

FIFTY-FIFTH LEGISLATURE  
SECOND SESSION

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

February 14, 2022

Madam Chair:

I propose to the HOUSE JUDICIARY COMMITTEE the following amendments to

SENATE BILL 144, as amended

1. On page 1, line 13, before the period, insert "; ALLOWING ELECTRONIC NOMINATING PETITION SIGNATURES; CREATING A VOLUNTARY PERMANENT ABSENTEE VOTER LIST; DECLARING THE DAY OF A GENERAL ELECTION AND A REGULAR LOCAL ELECTION A SCHOOL HOLIDAY; REPEALING AND REPLACING THE REGISTRATION AT VOTING LOCATION PRIOR TO VOTING PROVISIONS; PROVIDING THAT INMATES ARE ELIGIBLE TO VOTE AND REGISTER TO VOTE UPON RELEASE AND CONFORMING A PROVISION RELATING TO RESTORATION OF RIGHTS; ENACTING A NEW SECTION RELATING TO MONITORED SECURED CONTAINERS; CLARIFYING PROCEDURES FOR THE ACCEPTANCE OF VOTED MAILED BALLOTS; ENACTING THE NATIVE AMERICAN VOTING RIGHTS ACT TO PROTECT POLLING PLACE ACCESS AND ADDRESS OTHER ELECTION ISSUES INVOLVING VOTERS ON INDIAN NATION, TRIBAL AND PUEBLO LAND; REMOVING REFERENCES TO PUBLIC REGULATION COMMISSIONER AS AN ELECTED OFFICE THROUGHOUT THE ELECTION CODE; SPECIFYING WHEN THE INSPECTION OF PUBLIC RECORDS ACT APPLIES TO DISCLOSURES PURSUANT TO THE ELECTION CODE; AMENDING AND ENACTING DEFINITIONS; CREATING AN ELECTIONS SECURITY PROGRAM; REQUIRING THE USE OF FORMS APPROVED BY THE SECRETARY OF STATE; REQUIRING SERVICE OF PROCESS ON THE SECRETARY OF STATE FOR ELECTION-RELATED LITIGATION; ADDRESSING QUALIFICATIONS OF ELECTION BOARD MEMBERS; REVISING ELECTION BOARD AND MESSENGER COMPENSATION; REQUIRING TRAINING FOR CHALLENGERS, WATCHERS AND ELECTION OBSERVERS; REQUIRING VOTER CONVENIENCE CENTERS; PROVIDING FOR A PROGRAM TO RECONCILE VOTER REGISTRATION LISTS; ALLOWING FOR AN ELECTRONIC POLL BOOK ALTERNATIVE; ADJUSTING VOTER REGISTRATION

PROCESSING PROCEDURES; AMENDING REQUIREMENTS FOR REGISTRATION AT VOTING LOCATION PRIOR TO VOTING; REVISING PROCEDURES AND REQUIREMENTS FOR MAILED BALLOTS, ABSENTEE BALLOTS AND MILITARY-OVERSEAS BALLOTS; AMENDING THE INTIMATE PARTNER VIOLENCE SURVIVOR SUFFRAGE ACT; ADJUSTING TIME FRAMES TO FILL A VACANCY ON THE GENERAL ELECTION BALLOT; REINSTATING THE PRIMARY ELECTION LAW SHORT TITLE ACT; AMENDING THE PRIMARY ELECTION LAW; REVISING REQUIREMENTS FOR NOMINATIONS AND CANDIDATES; ELIMINATING PRE-PRIMARY CONVENTION DESIGNATIONS; AMENDING VOTING SYSTEMS REQUIREMENTS; ADDRESSING BALLOT PREPARATION; ADDRESSING MAINTENANCE OF BALLOT BOXES AND MONITORED SECURED CONTAINERS; CORRECTING AND PRESCRIBING THE ORDER OF OFFICES ON BALLOTS; REQUIRING THE SENDING OF A NOTICE OF ELECTION; REQUIRING THE CERTIFICATION OF VOTING MACHINES; AMENDING THE ELECTION FUND; DIRECTING THE ESTABLISHMENT OF COUNTY ELECTION FUNDS; ADDRESSING PROVISIONAL BALLOTS; ADDRESSING THE COUNTING AND DISPOSITION OF PAPER BALLOTS; ADDRESSING POST-ELECTION DUTIES; REVISING REQUIREMENTS FOR THE IMPOUNDMENT OF BALLOTS, AUDITS AND RECOUNTS; AMENDING THE PRESIDENTIAL PRIMARY ACT; REVISING PROVISIONS RELATED TO FILLING A VACANCY IN THE OFFICE OF UNITED STATES REPRESENTATIVE; REVISING TIME FRAMES FOR REFERENDUM PETITIONS; AMENDING THE CAMPAIGN REPORTING ACT; RECOMPILING A SECTION AUTHORIZING LEGISLATIVE CAUCUS COMMITTEES INTO THE CAMPAIGN REPORTING ACT; AMENDING THE LEGISLATIVE SESSION FUNDRAISING PROHIBITION; CONFORMING THE MEANINGS OF UNLAWFUL POSSESSION OF KEYS AND UNLAWFUL POSSESSION OF ABSENTEE BALLOT; AMENDING THE CRIME OF OBSTRUCTING THE POLLING PLACE; AMENDING THE CRIME OF UNLAWFUL POSSESSION OF ALCOHOLIC LIQUORS; AMENDING THE LOCAL ELECTION ACT; AMENDING THE LOBBYIST REGULATION ACT; PROVIDING FOR THE ELECTION OF LOCAL PUBLIC BODIES AT LARGE OR FROM DISTRICTS; PROVIDING REQUIREMENTS FOR MUNICIPALITIES TO HOLD ORGANIZATIONAL MEETINGS AFTER NEW TERMS BEGIN; DIRECTING DEPOSITS INTO THE COUNTY ELECTION FUND; DIRECTING THE ESTABLISHMENT OF REQUIREMENTS FOR CLERK'S CERTIFICATES AND AUTHORIZING ADDITIONAL COMPENSATION FOR HOLDING A CERTIFICATE; AUTHORIZING TAXPAYER INFORMATION TO BE REVEALED TO THE SECRETARY OF STATE FOR PURPOSES OF MAINTAINING VOTER REGISTRATION RECORDS; AMENDING THE CONFIDENTIAL SUBSTITUTE ADDRESS ACT; MAKING TECHNICAL AND CONFORMING CHANGES; REPEALING SESSION LAWS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978".

2. On page 1, between lines 15 and 16, insert the following new sections:

.222762.1

"SECTION 1. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] REAL-TIME SYNCHRONIZATION.--As used in the Election Code, "real-time synchronization" means that the internet connection at a voting location is able to synchronize voting data with the office of the county clerk in real time."

SECTION 2. A new Section 1-1-3.4 NMSA 1978 is enacted to read:

"1-1-3.4. [NEW MATERIAL] ELECTION-RELATED ORGANIZATION--REGISTRATION REQUIRED.--An election-related organization shall register with the secretary of state at least seventy days before a regularly scheduled statewide election or forty-two days before a special election or an election to fill a vacancy in the United States house of representatives."

SECTION 3. Section 1-1-5.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 9, as amended) is amended to read:

"1-1-5.2. DEFINITION OF A VOTE--MACHINE-TABULATED--HAND-TALLIED--WRITE-IN.--

A. For a [~~paper ballot~~] candidate contest or ballot question that is machine-tabulated on a vote tabulation system certified for use in this state, a vote shall be counted if the:

(1) voter's selection of a candidate or answer to a ballot question is indicated in the voting response area of the paper ballot; and

(2) ballot is marked in accordance with the instructions for that ballot type.

B. For a [~~paper ballot~~] candidate contest or ballot question that is hand-tallied, a vote shall be counted if:

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

(2) the preferred candidate's name or answer to a ballot question is circled;

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

(4) the presiding judge and election judges hand-tallying the ballot unanimously agree that the voter's intent is clearly discernable.

C. For a [~~paper ballot that is machine-tabulated or hand-tallied and that contains~~] candidate contest in which there is a declared write-in candidate and a write-in vote is cast, the write-in vote shall be counted if the name is:

(1) the name of a declared write-in candidate for that office and position and is on the proper line provided for a write-in vote for that office and position; and

(2) written as first and last name; first name, middle name or initial and last name; one or two initials and last name; or last name alone if there is no other declared write-in candidate for the office or position that is the same or so similar as to tend to confuse the candidates' identities; provided that:

(a) when the presiding judge and election judges reviewing the write-in vote unanimously agree that the voter's intent is clearly discernable, an abbreviation, misspelling or other minor variation in the form of the name of a declared write-in candidate shall be accepted as a valid vote; and

(b) as used in this subsection, "write-in" and "written" do not include the imprinting of any name by stamp or similar method or device or the use of a stencil or a preprinted sticker or label."

**SECTION 4.** Section 1-1-7.2 NMSA 1978 (being Laws 1973, Chapter 228, Section 5, as amended) is amended to read:

"1-1-7.2. PETITIONS--NOMINATIONS--SIGNATURES TO BE COUNTED.--

A. A person who signs a nominating petition shall sign only one petition for the same office unless more than one candidate is to be elected to that office, and in that case, a person may sign

not more than the number of nominating petitions equal to the number of candidates to be elected to the office.

B. A person who signs a nominating petition shall indicate the person's registration address. If the person does not have a standard street address, the person may provide the mailing address as shown on the person's certificate of registration.

