~

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1           E. ~~Nothing in this section prohibits a candidate~~  
2 ~~from requesting a hand recount in accordance with the~~  
3 ~~provisions of Section 1-14-15 NMSA 1978] system.~~ If the  
4 results of the hand tally and the electronic vote tabulating  
5 system differ, the electronic vote tabulating system shall  
6 not be used in the recount and the remaining ballots shall be  
7 recounted by hand or on a different electronic vote  
8 tabulating system in which the results did not differ.

9           C. When using an electronic vote tabulating  
10 system for a recount, a county clerk may permit a visual  
11 inspection of the ballots prior to tabulation by the optical  
12 scan tabulating system for the purpose of permitting a  
13 representative of a candidate to identify individual ballots  
14 to be selected for hand tally by the precinct board."

15           SECTION 43. Section 1-14-24 NMSA 1978 (being Laws 2008,  
16 Chapter 41, Section 1) is amended to read:

17           "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND  
18 FEDERAL OFFICES--PROCEDURES.--

19           A. An automatic recount of the vote is required  
20 when the canvass of returns in a primary or general  
21 election for a federal or [state office in a primary or  
22 general election] statewide office, or a judicial office in a  
23 county with more than two hundred thousand registered  
24 qualified electors, indicates that the margin between the two  
25 candidates receiving the greatest number of votes for the

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

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

22 C. Automatic recounts shall be conducted pursuant  
23 to the recount procedures established in Sections 1-14-16 and  
24 1-14-18 through [~~1-14-22~~] 1-14-23 NMSA 1978.

25 D. For the purposes of this section, "state

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1 office" means the office of governor, lieutenant governor,  
2 state auditor, state treasurer, attorney general, secretary  
3 of state, supreme court justice, court of appeals judge,  
4 district judge, magistrate judge, public regulation  
5 commissioner, commissioner of public lands, state senator or  
6 state representative."

7 SECTION 44. Section 1-22-2 NMSA 1978 (being Laws 1985,  
8 Chapter 168, Section 4, as amended) is amended to read:

9 "1-22-2. DEFINITIONS.--As used in the School Election  
10 Law:

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

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

15 C. "proper filing officer" means the county clerk  
16 or, in the case of a multicounty school district, the clerk  
17 of the county in which the administrative office of the  
18 school district is situate;

19 D. "magistrate" means the magistrate whose office  
20 is situated in the municipality where the administrative  
21 office of the school district is located or in close  
22 proximity to the municipality;

23 E. "school district election" means a regular or  
24 special school district election but does not include a  
25 recall election; and

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1 F. "superintendent" means the superintendent of  
2 schools of the ~~[local]~~ school district."

3 SECTION 45. Section 1-22-3 NMSA 1978 (being Laws 1985,  
4 Chapter 168, Section 5, as amended) is amended to read:

5 "1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF  
6 CANDIDATES.--

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

18 B. A regular school district election shall be  
19 held in each school district on the first Tuesday in February  
20 of each odd-numbered year.

21 C. ~~[A school district]~~ An election on a ballot  
22 question held at any time other than the date for the regular  
23 school district election shall be a special school district  
24 election called, conducted and canvassed as provided in the  
25 Election Code.

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1           D. Except as otherwise provided in the School  
2 Election Law, school district elections shall be called,  
3 conducted and canvassed as provided in the Election Code."

4           SECTION 46. Section 1-22-5 NMSA 1978 (being Laws 1985,  
5 Chapter 168, Section 7, as amended) is amended to read:

6           "1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

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

13           B. The proclamation shall specify:

14                   (1) the date on which the special election  
15 will be held;

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

18                   ~~(3) the date on which declarations of~~  
19 ~~candidacy are to be filed;~~

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

22                   ~~(5)]~~ (2) the questions to be submitted to  
23 the voters;

24                   ~~[(6)]~~ (3) the precincts in each county in  
25 which the election is to be held and the location of each

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1 polling place;

2 [~~(7)~~] (4) the hours each polling place will  
3 be open; and

4 [~~(8)~~] (5) the date and time of the closing  
5 of the registration books by the [~~county clerk of record~~]  
6 proper filing officer as required by law.

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

15 SECTION 47. Section 1-22-6 NMSA 1978 (being Laws 1985,  
16 Chapter 168, Section 8, as amended) is amended to read:

17 "1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

18 A. The same precincts that are used in a general  
19 election shall be used in a school district election,  
20 provided that:

21 (1) if a precinct lies partly within and  
22 partly outside of a school district, the part of the precinct  
23 lying within the school district constitutes a precinct for a  
24 school district election; and

25 (2) all of the area within the exterior

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1 boundaries of a school district may constitute one precinct  
2 for a school district election.