C. A signature shall be counted on a nominating petition unless there is evidence presented that the petition does not provide the information required by the nominating petition for each person signing or the person signing:

(1) is not a voter of the state, district, county or area to be represented by the office for which the person seeking the nomination is a candidate;

(2) has signed more than one petition for the same office, except as provided in Subsection A of this section, and if the person has signed more than one petition for the same office and in the same election cycle, none of the challenged signatures from that person shall count toward the total number of signatures required for any candidate for that office;

(3) has signed one petition more than once, in which case only one signature from that person shall count toward the total number of signatures required for that candidate for office;

(4) in a primary election, is not of the same political party as the candidate named in the nominating petition as shown by the signer's certificate of registration; or

(5) is not the person whose name appears on the nominating petition.

D. The procedures set forth in this section shall be used to validate signatures on any petition required by the Election Code, except that Paragraph (4) of Subsection C of this section shall not apply to petitions filed by unaffiliated candidates or petitions filed by candidates of minor political parties.

E. No later than January 1, 2023, the secretary of

state shall implement a secure internet application, in addition to the paper circulation process, to gather electronic signatures in accordance with rules developed by the secretary of state. The secure internet application shall provide for the ability to verify that a person signing the petition is a registered voter and is eligible to sign the petition for a particular candidate."

**SECTION 5.** Section 1-1-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 16, as amended) is amended to read:

"1-1-16. REGISTRATION OFFICER.--As used in the Election Code, "registration officer" means the secretary of state, a county clerk, [~~or~~] a clerk's authorized deputy, a clerk-authorized member of [~~the~~] an election board [~~of registration~~] or a state employee performing registration duties in accordance with the federal National Voter Registration Act of 1993 or Section 1-4-5.2 NMSA 1978."

**SECTION 6.** A new Section 1-1-27 NMSA 1978 is enacted to read:

"1-1-27. [NEW MATERIAL] PUBLIC RECORDS--DISCLOSURE--PROCEDURE.--

A. Where the Election Code provides for disclosure or nondisclosure of public records relating to elections, the provisions of the Election Code shall apply, and the provisions of the Inspection of Public Records Act shall not be applicable to the disclosure or nondisclosure.

B. For any public records relating to elections where the Election Code does not provide for disclosure or nondisclosure of the public records, the provisions of the Inspection of Public Records Act shall apply."

**SECTION 7.** A new section of Chapter 1, Article 2 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ELECTIONS SECURITY PROGRAM--GENERAL RESPONSIBILITIES.--

A. The secretary of state shall maintain an elections security program within the bureau of elections. The program shall have the general responsibility of advising the secretary of state,

county clerks and the voting system certification committee regarding voting system and cybersecurity requirements and ensuring their implementation and shall be the primary liaison working with federal oversight and intelligence agencies regarding elections-critical infrastructure.

B. The elections security program may conduct assessments, inspections and incident response in relation to networks and equipment deemed to be elections-critical infrastructure, both at the state and county levels.

C. The elections security program shall monitor the functionality of voting systems certified for use in the state to ensure compliance with the security requirements provided for in Chapter 1, Article 9 NMSA 1978 and administrative rules adopted pursuant to that article.

D. Documents and communications related to election security or that could put elections-critical infrastructure at risk are exempt from disclosure.

E. As used in this section, "elections-critical infrastructure" means those assets, systems and networks, whether physical or virtual, that are considered so vital to elections in this state that their infiltration, incapacitation or destruction would have a debilitating effect on the administration of elections, the secrecy of the ballot and the efficient reporting of accurate results for any election conducted pursuant to the Election Code."

**SECTION 8.** Section 1-2-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 22, as amended) is amended to read:

"1-2-1. SECRETARY OF STATE--CHIEF ELECTION OFFICER--RULES.--

A. The secretary of state is the chief election officer of the state.

B. The secretary of state shall:

(1) obtain and maintain uniformity in the application, operation and interpretation of the Election Code; and

(2) subject to the State Rules Act, make rules pursuant to the provisions of, and necessary to carry out the purposes of, the Election Code and shall furnish to the county clerks copies of such rules; provided that no rule is adopted or amended within the sixty-three days before a primary or a general election.

C. No forms or procedures shall be used in any election held pursuant to the Election Code without prior approval of the secretary of state. If a form is authorized or required by the Election Code and issued or approved by the secretary of state, only the form issued or approved by the secretary may be used."

**SECTION 9.** A new Section 1-2-1.2 NMSA 1978 is enacted to read:

"1-2-1.2. [NEW MATERIAL] SECRETARY OF STATE--SERVICE OF PROCESS--ACTIONS RELATED TO ELECTIONS.--For the purposes of any action filed in court challenging a procedure or provision of the Election Code, a petition or a candidacy or a post-election action initiated by any person, the secretary of state shall receive service of process, regardless of whether the secretary of state is a party to the action."

**SECTION 10.** Section 1-2-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 29, as amended) is amended to read:

"1-2-7. ELECTION BOARD--QUALIFICATION OF MEMBERS--QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION OF [MINORS] QUALIFIED RESIDENTS.--

A. In order to qualify for appointment by the county clerk as a member of the election board, a person shall:

(1) be a voter of the county in which the person is appointed to serve;

(2) be able to read and write;

(3) have the necessary capacity to carry out an election board member's functions with acceptable skill and dispatch; and



(4) execute the election board member's oath of office.

B. Before serving as a presiding judge of an election board, a person shall receive training in the duties of that position [~~and be certified for the position~~] by the county clerk.

C. No person shall be qualified for appointment or service on an election board:

(1) who is a candidate to be voted for at the election;

(2) who is a spouse, domestic partner, parent, child, brother or sister of any candidate to be voted for at the election;

(3) who is married to a parent, child, brother or sister of any candidate to be voted for at the election or who is the parent of the spouse or domestic partner of any candidate to be voted for at the election; or

(4) who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

D. A county clerk may appoint [~~not more than two minors~~] qualified residents to serve on an election board under the direct supervision of the presiding judge. A [~~minor~~] qualified resident appointed by the county clerk shall:

(1) meet the qualifications set forth in Paragraphs (2) through (4) of Subsection A of this section [~~except the minor need not be eligible to vote~~];

(2) be registered to vote; and

[~~(2)~~] (3) be sixteen or seventeen years of age at the time of the election in which the [~~minor~~] qualified resident is serving as a member of an election board

[~~(3) be a citizen at the time of the election for which the minor will be serving as a member of an election board;~~

~~(4) have the approval of the minor's parent or legal guardian, unless the minor is emancipated;~~

~~(5) attend at least one school of instruction in accordance with the provisions of Section 1-2-17 NMSA 1978; and~~

~~(6) be appointed to an election board in the county in which the minor's parent or legal guardian resides, in accordance with the provisions of Section 1-2-11 NMSA 1978].~~

E. A [minor] qualified resident appointed to an election board shall not serve as the presiding judge or as an election judge."

SECTION 11. Section 1-2-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 32, as amended) is amended to read:

"1-2-12. ELECTION BOARD--POSITIONS ON EACH BOARD.--

A. Each election board shall consist of:

(1) a presiding judge;

(2) two election judges; and

(3) election clerks who are appointed to assist the presiding judge and election judges.

B. The county clerk shall appoint presiding judges and election judges so that not more than two of the three judges belong to the same political party at the time of their appointment; provided that:

(1) a judge of an election board shall not have changed party registration in the two years next preceding the judge's appointment in such a manner that the judge's prior party registration would make the judge ineligible to serve on the assigned election board; and

(2) a judge of an election board shall not continue to serve on an election board if the judge changes party registration after the date of appointment in such a manner to make

the judge ineligible to serve on the assigned election board.

C. The county clerk may appoint teams of [~~presiding judges and~~] election judges under the supervision of one or more presiding judges for [alternate voting locations] absent voter precincts, recounts and special elections; provided that each team shall consist of two election judges and that each election judge on a team [meets the requirements of Subsection B of this section] shall not belong to the same political party as any other election judge on the team at the time of the appointment; and provided further that an election judge shall not have changed party registration in the two years next preceding the judge's appointment in such manner that the judge's prior party registration would make the judge ineligible to serve on the assigned team.

D. The county clerk may appoint election clerks to [~~the~~] an election board as necessary to assist the presiding judge and election judges if the county clerk determines that additional election board members are needed.

E. County clerk employees may be assigned by the county clerk to provide support to an election board or polling location."

**SECTION 12.** Section 1-2-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 36, as amended) is amended to read:

"1-2-16. ELECTION BOARD--MESSENGERS--COMPENSATION.--

A. Members of an election board and messengers shall be compensated for their services at an hourly rate set by the secretary of state; provided that the rate [øf] in each county shall not be less than twice the [federal] minimum hourly wage rate [nor more than two hundred dollars (\$200) for an election day] set by federal or state law or by the laws of the county or of the municipality in which the county seat is situated, whichever is highest; and provided further that the rate may differentiate among the presiding judge, election judges, election clerks and messengers. Election board members and messengers shall be paid for training and may additionally be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route when an election board member or messenger travels by private vehicle.

~~[B. Members of an election board assigned to alternate voting or alternate mobile voting locations or absent voter precincts may be compensated at an hourly rate set by the county clerk.~~

~~G.] B. Compensation shall be paid by the secretary of state within thirty days following the date of election.~~

~~C. The secretary of state shall determine if payment is made to each county through a direct payment process to election board members and messengers or by means of a grant or reimbursement to the county election fund.~~

D. For purposes of determining eligibility for membership in the public employees retirement association and pursuant to the provisions of Subsection B of Section 10-11-3 NMSA 1978, election board members and messengers are designated as seasonal employees."

SECTION 13. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--~~[COMPENSATION]~~ APPOINTMENT.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect ~~[absentee]~~ mailed ballots from polling places or secured containers and removable media storage devices from polling places and deliver ~~[them]~~ each to locations designated by the county clerk.

~~[B. Messengers may be compensated at the same daily or hourly rate as provided for election board members or at a rate established by the county clerk. Messengers may be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route when the messenger travels by private vehicle. The compensation and mileage shall be paid within thirty days following the date of election.~~

~~G.] B. Messengers shall take an oath of office before entering into service as a messenger. No person shall serve as a messenger unless the person would also meet the requirements to be a~~

challenger, watcher or election observer pursuant to Paragraphs (1) through (4) and (6) of Subsection C of Section 1-2-22 NMSA 1978. Messengers may be appointed to serve solely in that capacity or may be election board members or county employees also appointed to serve as messengers."

**SECTION 14.** Section 1-2-22 NMSA 1978 (being Laws 1969, Chapter 240, Section 41, as amended) is amended to read:

"1-2-22. CHALLENGERS, WATCHERS AND ELECTION OBSERVERS--  
~~TRAINING--QUALIFICATIONS--RESTRICTIONS.--[Challengers and watchers shall be voters of a precinct located in that county to which they are appointed. No]~~

A. Before accepting an appointment or entering into service as a challenger or watcher for an election, a person shall attend a training session in advance of that election. The training shall be provided by the county clerk based on a uniform curriculum provided by the secretary of state. The county clerk shall offer the training between thirty-six and twenty-nine days before the election and at least once per week prior to the election through the Thursday before election day. At the end of the training session, each person in attendance shall sign a form provided by the secretary of state indicating an understanding of the permitted and prohibited activities by challengers and watchers. The county clerk shall provide a certificate to each person who completes the training in advance of an election and shall keep and maintain in the office of the county clerk a list of those voters who have completed the training in advance of each election. The list shall be available to be viewed in the office of the county clerk at any time during the regular hours and days of business beginning with the first day following the first training for an election and concluding with the adjournment of the state or county canvass board for that election, whichever is later. The training shall be open to any interested person, and the county clerk shall post notice of each training at least four days before the training is to be held.

B. Challengers shall be voters of a precinct located in the county to which the challenger is appointed. Watchers shall be voters of a precinct in this state.

C. A person shall not be qualified for appointment or

service as a challenger, watcher or election observer if the person:

~~[A. who]~~ (1) is a candidate for any office to be voted for at the election;

~~[B. who]~~ (2) is a spouse, domestic partner, parent, child, brother or sister of any candidate to be voted for at the election;

~~[C. who]~~ (3) is married to a parent, child, brother or sister of any candidate to be voted for at the election or ~~[who]~~ is the parent of the spouse or domestic partner of any candidate to be voted for at the election; ~~[or~~

~~[D. who]~~ (4) is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer;

(5) has accepted an appointment to serve as an election board member in the same election;

(6) has been removed from service as a challenger, watcher, election observer or county canvass observer in the current or immediately preceding election cycle by unanimous vote of the presiding judge and election judges of an election board for violating the permitted or prohibited activities of challengers, watchers, election observers or county canvass observers; provided that the election board detailed with reasonable specificity the conduct that led to the violation on a form prescribed by the secretary of state and the form is retained by the county clerk; or

(7) has not completed the training and received a certificate from the county clerk pursuant to Subsection A of this section."

**SECTION 15.** Section 1-3-4 NMSA 1978 (being Laws 1975, Chapter 255, Section 30, as amended) is amended to read:

"1-3-4. CONSOLIDATION OF PRECINCTS--VOTER CONVENIENCE CENTERS.--

A. The board of county commissioners ~~[may permit voters in the county to cast ballots in statewide elections at]~~ shall

establish voter convenience centers through the use of consolidated precincts [~~authorized pursuant to this section~~] for voting in a statewide election.

B. When precincts are consolidated and voter convenience centers are established for statewide elections:

(1) the resolution required by Section 1-3-2 NMSA 1978, in addition to the other matters required by law, shall state therein which precincts have been consolidated and the location of the voter convenience center within that consolidated precinct;

(2) any voter of the county shall be allowed to vote on a regular ballot at any voter convenience center in the county;

(3) each voter convenience center shall be a consolidated precinct composed of no more than ten precincts;

(4) each voter convenience center shall comply with the provisions of Section 1-3-7 NMSA 1978;

(5) each voter convenience center shall have a broadband internet connection and real-time synchronization to access [~~to~~] the voter registration electronic management system;

(6) the county clerk may maintain any alternate voting locations or mobile alternate voting locations previously used in the same election open for voting on election day as a voter convenience center, in addition to the voter convenience center established within each consolidated precinct; provided that the locations otherwise meet the requirements of a voter convenience center; and

(7) the board of county commissioners may permit certain precincts to be exempted from operating as a voter convenience center or being a part of a consolidated precinct [~~provided that~~] if the precinct is [~~not~~] designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 [~~and the polling place for that precinct does not have real-time access to the voter registration electronic management system, voters registered in a precinct as described in this paragraph are permitted to vote at any voter convenience center on election day~~]

~~only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the same election on any other ballot].~~

C. Unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived, each voter convenience center shall:

- (1) have ballots available for voters from every precinct authorized to vote at that voter convenience center;
- (2) have at least one optical scan tabulator programmed to read every ballot style able to be cast at that voter convenience center;
- (3) have at least one voting system available to assist disabled voters to cast and record their votes;
- (4) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;
- (5) have sufficient check-in stations to accommodate voters throughout the day as provided in Section 1-9-5 NMSA 1978;
- (6) have a secure area for storage of preprinted ballots or for storage of paper ballot stock and a system designed to print ballots ~~[at a polling location]~~;
- (7) issue a ballot to voters who have provided the required voter identification after the voter has signed a signature roster or an electronic equivalent approved by the voting system certification committee or after the voter has subscribed an application to vote on a form approved by the secretary of state; and
- (8) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

~~[D. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more~~



~~convenient and accessible to voters of the consolidated precinct and will not result in delays for voters in the voting process and that the voter convenience center will be centrally located within the consolidated precinct. The board of county commissioners shall give due consideration to input received from any local public body in the county regarding the location of voter convenience centers.]"~~

SECTION 16. Section 1-3-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 58, as amended) is amended to read:

"1-3-8. PRECINCT CHANGES--NOTICE AND PUBLICATION.--[A.] Upon the adoption of any resolution, or upon the final action of any district court upon a petition creating, abolishing, dividing or consolidating any precinct, or changing any precinct boundary, or changing any designated polling place, the board of county commissioners shall:

[~~(1)~~] A. send a certified copy of the resolution or court order to the secretary of state and to the county chair of each of the major political parties; and

[~~(2)~~] B. publish once the resolution in a newspaper as provided in the Election Code.

~~[B. A polling place located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other polling locations without the written agreement of the Indian nation, tribe or pueblo on which the polling place is located.]"~~

SECTION 17. A new Section 1-3-13.1 NMSA 1978 is enacted to read:

"1-3-13.1. [NEW MATERIAL] LOCAL PUBLIC BODIES--RESIDENCE IN DISTRICTS--ELECTION AT LARGE.--

A. Every political subdivision of the state with an elected governing body and a population of:

(1) ten thousand residents or more according to the most recent federal decennial census shall be districted into as many single-member districts as there are board members to be elected; and

(2) fewer than ten thousand residents according to the most recent federal decennial census may be districted into as many single-member districts as there are board members to be elected.

B. Members of elected governing bodies of a political subdivision of the state with a population of ten thousand residents or more according to the most recent federal decennial census shall be elected from districts by the voters of the district and shall be a resident of the districted area from which the member is elected. If a member permanently removes residence from or maintains no residence in the districted area from which the person was elected, or to which the person was appointed in the case of an appointment, the member shall be deemed to have resigned.

C. Members of elected governing bodies of a political subdivision of the state with a population of fewer than ten thousand residents according to the most recent federal decennial census are not required to be districted, and if not districted, the members may reside at any location within the political subdivision and be elected at large by the voters of the political subdivision. If the political subdivision is districted, the members shall be elected at large by the voters of the political subdivision but shall be a resident of the districted area for which the member is elected. If the political subdivision is districted, a member who permanently removes residence from or maintains no residence in the districted area from which the person was elected, or to which the person was appointed in the case of an appointment, the member shall be deemed to have resigned.

D. Members of the elected governing body of an H class county are not required to be districted and, if not districted, may reside at any location within the county and be elected at large by the voters of the county. If an H class county is districted, the members may be elected at large by the voters of the political subdivision but shall be residents of the districted area for which the members are elected, or may be elected from each district by the voters of the district and shall be residents of the districted area from which the members are elected. If an H class county is districted, a member who permanently removes residence from or maintains no residence in the districted area from which the person was elected, or to which the person was appointed in the case of an

appointment, the member shall be deemed to have resigned.

E. When a new districting or redistricting plan is adopted by a political subdivision of the state:

(1) the new districting plan is effective following the expiration of the term of office for each seat on the governing body;

(2) a person serving as a member of the governing body when a new districting plan is adopted shall continue to serve the area the person was elected to represent for the remainder of the term of office for which the person was elected, or in the case of an appointee, to represent the area the person was appointed to represent until the next election at which the position is subject to election; and

(3) where the terms of office of the elected governing body of a political subdivision of the state are staggered, a person serving as a member of the governing body who, at the time a new districting or redistricting plan is adopted, has more than two years remaining in the term of office to which the person was elected, but where the plan places the person's residence into a districted area for which the next election for the new district is less than two years away, the person may be a candidate in the new district and if elected, upon being sworn in, shall be deemed to have resigned from the old district seat, creating a vacancy subject to appointment pursuant to the laws applicable to that political subdivision of the state.