3 B. In the event that only one candidate has filed  
4 a declaration of candidacy for each position to be filled at  
5 an election and no declared write-in candidates have filed  
6 for any position and there are no questions or bond issues on  
7 the ballot, only one polling place for the election shall be  
8 designated and it shall be in the office of the county clerk  
9 or a designated polling place in the school district of the  
10 county in which the school district is located.

11 C. Except as otherwise provided in the School  
12 Election Law, the county clerk shall consolidate precincts  
13 for a school district election as provided in the  
14 proclamation for that election and shall provide for a  
15 polling place within each precinct or consolidated precinct.  
16 A consolidated precinct in a school district election shall  
17 be composed of no more than twenty precincts."

18 SECTION 48. Section 1-22-7 NMSA 1978 (being Laws 1985,  
19 Chapter 168, Section 9, as amended) is amended to read:

20 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--  
21 PENALTY.--

22 A. A candidate for a [~~school~~] board position that  
23 will be filled at a regular school district election shall  
24 file a declaration of candidacy with the proper filing  
25 officer during the period commencing at 9:00 a.m. on the

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1 third Tuesday in December of the even-numbered year  
2 immediately preceding the date of the regular school district  
3 election and ending at 5:00 p.m. on the same day.

4 ~~[B. A candidate for a school board position that~~  
5 ~~will be filled at a special school district election shall~~  
6 ~~file a declaration of candidacy with the proper filing~~  
7 ~~officer during the period commencing at 9:00 a.m. on the~~  
8 ~~forty-eighth day before the election and ending at 5:00 p.m.~~  
9 ~~on the same day.~~

10 ~~E.]~~ B. A candidate shall file for only one  
11 ~~[school]~~ board position during a filing period.

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

16 **SECTION 49.** Section 1-22-8 NMSA 1978 (being Laws 1985,  
17 Chapter 168, Section 10, as amended) is amended to read:

18 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF  
19 INTENT--FORM.--In making a declaration of candidacy, the  
20 candidate shall submit a sworn statement of intent in  
21 substantially the following form:

22 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

23 I, \_\_\_\_\_, (candidate's name on certificate  
24 of registration) being first duly sworn, say that I am a  
25 voter of Precinct No. \_\_\_\_\_ of the county of

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1 \_\_\_\_\_, State of New Mexico. I reside at  
2 \_\_\_\_\_  
3 and was [~~a resident~~] registered to vote at that place on the  
4 date [~~of~~] the school board's proclamation calling the  
5 election [~~for which I am a candidate~~] was filed in the office  
6 of the county clerk;

7 I am a qualified elector of the State of New Mexico  
8 residing within \_\_\_\_\_ school district;

9 I desire to become a candidate for the office of  
10 [\_\_\_\_\_] School Board Position No.  
11 \_\_\_\_\_ at the school district election to be held  
12 on the date set by law;

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

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

18 \_\_\_\_\_  
19 (Declarant)

20 \_\_\_\_\_  
21 (Mailing Address)

22 \_\_\_\_\_  
23 (Residence Address)

24 Subscribed and sworn to before me this \_\_\_\_\_ day of  
25 \_\_\_\_\_, [~~19~~] 20 \_\_\_\_\_.

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\_\_\_\_\_.

(Notary Public)

My commission expires:

\_\_\_\_\_".

SECTION 50. Section 1-22-19 NMSA 1978 (being Laws 1985, Chapter 168, Section 21, as amended) is amended to read:

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

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

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

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1 the Saturday immediately prior to the date of the election.

2 C. A regular precinct board may be designated to  
3 serve as the absent voter precinct board. A member of the  
4 absent voter precinct board shall receive the same  
5 compensation as a regular precinct board member. A regular  
6 precinct board member who also serves as a member of the  
7 absent voter precinct board shall not be entitled to extra  
8 compensation for serving on the absent voter precinct board."

9 SECTION 51. Section 22-5-3 NMSA 1978 (being Laws 1969,  
10 Chapter 103, Section 2, as amended) is amended to read:

11 "22-5-3. SCHOOL BOARD MEMBERSHIP--OPTIONAL FORM.--

12 A. The local school board of any school district  
13 in this state may by resolution provide for the local board  
14 of that district to be composed of seven qualified electors  
15 of the state who reside within the district. The resolution  
16 shall provide that the board consist of seven separate  
17 positions, and each such position shall be designated by  
18 number. Qualified electors seeking election to the school  
19 board shall file and run for only one of the numbered  
20 positions.

21 B. If the resolution provided for in this section  
22 is adopted, it shall go into effect within thirty days after  
23 its adoption unless a petition signed by the qualified  
24 electors of the school district in a number equal to twenty  
25 percent of all the voters in the district voting at the last

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1 regular school board election is presented to the local board  
2 within such thirty days asking that an election be held on  
3 the question of increasing the membership of the local board  
4 to seven members.