F. The provisions of this section shall not apply to mayors of municipalities with a population of ten thousand residents or more according to the most recent federal decennial census. Any municipal governing body of more than six members may provide by ordinance for the election of two members for each districted area of the municipality from which members are to be elected; provided that only one governing body member shall be elected from a districted area at any one election.

G. The provisions of this section are to be carried out once per decade following each federal decennial census and as provided in Section 1-3-13 NMSA 1978. After concluding the

redistricting, each political subdivision in the state shall provide to the county clerk of the county in which the administrative office of the subdivision is situate and to the secretary of state updated street file maps in a format provided for by the secretary of state."

**SECTION 18.** Section 1-4-1.1 NMSA 1978 (being Laws 2015, Chapter 145, Section 19, as amended) is amended to read:

"1-4-1.1. AUTHORIZATION TO VERIFY VOTER REGISTRATION INFORMATION--INVESTIGATION AND RECONCILIATION.--

A. The secretary of state may:

(1) provide to the chief election officer of another state or a consortium of chief election officers of other states information that is requested, including social security numbers, dates of birth, driver's licenses and identification card numbers and other information that the secretary of state deems necessary for the chief election officer of that state or for the consortium to maintain a voter registration list, if the secretary of state is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list; and

(2) request from the chief election officer of another state or a consortium of chief election officers of other states information that the secretary of state deems necessary to maintain the statewide voter registration list.

B. The secretary of state may enter into a written agreement with an agency or political subdivision of this state or with a department of the federal government pursuant to which the state agency, political subdivision or federal department shall provide to the secretary of state information that is in the possession of the state agency, political subdivision or federal department and that the secretary of state deems necessary to maintain the statewide voter registration list.

C. The secretary of state shall enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic

management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to [~~42 U.S.C. Section 15483~~ (now) 52 U.S.C. Section [~~21083~~] 21083], for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall [~~only~~] not disclose information received from the secretary of state pursuant to this subsection except as necessary to complete an investigation pursuant to this section. [~~E.~~] The county clerk shall investigate or reconcile the information received from the secretary of state.

E. The secretary of state shall develop [~~and maintain a manual for county clerks that describes~~] a general program that is uniform and nondiscriminatory for county clerks to investigate and reconcile the information received from the secretary of state and to identify voters who may be eligible for cancellation from the statewide voter registration list. The general program shall describe the best practices [~~in~~] and requirements for investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters, and provide a procedure to cancel certificates of registration for voters:

(1) confirmed to have voted in another state requiring residence in that state if previous to the out-of-state vote, the voter was registered to vote in this state; or

(2) confirmed to be on the social security master death index file."

**SECTION 19.** Section 1-4-5.5 NMSA 1978 (being Laws 1975, Chapter 255, Section 78, as amended) is amended to read:

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

A. The county clerk or secretary of state shall furnish voter data, mailing labels or special voter lists only upon written request to the county clerk or the secretary of state and after compliance with the requirements of this section; provided, however, all requesters shall be treated equally in regard to the charges and the furnishing of the materials.

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

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

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

E. As used in this section:

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

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

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

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

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

**SECTION 20.** Section 1-4-5.7 NMSA 1978 (being Laws 2019, Chapter 67, Section 1, as amended) is repealed and a new Section 1-4-5.7 NMSA 1978 is enacted to read:

"1-4-5.7. [NEW MATERIAL] REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. In addition to the provisions in Section 1-4-8 NMSA 1978 providing for the closing of registration prior to an election, a qualified elector seeking to register to vote or update an existing certificate of registration in the state shall be allowed to do so at a voting location immediately before voting in that election after signing an affidavit under oath that the elector has not voted in the election in this state or elsewhere and as further provided in this section.

B. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office or any early or election day voting location; provided that the secretary of state shall establish procedures to ensure that a registration officer has an opportunity to review the information of a qualified elector who registers to vote or updates an existing certificate of registration immediately before the qualified elector votes.

C. A voter whose political party affiliation on the voter's certificate of registration is with a major political party shall not be allowed to change party affiliation when updating an existing certificate of registration or registering to vote at a voting location immediately before voting in a primary election.

D. During a special election, a qualified elector may

register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election until 7:00 p.m. on election day; provided that the county clerk shall provide the voter with a ballot and balloting materials immediately after the qualified elector registers to vote or updates the existing certificate of registration.

E. A qualified elector seeking to register to vote or update an existing certificate of registration pursuant to this section shall provide a physical form of identification that is issued by the federal government, a state government, a federally recognized Indian nation, tribe or pueblo or a New-Mexico-accredited educational institution and that:

(1) contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration;

(2) contains a photograph of the qualified elector, which shall resemble the qualified elector;

(3) need not contain an expiration date, and if it does, the expiration date is not required to be a date on or after the date of the election; and

(4) shall either:

(a) contain an address that matches the address provided for the certificate of registration; or

(b) be accompanied by an original or copy of a utility bill, bank statement, government check, paycheck or other document issued by an educational institution or government, including a document issued by a federally recognized Indian nation, tribe or pueblo, dated within the ninety days prior to the qualified elector registering to vote or updating an existing certificate of registration and that contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration, and an address that matches the address provided for the certificate of registration.



F. If a voting location does not have real-time synchronization with the voting data at the office of the county clerk, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional paper ballot. A provisional paper ballot issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the voter did not vote any other ballot in the same election and if no challenge is successfully interposed."

**SECTION 21.** Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--Except for qualified electors who register to vote or update a certificate of registration at a voting location prior to voting pursuant to Section 1-4-5.7 NMSA 1978, for qualified electors seeking to register to vote or update an existing voter registration in the state, the following provisions shall apply:

A. to participate in an election, the deadline to register to vote or update an existing voter registration is twenty-eight days prior to that election;

B. the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall not process any certificate of registration subscribed and sworn beginning the first business day after the deadline to register to vote or update an existing voter registration before an election if the residential address on the certificate of registration indicates that the registration is for a:

(1) statewide election, within the county; or

(2) special election, within any precinct in the county in which votes may be cast in the special election;

C. between the deadline to register to vote or update an existing voter registration through the day of the election, the county clerk shall process all:

(1) new voter registrations that meet the requirements of this section;

(2) updates to existing voter registrations in this state that meet the requirements of this section; provided that an update to an existing registration in this state shall not be processed if the voter has requested or been sent a ballot in the election, unless the voter executes an affidavit stating that the voter has not and will not vote the ballot that was issued and the ballot register does not show that a ballot from the voter has been cast in the election; and

(3) pending cancellations of existing voter registrations in this state through the day of the election; provided that a cancellation of an existing voter registration shall not be processed if the voter has requested or been sent a ballot in the election;

D. certificates of registration and cancellations of existing voter registrations not processed pursuant to Subsection B or C of this section [~~shall~~] may be processed beginning [thirty-five days after] the Monday following an election and shall be processed beginning no later than the first business day after the approval of the county canvass report for that election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration; provided that if there is a subsequent election scheduled at which a qualified elector or voter would be eligible to vote if the certificate of registration were processed on an earlier date, the certificate of registration for that qualified elector or voter shall be processed by the county clerk on a day and in a manner to ensure the ability of the qualified elector or voter to vote in the subsequent election;

E. when the deadline to register to vote or update an existing voter registration prior to an election referred to in this section is a Saturday, Sunday or state holiday, registration certificates shall be accepted through the next succeeding business day for the office of the county clerk; and

F. the county clerk shall accept for filing and process any certificate of registration that is subscribed and dated on or

before the deadline to register to vote or update an existing voter registration prior to an election and:

(1) received by the county clerk by the end of the last regular business day of the week for the office of the county clerk immediately following the deadline to register to vote or update an existing voter registration prior to an election;

(2) mailed and postmarked on or before the day of the deadline to register to vote or update an existing voter registration prior to any election referred to in this section; or

(3) accepted at a state agency designated pursuant to Section 1-4-5.2 NMSA 1978."

**SECTION 22.** Section 1-4-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

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

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

B. If the applicant's certificate of registration is rejected for any reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation of why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. The county clerk shall reject any certificate of registration that does not contain the qualified elector's name, address and date of birth, along with a signature or usual mark. If the qualified elector is a new voter, the county clerk shall reject any certificate of registration that does not contain the qualified elector's driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department, social security number or last four digits of the qualified elector's social security number. The county clerk shall reject any certificate of registration in which the question regarding citizenship is not answered or is answered in the negative.

D. A full social security number is required to finish processing a new voter registration in this state. If the certificate of registration does not contain a social security number, the county clerk shall ascertain the qualified elector's social security number from the qualified elector's previous certificate of registration, from the motor vehicle division of the taxation and revenue department or from the secretary of state.

E. If the county clerk rejects a certificate of registration because required information is not provided on the certificate or cannot ascertain the qualified elector's social security number, the county clerk shall indicate this on the qualified elector's certificate of registration and shall make the appropriate notation in the voter file, indicating that the voter is required to provide the full social security number prior to receiving a ballot and, until it is provided, may only vote on a provisional ballot. The provisional ballot shall be counted [~~once~~] if the required information is provided or the voter's full social security number is ascertained during the period for counting provisional ballots, including any appeals provided for in the Election Code.

F. If the qualified elector does not register in person, has not previously voted in an election in New Mexico and does not provide the registration officer with the required documentary identification, the registration officer shall indicate this on the qualified elector's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

**SECTION 23.** Section 1-4-24 NMSA 1978 (being Laws 1969, Chapter

240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--  
GROUNDS.--The county clerk shall cancel certificates of registration  
for the following reasons:

- A. death of the voter;
- ~~[B. a felony conviction of the voter;~~
- ~~G.] B.~~ at the request of the voter; or
- ~~[D.] C.~~ at the direction of the board of registration."

SECTION 24. Section 1-4-27.1 NMSA 1978 (being Laws 2001,  
Chapter 46, Section 1, as amended) is amended to read:

"1-4-27.1. ~~[CANCELLATION OF REGISTRATION FOLLOWING CONVICTION]~~  
INMATES INELIGIBLE TO VOTE OR REGISTER TO VOTE--ELIGIBILITY [FOR  
VOTING UPON SATISFACTION OF CONDITIONS] TO VOTE AND REGISTER TO VOTE  
UPON RELEASE.--

~~[A. When a voter has been convicted of a felony in any  
state or federal court, the voter's registration shall be canceled.~~

~~B. A person convicted of a felony who is otherwise a  
qualified elector is eligible to register to vote when that person:~~

~~(1) has been unconditionally discharged from a  
correctional facility or detention center;~~

~~(2) has completed all conditions of parole or  
supervised probation; or~~

~~(3) has had the conviction overturned on appeal.~~

~~C. The secretary of state shall each month maintain  
current in the statewide voter registration electronic management  
system the eligibility status of persons convicted of felonies to  
register to vote pursuant to this section.~~

~~D. The corrections department, the New Mexico sentencing~~

~~commission and the administrative office of the courts shall deliver to the secretary of state information and data as needed to carry out the provisions of this section.~~

~~E. The secretary of state shall request from the United States attorney for the district of New Mexico, in conformance with 42 U.S.C. Section 1973gg-6(g), information and data as needed to carry out the provisions of this section.]~~

A. A voter is ineligible to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction. Except as provided in this section, an otherwise qualified elector is ineligible to register to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction.

B. At the time an inmate is preparing for release from a state correctional facility, if the inmate is a voter or otherwise a qualified elector, the inmate shall be given an opportunity to register to vote or update an existing registration by means of a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody. If the inmate does not conduct a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody, the corrections department shall provide the inmate an opportunity to register to vote or update an existing registration by means of an online portal provided by the secretary of state or, if such a portal is not available, by means of a paper registration form.

C. The corrections department shall deliver to the secretary of state information and data necessary to carry out the provisions of this section. The secretary of state shall maintain current information in the statewide voter registration electronic management system on the ineligibility status of an inmate to vote or register to vote pursuant to this section, as well as an inmate's eligibility status to vote upon release and to register to vote or update an existing voter registration while preparing for release.

D. Notwithstanding a person's status in the statewide voter registration electronic management system, a voter or a qualified elector who appears personally before a county clerk, the clerk's authorized representative or a precinct board member, at an

office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities is presumed to meet the eligibility requirement of non-imprisonment for voting and registering to vote pursuant to the provisions of this section."

SECTION 25. Section 1-4-34 NMSA 1978 (being Laws 1969, Chapter 240, Section 90, as amended) is amended to read:

"1-4-34. BOARD OF REGISTRATION--BOARD OF COUNTY COMMISSIONERS--APPOINTMENT.--

A. The board of county commissioners shall, [~~at its first regular scheduled meeting~~] in June or July of each odd-numbered year, appoint five voters who shall constitute the board of registration for the county; provided that a [~~class B~~] county [~~as defined in Section 4-44-1 NMSA 1978 shall~~] with fewer than five thousand residents as of the last federal decennial census may appoint three voters who shall constitute the board of registration for the county.

B. Members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment; provided that:

(1) a member of the board of registration shall not have changed party registration in the two years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the board of registration; and

(2) a member of the board of registration shall not continue to serve on the board of registration if the member changes party registration after the date of appointment in such a manner to make the member ineligible to serve on the board of registration.

C. In the event that a position on the board of registration becomes vacant for any of the reasons described in Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Subsection B of

this section and serve until the expiration of the original term."

**SECTION 26.** Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is amended to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

A. Every person who is a qualified elector and is applying for a driver's license, to renew a driver's license or for an identification card shall, if qualified to register to vote, with the consent of the applicant be simultaneously registered to vote.

B. The secretary of taxation and revenue shall select certain employees of the motor vehicle division of the taxation and revenue department or employees of entities on contract to provide field services to the motor vehicle division to provide assistance to any applicant requesting voter registration assistance.

C. Every motor vehicle division office, field office or contract field office of the division shall display within the offices clearly visible signs stating "voter registration assistance available" and:

(1) personnel in each office shall advise each person who is a qualified elector and an applicant for licensure or renewal or for an identification card that initial voter registration or a change of address for voter registration may be made simultaneously with the motor vehicle application;

(2) voter registration shall be conducted in a manner such that the applicant completes the full certificate of registration electronically; ~~and~~

(3) the applicant's digital signature shall be affixed to the certificate of registration using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act, and the form and signature shall be transmitted to the secretary of state; and

(4) every certificate of registration completed electronically shall include the applicant's full social security



number and shall be transmitted by means of a secured electronic transmission to the secretary of state for delivery to the appropriate county clerk.

D. A motor vehicle division employee or contractor shall not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

E. Any certificate of voter registration completed on a paper form and made or accepted at a motor vehicle division office, [or motor vehicle division] field office or contract field office shall be transmitted to the secretary of state ~~and~~ or the [appropriate registration officer] county clerk of the county in which the office is located within seven ~~calendar~~ days.

F. The secretary of state shall work with the motor vehicle division to:

(1) ensure compliance in the application of the provisions of this section with the federal National Voter Registration Act of 1993;

(2) ensure consistent implementation in the various counties, based on county classification and developing technology; and

(3) develop procedures to ensure that, once voter registration information is transmitted to the appropriate registration officer, the voter's certificate of registration is printed and placed in the county's register of voters."

**SECTION 27.** Section 1-5-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 108, as amended) is amended to read:

"1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER PREPARATION--ELECTRONIC POLL BOOK ALTERNATIVE.--

A. The county clerk shall provide for preparation of precinct voter lists and signature rosters generated from the

official state voter file for any precincts or an electronic poll book alternative approved by the voting system certification committee and certified by the secretary of state.

B. The precinct voter lists and signature rosters or an electronic poll book alternative shall be used at any election for which registration of voters is required in lieu of bound original certificates of registration and poll books."

**SECTION 28.** A new section of the Absent Voter Act is enacted to read:

**"[NEW MATERIAL] VOLUNTARY PERMANENT ABSENTEE VOTER LIST-- PROCEDURES.--**

A. A voter, except a federal qualified elector who is subject to the provisions of the Uniform Military and Overseas Voters Act or the Intimate Partner Violence Survivor Suffrage Act, may apply to be added to the voluntary permanent absentee voter list for the county in which the voter is registered by completing a paper or online application that conforms to the mailed ballot application requirements of Section 1-6-4 NMSA 1978, except that the voluntary permanent absentee voter application shall provide an additional checkbox for the voter to affirm that reads:

"[ ] I am requesting to be added to the voluntary permanent absentee voter list in my county. This means that the county clerk shall automatically send a mailed ballot to the mailing address listed on my certificate of voter registration each time there is a statewide election that includes my precinct."

B. Upon receipt of an application from a voter requesting to be added to the voluntary permanent absentee voter list, the county clerk shall process the application in the same manner as an application for a mailed ballot, except that the county clerk shall not accept an application to be added to the voluntary permanent absentee voter list if the voter's mailing address on the certificate of registration is outside of New Mexico.

C. Upon acceptance of the application to be added to the voluntary permanent absentee voter list, the county clerk shall add the voter's name to the voluntary permanent absentee voter list in

the county. The voluntary permanent absentee voter list shall contain the voter's name, year of birth, address and precinct in the county.

D. A voter whose name appears on the voluntary permanent absentee voter list shall remain on the list, except as provided in Subsection F of this section, and shall be sent a mailed ballot by the county clerk for each statewide election conducted that includes the precinct in which the voter is eligible to vote. The mailed ballot shall be sent in the first batch of mailed ballots delivered to voters in that election.

E. At least forty-nine days before each statewide election, the county clerk shall send to each voter on the voluntary permanent absentee voter list a notice reminding the voter that the voter will be receiving a mailed ballot for that election. The notice shall also inform the voter of how to remove the voter's name from the voluntary permanent absentee voter list if the voter would like to do so. The notice shall be sent using non-forwardable mail with return postage prepaid.

F. A voter shall be removed from the voluntary permanent absentee voter list by the county clerk for the following reasons:

(1) the voter fails to return a mailed ballot in two consecutive elections, including at least one general election;

(2) the county clerk has sent a mailed ballot or other piece of election mail to the voter's mailing address that was subsequently returned as undeliverable;

(3) the voter's certificate of registration is canceled pursuant to the provisions of Chapter 1, Article 4 NMSA 1978;

(4) the voter updates the voter's certificate of registration indicating an address that is outside of the county for which the voter is listed on the voluntary permanent absentee voter list; or

(5) the voter submits a written request to the county clerk requesting to be removed from the voluntary permanent absentee

voter list.

G. A county clerk shall take the necessary steps to attempt to contact and notify a voter who has been removed from the voluntary permanent absentee voter list. If a voter is removed from the voluntary permanent absentee voter list, the voter shall only be added again if the voter submits a new voluntary permanent absentee voter application.

H. A county clerk shall maintain the voluntary permanent absentee voter list for the county and shall make the voluntary permanent absentee voter list available on request pursuant to the provisions in Section 1-4-5.5 NMSA 1978."