5 C. Upon receipt and verification of the petition,  
6 the local school board shall within thirty days call a  
7 special school election to vote upon the question of  
8 increasing the membership of the local school board in that  
9 district to seven members.

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

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

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1           SECTION 52. Section 22-5-3.1 NMSA 1978 (being Laws  
2 1981, Chapter 302, Section 1) is amended to read:

3           "22-5-3.1. LOCAL SCHOOL BOARDS--REVERSION TO FIVE  
4 MEMBERS.--

5           A. Any seven-member local school board of a  
6 school district in the state may by resolution provide for  
7 the local school board of that school district to be composed  
8 of five qualified electors of the state who reside within the  
9 school district.

10           B. If the resolution specified in Subsection A of  
11 this section is adopted, the existing local school board at  
12 the first election at which the terms of three members expire  
13 shall by lot:

14                   (1) eliminate two positions if the next  
15 succeeding election is one at which the terms of two members  
16 expire;

17                   (2) eliminate two positions if the next  
18 succeeding election is one at which the term of one member  
19 expires, and at the next election at which the terms of three  
20 members expire designate one position for a two-year term;  
21 provided that thereafter all terms shall be [~~six-year~~] four-  
22 year terms; or

23                   (3) eliminate two positions if the next  
24 succeeding election is one at which the terms of three  
25 members expire, and at the succeeding election designate one

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1 position for a two-year term; provided that thereafter all  
2 terms shall be [~~six-year~~] four-year terms.

3 C. Any resolution adopted pursuant to the  
4 provisions of this section shall be effective thirty days  
5 after its adoption unless a petition signed by the qualified  
6 electors of the school district in a number equal to at least  
7 twenty percent of all voters in the school district voting at  
8 the last regular school board election is presented to the  
9 local school board on or before the thirtieth day asking that  
10 an election be held on the question of decreasing the  
11 membership of the local school board to five members.

12 D. Upon receipt and verification of the petition,  
13 the local school board shall within thirty days call a  
14 special [~~school~~] election to vote upon the question of  
15 decreasing the membership of the local school board in that  
16 school district to five members.

17 E. If the voters of the school district approve  
18 the decrease in the local school board's membership to five  
19 members, the resolution shall be in effect, and the  
20 elimination of two members at subsequent elections as  
21 provided in Subsection B of this section shall be valid."

22 SECTION 53. Section 22-5-9 NMSA 1978 (being Laws 1967,  
23 Chapter 16, Section 32, as amended) is amended to read:

24 "22-5-9. LOCAL SCHOOL BOARD VACANCIES.--

25 A. A vacancy occurring in the membership of a

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1 local school board shall be filled at an open meeting, at  
2 which a quorum of the membership is present, by a majority  
3 vote of the remaining members appointing a qualified [~~person~~]  
4 elector to fill the vacancy.

5 B. A qualified [~~person~~] elector appointed to fill  
6 a vacancy occurring in the membership of a local school board  
7 shall hold that office until the next regular school district  
8 election when an election shall be held to fill the vacancy  
9 for the unexpired term.

10 C. If a qualified [~~person~~] elector is not  
11 appointed to fill the vacancy within forty-five days from the  
12 date the vacancy occurred, the [~~state board~~] department shall  
13 appoint a qualified [~~person~~] elector to fill the vacancy  
14 until the next regular school district election.

15 D. In the event vacancies occur in a majority of  
16 the full membership of a local school board, the [~~state~~  
17 ~~board~~] department shall appoint qualified [~~persons~~] electors  
18 to fill the vacancies. Those persons appointed shall hold  
19 office until the next regular [~~or special~~] school district  
20 election when an election shall be held to fill the vacancies  
21 for the unexpired terms."

22 SECTION 54. Section 22-7-13 NMSA 1978 (being Laws 1977,  
23 Chapter 308, Section 13, as amended) is amended to read:

24 "22-7-13. SPECIAL RECALL ELECTION.--

25 A. The date of the special recall election shall

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1 be set no later than [~~ninety~~] one hundred twenty days after  
2 the date of the determination by the county clerk but in no  
3 event shall the election be held within the period of time  
4 prohibited for local government elections pursuant to Section  
5 1-12-71 NMSA 1978.

6 B. The question to be submitted to the voters at  
7 the special recall election shall be whether [~~or not~~] the  
8 named member shall be recalled.

9 C. A special recall election may be held in  
10 conjunction with a regular or a special school district  
11 election.

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

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1 required by law.

2 E. The ballot shall be in compliance with the  
3 federal Voting Rights Act of 1965, as amended, and shall  
4 present the voter the choice of voting "for the removal of  
5 the named member" or "against the removal of the named  
6 member".