**SECTION 29.** Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

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

A. In a statewide election, application by a voter for a mailed ballot shall be made only on [~~a~~] the official [paper] form approved by the secretary of state or its online equivalent accessed through a website authorized by the secretary of state. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of a mailed ballot under the Absent Voter Act. [~~provided that only on the application form for a primary election ballot there shall be a box, space or place provided for designation of the voter's political party affiliation]~~

B. Each application on a paper form for a mailed ballot shall be signed by the applicant and shall require the applicant's printed name, registration address and year of birth [~~to be supplied by the applicant, which shall constitute the required form of identification]~~. When submitted by the voter, the county clerk shall accept an application for a mailed ballot pursuant to this subsection regardless of whether the application for a mailed ballot is delivered to the county clerk on paper or by electronic means. When submitted by a third party, the county clerk shall not accept an application for a mailed ballot pursuant to this subsection if the application for a mailed ballot is delivered by electronic means.

C. The secretary of state shall allow a voter to submit an online application for a mailed ballot through a website authorized by the secretary of state; provided that the voter shall have a current or expired New Mexico driver's license or state identification card issued by the motor vehicle division of the taxation and revenue department. An online request for a mailed ballot shall contain all of the information that is required for a paper form. The voter shall also provide the person's full New Mexico driver's license number or state identification card number.

D. When a voter requests a mailed ballot pursuant to this section, the voter shall mark the box associated with the following statement, which shall be included as part of the online mailed ballot request form:

"By clicking the boxes below, I swear or affirm all of the following:

I am the person whose name and identifying information is provided on this form and I desire to request a mailed ballot to vote in the state of New Mexico; and

All of the information that I have provided on this form is true and correct as of the date I am submitting this form."

E. Online applications for mailed ballots shall retain the dates of submission by the qualified elector and of acceptance by the county clerk. For purposes of deadlines contained in the Election Code, the time and date of the submission by the voter shall be considered the time and date when the application for a mailed ballot is received by the county clerk.

F. New registrants who registered for the first time in this state by mail and at that time did not provide acceptable documentary identification as required by federal law shall be informed of the need to comply with federal identification requirements when returning the requested ballot and notified that if the registrant votes for the first time in New Mexico by mail and does not follow the instructions for returning the required documentary identification, the registrant waives the right to secrecy in that mailed ballot. The secretary of state shall issue rules to exempt voters from submitting identification only as

required by federal law and shall review and, if necessary, update these rules no later than March 15 of even-numbered years.

G. A person who willfully and with knowledge and intent to deceive or mislead any voter, election board, canvassing board, county clerk or other election official and who falsifies any information on an absentee ballot request form or who affixes a signature or mark other than the person's own on a mailed ballot request form is guilty of a fourth degree felony."

**SECTION 30.** Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended) is amended to read:

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

A. The county clerk shall mark each completed application for a mailed ballot with the date and time of receipt in the clerk's office and enter the required information in the ballot register. The county clerk shall then determine if the applicant is a voter and if the voter is a uniformed-service voter or an overseas voter. If the applicant is a uniformed-service voter or overseas voter, the application shall be processed pursuant to the Uniform Military and Overseas Voters Act. An application for a mailed ballot from a voter who is not a federal qualified elector is timely if received by the county clerk no later than fourteen days prior to election day.

B. If the applicant does not have a valid certificate of registration on file in the county, a mailed ballot shall not be issued and the county clerk shall mark the application "rejected" and file the application in a separate file from those accepted [~~and notify the applicant in writing with an explanation why the application was rejected~~].

C. When required by federal law, if the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who is a new registrant in the state and who registered by mail without submitting the required documentary identification, the county clerk shall notify the voter that the voter must submit with the mailed ballot a form of documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall

note on the ballot register and signature roster that the applicant's mailed ballot must be returned with the required voter identification.

D. If the applicant has on file with the county a valid certificate of registration, the county clerk shall mark the application "accepted" and deliver a mailed ballot to the voter and the required envelopes for use in returning the ballot.

E. Upon the mailing of a mailed ballot to an applicant who is a voter, an appropriate designation shall be made [~~on the signature line of the signature roster next to the name of the voter~~] in the absentee ballot register.

F. A mailed ballot shall not be delivered by the county clerk to any person other than the applicant for the ballot. Mailed ballots shall be sent to applicants beginning twenty-eight days before the election. For each application for a mailed ballot received twenty-three or more days before the election, the county clerk shall send either the ballot or a notice of rejection to the applicant as soon as practicable; provided that the ballot or a notice of rejection is sent not later than twenty-two days before the election. For each application for a mailed ballot received within twenty-two days of election day, the county clerk shall send either the mailed ballot or a notice of rejection to the applicant within twenty-four hours after receipt of the voter's application for a mailed ballot. [~~A mailed ballot shall be requested not later than the Thursday immediately prior to the date of the election and shall be sent to the voter not later than the Friday immediately prior to the date of the election.~~]

G. If the application for a mailed ballot from a voter who is not a federal qualified elector indicates that the mailed ballot is to be delivered to an address other than an address listed on the voter's certificate of registration, the county clerk shall prepare a notice of requested mailed ballot. The notice of requested mailed ballot shall inform the voter of the address to which the ballot was mailed along with the phone number of the county clerk's office and the internet address of the voter web portal provided by the secretary of state. The notice of requested mailed ballot shall be sent to the address provided on the voter's certificate of registration on the same day the county clerk sends the mailed

ballot to the address requested by the voter.

H. When an application for a mailed ballot is rejected pursuant to this section, the county clerk shall send a notice of rejection to the mailing address on the voter's certificate of registration and the address listed on the voter's application for mailed ballot, if different. The notice of rejection shall indicate the reason for the rejection and, if applicable, information on how to satisfy the rejection. If an application is rejected because it was not timely received, the county clerk shall, within twenty-four hours of receipt of the application, send a rejection notice to the voter that shall include a list of the early voting locations and election day polling places in the county.

I. The county clerk shall only accept applications for a mailed ballot made through the official web portal operated by the secretary of state or submitted on the official form. If a voter submits more than one application for a mailed ballot containing the same information, subsequent applications containing the same information shall not be processed."

**SECTION 31.** Section 1-6-5.7 NMSA 1978 (being Laws 2005, Chapter 270, Section 40, as amended) is amended to read:

"1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING PROCEDURES--  
COUNTY CLERK'S OFFICE--ALTERNATE VOTING LOCATIONS.--

A. Commencing on the twenty-eighth day preceding the election during the regular hours and days of business at the county clerk's office and [~~from 10:00 a.m. to 6:00 p.m.~~] on the Saturday immediately prior to the date of the election, early voting shall be conducted in each office of the county clerk; provided that:

(1) when marking a ballot in person at the county clerk's office, the voter shall provide the required voter identification to the county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter, after subscribing an application for an absentee ballot, shall be allowed to vote by inserting the ballot into an optical scan tabulator certified for in-person absentee voting at the county



clerk's office. The county clerk or the clerk's authorized representative shall make an appropriate designation indicating that the voter has voted. In marking the ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA 1978;

(2) the act of marking the ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code; [~~and~~]

(3) in addition to the regular business hours and days of business of the county clerk's office and on the Saturday immediately prior to the date of the election, early voting may be conducted in each office of the county clerk no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. and shall be available for at least eight consecutive hours each day; and not later than ninety days before each statewide election, the county clerk shall post the location and hours of operation at the county clerk's office and shall not modify the location or hours of operation of early voting at the county clerk's office except with the written approval of the secretary of state and upon posting the approved changes; and

[~~(3)~~] (4) if the county clerk establishes an additional alternate voting location near the clerk's office, ballots may be marked in person at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election. The additional alternate voting location may be operated by the county clerk and the county clerk's staff.

B. Commencing on the third Saturday prior to a statewide election and ending on the Saturday immediately prior to the date of the election, an early voter may vote in person on a voting system at alternate voting locations that may be established by the county clerk; provided that:

(1) the county clerk shall establish:

(a) in counties with more than ten thousand voters, not fewer than one alternate voting location;

(b) in counties with more than fifty thousand voters, not fewer than four alternate voting locations; and

(c) in counties with more than one hundred fifty thousand voters, not fewer than fifteen alternate voting locations; and

(2) not later than ninety days before each statewide election, the county clerk shall post the location and hours of operation for early voting locations in the county, which shall open no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. Within ninety days of a statewide election, a county clerk [~~may~~] shall not modify the location or hours of operation of early voting locations except with the written approval of the secretary of state and upon posting the approved changes. Early voting locations shall be open each day of early voting for at least eight consecutive hours. Alternate voting locations may be closed Sundays and Mondays during the early voting period.

C. Each early voting location shall comply with the following provisions, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived:

(1) have ballots available for voters from every precinct in the county;

(2) have at least one optical scan tabulator programmed to read every ballot style in the county;

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

(4) have a broadband internet connection;

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

(6) have a secure area for storage of pre-printed ballots or for storage of a paper ballot stock and a system designed to print ballots at a polling location; and

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

D. When voting at an early voting location, the voter shall provide the required voter identification to the election board, county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter shall be allowed to vote after subscribing an application to vote on a form approved by the secretary of state or its electronic equivalent approved by the voting system certification committee. The county clerk or the clerk's authorized representative shall make an appropriate designation on the signature roster or register next to the voter's name indicating that the voter has voted early."

**SECTION 32.** Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

"1-6-6. BALLOT REGISTER.--

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

- (1) the name and address of each absentee ballot applicant;
- (2) the date [~~and time~~] of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot at an early voting location or the mailing of an absentee ballot to the applicant;

(5) the applicant's precinct;

(6) whether the applicant is a voter and whether the voter is a uniformed-service voter or an overseas voter;

(7) whether the voter is required to submit documentary identification pursuant to Section 1-6-5 NMSA 1978; and

(8) the date [~~and time~~] the completed mailed ballot was received from the voter by the county clerk or the absent voter registered a ballot early in person in the county clerk's office or at an alternate location.

B. For each special election, the county clerk shall keep a "mailed ballot register", in which the county clerk shall enter:

(1) the name and address of each voter to whom a mailed ballot was sent;

(2) the date of mailing of a mailed ballot to the voter;

(3) the applicant's precinct;

(4) whether the voter is a uniformed-service voter or an overseas voter;

(5) whether the voter is required to submit a documentary identification pursuant to Section 1-6-5 NMSA 1978; and

(6) the date and time the completed mailed ballot was received from the voter by the county clerk.

C. Each ballot register is a public record open to public inspection in the county clerk's office during regular office hours. The county clerk shall have an updated ballot register available for public inspection Monday through Friday during regular office hours.

D. The county clerk shall deliver to the absent voter election board on election day a complete list of all absentee ballot applicants and early voters with applicable information shown in the absentee ballot register for each applicant and early voter

up to 6:00 p.m. on the Saturday preceding a statewide election. The county clerk shall deliver a signature roster containing the same information as the lists to the absent voter election board.

E. Upon request [~~the county clerk shall transmit to~~] by a candidate, a political committee or the state or county chair of [each of the political parties participating] a political party represented on the ballot in [a partisan] an election, [in the county] the secretary of state or county clerk shall transmit without charge to an electronic address provided in the request a complete copy of entries made in the absentee ballot register statewide or in the county. Such transmissions shall be made [~~once each week~~] daily beginning four weeks immediately prior to the election [~~A final copy shall be transmitted on~~] through the Saturday immediately following the election.

[~~F. If the county clerk has available the technology to do so, at the request of a candidate or chair of a political party of the county, the county clerk shall electronically transmit to the candidate or chair via the internet the information, when updated, on the absentee ballot register indicating voters who have requested absentee ballots, returned their absentee ballots or voted early in person.~~]"

**SECTION 33.** Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

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

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

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

(2) official mailing envelopes for use in returning the official inner envelope to the county clerk, which shall be postage-paid; provided that only the official mailing envelope for absentee ballots in a political party primary shall contain a designation of party affiliation;

(3) mailed ballot instructions, describing proper

methods for completion of the ballot and returning it; and

(4) official transmittal envelopes for use by the county clerk in sending mailed ballot materials.

B. Official transmittal envelopes and official mailing envelopes for transmission of mailed ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

C. The reverse of each official mailing envelope shall contain a form to be executed under penalty of perjury by the voter completing the mailed ballot. The form shall identify the voter and shall contain the pre-printed name of the voter to whom the ballot was sent and the following statement to be affirmed by the voter: "I attest under penalty of perjury that I am the voter identified on this official mailing envelope and that I have not and will not vote any other ballot in this election." The official mailing envelope shall contain a space for the voter to record the voter's [~~name, registration address and year of birth~~] signature and the last four digits of the voter's social security number, which shall constitute the required voter identification. Under the space for the voter's signature shall be the following statement: "NOTICE: The only people who may lawfully mail or deliver this ballot to the county clerk are the voter, a member of the voter's immediate family or household, the voter's caregiver or a person with whom the voter has a continuing personal relationship." The envelope shall have a security flap to cover this information."

SECTION 34. A new Section 1-6-8.1 NMSA 1978 is enacted to read:

"1-6-8.1. [NEW MATERIAL] MAILED BALLOTS--NOTICE TO VOTERS.--

A. In a statewide election, each mailed ballot sent to a voter in the election shall contain the following notice: "This ballot may be returned to the office of the county clerk or any open voting location or monitored secured container in the county where you are registered to vote at any time up to 7:00 p.m. on the day of the election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no

later than \_\_\_\_\_."

B. In a special election, each mailed ballot sent to a voter in the election shall contain the following notice: "This ballot may be returned to the office of the county clerk or a monitored secured container in the county where you are registered to vote at any time up to 7:00 p.m. on the day of the election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no later than \_\_\_\_\_."

C. The date used in the notice shall be seven days prior to the election day."

**SECTION 35.** Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MAILED BALLOTS--MANNER OF VOTING--DELIVERY METHODS.--

A. When voting a mailed ballot, the voter shall secretly mark the mailed ballot in the manner provided in the Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope [~~which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth~~] under the privacy flap. The voter or another person authorized by law shall then return the official mailing envelope containing the voted ballot to the county clerk of the voter's county of residence. If returned by a person other than the voter, the official mailing envelope shall contain the signature, printed name and relationship to the voter of the person returning the ballot.

B. The official mailing envelope may be returned by mail using the United States postal service. The secretary of state shall implement a free-access tracking system for each voter to be able to see the status of the voter's mailed ballot while en route to the voter as well as when returned to the county clerk.

C. The official mailing envelope may be returned using a commercial delivery service; provided that unless the secretary of state has approved the use of a specific commercial delivery service, the voter shall be responsible for the costs of delivery by means of such service.

D. The official mailing envelope may be returned in person to the office of the county clerk or, in a statewide election, to an alternate voting location, mobile alternate voting location, ~~[or]~~ election day voting location or other location where the receipt and storage of the official mailing envelope containing a voted ballot is under the supervision of an election official or county employee.

E. The official mailing envelope may be returned by depositing the official mailing envelope in a monitored secured container made available by the county clerk to receive an official mailing envelope containing a voted ~~[mailed ballots]~~ ballot for that election; provided that:

(1) the location of the containers and the days and times the containers will be available to receive ballots are posted by the county clerk at least ~~[ninety days before a statewide election or]~~ forty-two days before ~~[a special]~~ an election;

(2) the location of a monitored secured container is considered a polling place for purposes of electioneering too close to the polling place in violation of Section 1-20-16 NMSA 1978;

(3) all secured containers shall be monitored by video surveillance cameras and the video recorded by that system shall be retained by the county clerk as a record related to voting pursuant to the provisions of Section 1-12-69 NMSA 1978;

(4) signage at the location of a monitored secured container shall inform voters and those dropping off ballots at the location:

(a) that it is a violation of law for any person ~~[who is not an immediate family member]~~ to collect and deliver a ballot for another person except as authorized by the Election Code;

(b) that electioneering is prohibited within one



hundred feet of the monitored secured container; and

(c) of the range of dates and approximate time the ballots will be collected for that election; and

(5) at least [~~once a day~~] every three days and on election day after the polls close, the county clerk, [~~or a full-time~~] deputy county clerk, election board member or messenger shall collect the ballots from the monitored secured containers and register the date [~~and time stamp~~] and container location on each official mailing envelope [~~and identify the location of the secured container in the ballot register~~].

F. It is a violation of Section 1-20-6 NMSA 1978 for any person to possess a key to a monitored secured container without authorization from the county clerk. It is a violation of Section 1-20-7 NMSA 1978 for any person other than the secretary of state or the county clerk to provide or operate a monitored secured container or other receptacle to receive voted ballots."

**SECTION 36.** Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

"1-6-10. RECEIPT OF MAILED BALLOTS BY CLERK.--

~~[A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee or mailed ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the proper election board, counted in the county canvass or canceled and destroyed in accordance with law.]~~

A. Completed official mailing envelopes that are received at the county clerk's office or a polling place or that are retrieved from the post office or a monitored secured container shall be accepted until 7:00 p.m. on election day. A completed official mailing envelope received after that time shall not be qualified or opened but shall be preserved by the county clerk for the applicable retention period provided in Section 1-12-69 NMSA 1978. The county clerk shall report the number of late ballots from voters, uniformed-service voters and overseas voters and report the

number from each category to date on the final mailed ballot report and as part of the county canvass report. If additional late ballots are received, the county clerk shall update the number of late ballots from each category to the secretary of state.

B. On the day a returned mailed ballot is received by the county clerk, the county clerk shall mark the date of receipt on the outside of the official mailing envelope. Within one business day of receiving a returned official mailing envelope, the county clerk shall remove the privacy flap to verify that the voter signed the official mailing envelope and to confirm that the last four digits of the social security number provided by the voter match the information available to the county clerk; provided that no county clerk or deputy county clerk shall perform the verification process pursuant to this subsection unless the county clerk or deputy county clerk would also meet the requirements to be a challenger, watcher or election observer pursuant to Paragraphs (1) through (4) of Subsection C of Section 1-2-22 NMSA 1978.

C. If the voter's signature is present and the last four digits of the voter's social security number match, the county clerk shall note in the absentee ballot register that the information required to be provided by the voter under the privacy flap has been verified and shall safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the absent voter election board.

D. If either the voter's signature is missing or the last four digits of the voter's social security number are not provided or do not match, the county clerk shall make the appropriate notation in the absentee ballot register and shall safely keep the official mailing envelope unopened in a secured ballot box designated for those official mailing envelopes received that are missing the voter's signature or where the last four digits of the voter's social security number or where the last four digits of the social security number do not match the information available to the county clerk. The county clerk shall immediately send the voter a notice to cure containing information regarding how the voter may provide documentation to cure the missing or incorrect information.

E. If, pursuant to Subsection F of Section 1-6-4 NMSA 1978, the voter was notified of the need to comply with federal

identification requirements when returning the requested ballot and failed to comply, the county clerk shall preserve the inner envelope with the official mailing envelope and write "Rejected" on the front of the official mailing envelope, and the county clerk shall update the ballot register accordingly and immediately send the voter a notice to cure containing information regarding how the voter may provide the missing or incorrect information. The county clerk shall place the official mailing envelope with the attached inner envelope in a container provided for rejected ballots; provided that if the county clerk was required to open the inner envelope to determine that the required documentary identification was not included, the untallied ballot shall be returned to the inner envelope and preserved along with the official mailing envelope in a container for this purpose.