7 F. All special recall elections shall be held in  
8 compliance with the federal Voting Rights Act of 1965, as  
9 amended.

10 G. Except as otherwise provided in the Local  
11 School Board Member Recall Act, special recall elections in a  
12 school district shall be conducted as provided in the  
13 Election Code."

14 SECTION 55. Section 27-5-9 NMSA 1978 (being Laws 1965,  
15 Chapter 234, Section 9, as amended) is amended to read:

16 "27-5-9. TAX LEVIES AUTHORIZED.--

17 A. Subject to the provisions of Subsection B of  
18 this section, the board of county commissioners, upon the  
19 certification of the county as to the amount needed to  
20 provide health care to indigent residents of the county or to  
21 support the state's medicaid program, shall impose a levy  
22 against the net taxable value, as that term is defined in the  
23 Property Tax Code, of the property in the county sufficient  
24 to raise the amount certified by the county.

25 B. The question of imposing an indigent and

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1     medicaid health care levy for the purpose of the Indigent  
2     Hospital and County Health Care Act shall be submitted to the  
3     electors and voted upon as a separate question at the next  
4     subsequent general election or any special election called  
5     prior thereto for such purpose.

6             C. Upon finding by the board of county  
7     commissioners that an election will be necessary, the board  
8     of county commissioners shall meet and order an election to  
9     be held at a designated time in the county upon the question  
10    of imposing an indigent and medicaid health care levy for the  
11    purpose of the Indigent Hospital and County Health Care Act  
12    in the county. If the question is to be voted upon at a  
13    special election, the election shall be held not less than  
14    thirty nor more than fifty days after the finding, but in no  
15    event shall the election be held within [~~five~~] fifty days  
16    preceding or succeeding any general election held in the  
17    county. The order for the election shall be made a part of  
18    the official minutes of the board of county commissioners. A  
19    copy of the order shall be published in a newspaper of  
20    general circulation in the county at least fifteen days  
21    before the date set for the election, and an affidavit of  
22    publication shall be obtained. At least five days prior to  
23    the date for holding the election, the board of county  
24    commissioners shall publish in a newspaper of general  
25    circulation in the county and post in five conspicuous places

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1 in the county a notice of election, which shall be in  
2 substantially the following form:

3 "NOTICE OF ELECTION ON SPECIAL INDIGENT  
4 AND MEDICAID HEALTH CARE LEVY

5 Notice is given on the \_\_\_\_\_ day of  
6 \_\_\_\_\_, 20\_\_\_\_, there will be held in  
7 \_\_\_\_\_ county of New Mexico an election  
8 on the question of imposing an indigent and medicaid health  
9 care levy to provide health care to indigent residents of the  
10 county or to support the state's medicaid program, such levy  
11 to be made annually against the taxable value of the property  
12 in the county and limited to an amount sufficient to provide  
13 funds necessary to support the state's medicaid program or to  
14 provide health care to indigent residents of the county who  
15 do not qualify for medicaid.

16 \_\_\_\_\_  
17 Official Title of the Authority".

18 The election shall be held on the date specified in the  
19 notice and shall be, if a special election, conducted and  
20 canvassed in substantially the same manner as general  
21 elections are conducted and canvassed in the county; provided  
22 that the ballot used in any election shall be a special and  
23 separate ballot and shall be in substantially the following  
24 form:

25 "BALLOT

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1           On the question of imposing an indigent and  
2           medicaid health care levy for the purposes of the Indigent  
3           Hospital and County Health Care Act, such levy to be made  
4           annually against the taxable value of the property in  
5           \_\_\_\_\_ county of New Mexico, and limited to an  
6           amount sufficient to provide funds budgeted and certified as  
7           necessary for health care for indigent residents of the  
8           county in addition to those services provided by the state or  
9           to support the state's medicaid program:

10                   FOR THE LEVY.....\_\_\_\_\_  
11                   AGAINST THE LEVY.....\_\_\_\_\_".

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

18           E. Any board of county commissioners that has,  
19           prior to the effective date of this section, made a valid  
20           imposition of a property tax for the purpose of the Indigent  
21           Hospital and County Health Care Act shall not be required to  
22           hold an election on the existing tax, and that tax may be  
23           imposed and continue to be imposed in accordance with the  
24           provisions of law existing at the time of its imposition.  
25           However, if any such tax is not imposed in a given property

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1 tax year or if the authorization for its imposition  
2 terminates or expires, the election requirements of  
3 Subsections B and C of this section shall apply to any  
4 subsequent proposed imposition of a property tax for indigent  
5 health care for county residents or to support the state's  
6 medicaid program."

7 SECTION 56. REPEAL.--Section 1-10-11 NMSA 1978 (being  
8 Laws 1969, Chapter 240, Section 210, as amended) is repealed.

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