F. The voter may provide the missing or corrected information at any time up to the conclusion of the appeal process for rejected ballots. If a voter provides the missing or corrected information:

(1) before the absent voter election board has been convened, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to the locked and number-sealed ballot box until it is delivered to the absent voter election board;

(2) after the absent voter election board has been convened, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to the absent voter election board;

(3) after the adjournment of the absent voter election board but before the conclusion of the county canvass process, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to an election board convened to assist in preparation of the county canvass report; and

(4) after approval of the county canvass report, the voter may appeal in accordance with appeal procedures for provisional ballots established by rule of the secretary of state

pursuant to Section 1-12-25.2 NMSA 1978.

~~[B.]~~ G. In a statewide election, if the unopened official mailing envelope is received by the county clerk from an election board before the absent voter election board has adjourned, the unopened official mailing envelope shall be ~~[logged and]~~ transmitted to the absent voter election board to be tallied immediately. If the unopened official mailing envelope is received by the county clerk from an election board after the absent voter election board has adjourned, the unopened official mailing envelope shall be ~~[logged and]~~ transmitted to an election board convened to assist in preparation of the county canvass report to be tallied and included in the canvass report of that county for the appropriate precinct.

~~[G. Completed official mailing envelopes shall be accepted until 7:00 p.m. on election day.~~

~~D. Any completed official mailing envelope received after that time shall not be qualified or opened but shall be preserved by the county clerk for the applicable retention period provided in Section 1-12-69 NMSA 1978. The county clerk shall report the number of late ballots from voters, uniformed service voters and overseas voters and report the number from each category to date on the final absentee ballot report and as part of the county canvass report. If additional late ballots are received, the county clerk shall update the number of late ballots from each category to the secretary of state.]"~~

**SECTION 37.** Section 1-6-10.1 NMSA 1978 (being Laws 2003, Chapter 357, Section 5, as amended) is amended to read:

"1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--

A. A voter, caregiver to that voter or member of that voter's immediate family or household may deliver that voter's absentee ballot to the county clerk in person or by mail; provided that the voter has subscribed the official mailing envelope of the absentee ballot.

B. As used in this section, "immediate family" means the spouse, children, parents, domestic partner, grandchildren, grandparents or siblings of a voter or a person with whom the voter

has a continuing personal relationship."

SECTION 38. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

"1-6-14. HANDLING MAILED BALLOTS.--

A. ~~[At any time after mailed ballots have been sent to voters and until the fifth day before the election, the county clerk may convene an election board to meet during the normal business hours of the office of the county clerk to qualify the mailed ballots that are returned.]~~ An absent voter election board may convene as provided in this section to process the official mailing envelopes that have been returned. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the county clerk has verified the required information ~~[has been completed]~~ on the reverse side of the official mailing envelope.

~~[B. If the voter's signature or the required voter identification is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation "Rejected--Missing Signature" or "Rejected--Missing Required Voter Identification" in the "Notations" column of the register. The presiding judge shall place the official mailing envelope unopened in a container provided for rejected ballots.]~~

B. No sooner than the Monday before the election and before the absent voter election board adjourns, the board shall review each uncured returned official mailing envelope that the county clerk determined was missing a signature or the last four digits of the voter's social security number or for which the social security number did not match the information available to the county clerk and determine if the official mailing envelope should be qualified or rejected. An official mailing envelope rejected by the absent voter election board may be qualified if the reason for the rejection is cured at any time before the approval of the county canvass report or prior to the conclusion of an appeal by the voter.

C. Subject to the limitations in Subsection A of Section

1-2-25 NMSA 1978, a lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any mailed ballot voter for the following reasons:

(1) the official mailing envelope has been opened by someone other than the voter prior to being received by the absent voter election board;

(2) the official mailing envelope does not contain a signature;

(3) the official mailing envelope does not contain the required voter identification; or

(4) the person offering to vote is not a voter as provided in the Election Code.

D. If a challenge is upheld by unanimous vote of the presiding judge and the election judges, the official mailing envelope shall not be opened but shall be placed in a container provided for challenged ballots. If the reason for the challenge is satisfied by the voter before the conclusion of the county canvass or as part of an appeal, the official mailing envelope shall be opened and the vote counted.

E. If the form on the reverse of the official mailing envelope has been ~~[properly subscribed]~~ completed by the voter with the voter's correct information, as verified by the county clerk, and the ~~[voter]~~ ballot has not been successfully challenged, the judges or election clerks shall ~~[enter the voter's name and residence address as shown on the official mailing envelope and shall]~~ make the appropriate notation ~~[opposite the voter's name in the "Notations" column of]~~ in the ballot register.

F. For any election in which fewer than ten thousand mailed ballots were sent to the voters of a county, only between 8:00 a.m. and 10:00 p.m. on the five days preceding the election, and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted ~~[and~~

~~canvassed following the closing of the polls on election night] by generating the report of the ballot results beginning no sooner than 9:00 a.m. on election day.~~

G. For any election in which ten thousand or more mailed ballots were sent to the voters of a county, only during the regular business hours of the office of the county clerk during the two weeks preceding the election, between 8:00 a.m. and 10:00 p.m. on the four days preceding the election and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted [~~and canvassed following the closing of the polls on election night] by generating the report of the ballot results beginning no sooner than 9:00 a.m. on election day.~~

H. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of mailed ballots prior to the later of the closing of the polls or the deadline for receiving mailed ballots pursuant to Section 1-6-10 NMSA 1978.

I. Mailed ballots shall be counted and tallied, where possible, on an electronic voting machine as provided in the Election Code.

J. If a mailed ballot is rejected for any reason and not cured by the Friday following election day, it shall be handled by the county clerk in the same manner as a disqualified provisional paper ballot in accordance with the Election Code.

K. On election night, the absent voter election board shall recess upon the earlier of completion of its work or 11:00 p.m. An absent voter election board that recesses at 11:00 p.m. shall continue its work only between the hours of 9:30 a.m. and 9:30 p.m. on each subsequent day until the board has completed its work. If the absent voter election board does not complete its work by 11:00 p.m. on election night, the county clerk shall notify the county sheriff's office that a deputy is required to be present to secure the room or facility where uncounted ballots are locked

overnight. If the sheriff indicates that a sheriff's deputy is unavailable, the county clerk shall notify the secretary of state, who shall request state police to assign a state police officer or other certified law enforcement officer to secure the ballots. The county clerk shall provide as much notice as is practicable in order to secure law enforcement personnel to secure the uncounted ballots overnight. Beginning at 11:00 p.m. on election night, a sheriff's deputy, state police officer or other certified law enforcement officer is required for overnight watch any time the absent voter election board is not present until the return of the absent voter election board. If a sheriff's deputy, a state police officer or other certified law enforcement officer is not available, the county clerk or chief deputy shall remain on-site with or near the uncounted ballots until the return of the absent voter election board and shall allow any watcher or observer to remain present as well. A class A county shall also have video surveillance in the area containing uncounted ballots, which shall be considered a record related to voting pursuant to Section 1-12-69 NMSA 1978."

**SECTION 39.** Section 1-6-16 NMSA 1978 (being Laws 2019, Chapter 212, Section 74) is amended to read:

"1-6-16. MAILED BALLOTS--REPLACEMENT AND PROVISIONAL PAPER BALLOTS.--

A. A voter who has applied for a mailed ballot or who has been sent a mailed ballot may execute an affidavit stating that the person did not and will not vote the mailed ballot that was issued. Upon receipt of the sworn affidavit, if the ballot register does not show that a ballot from the voter has been cast in that election, the county clerk shall void the mailed ballot that was previously issued to the voter.

B. A voter shall be mailed a replacement ballot to be returned to the county clerk for tabulation by the absent ballot election board if the voter:

(1) communicates with the office of the county clerk and requests a replacement mailed ballot be delivered to the voter; and

(2) has executed the affidavit required by Subsection



A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

C. A replacement ballot is not subject to the deadline for issuing a mailed ballot pursuant to Subsection F of Section 1-6-5 NMSA 1978.

~~[G.]~~ D. A voter shall be issued a replacement ballot to be filled out and fed by the voter into the electronic vote tabulator if the voter:

(1) appears at the office of the county clerk, an alternate voting location or a mobile alternate voting location:

(a) at any time during the period for early voting if the county clerk has real-time synchronization between the early voting locations and the qualification of mailed ballots; or

(b) during the period for early voting until the time the county clerk begins qualifying mailed ballots if the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots; and

(2) has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

~~[D.]~~ E. If the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots, a voter shall be issued a provisional paper ballot to be filled out and delivered to the county clerk for tabulation during the county canvass if:

(1) the voter appears at an early voting location after the time the county clerk begins qualifying mailed ballots; and

(2) the voter has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

~~[E.]~~ F. A provisional paper ballot issued pursuant to this

section shall be qualified and tabulated once the county clerk determines that the voter did not vote any other ballot in the same election and if no challenge is successfully interposed.

[F.] G. The secretary of state shall prescribe the form of the affidavit and the manner in which the county clerk shall void the previously requested absentee ballot."

**SECTION 40.** Section 1-6-16.1 NMSA 1978 (being Laws 1989, Chapter 368, Section 1, as amended) is amended to read:

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

A. A voter who applies for a mailed ballot or who was sent a mailed ballot pursuant to Section 1-6-22.1 NMSA 1978 but ~~[has not received or returned the ballot by mail]~~ whose voted ballot has not been received by the county clerk as of the date of the election may go to ~~[the voter's assigned polling place or]~~ a voter convenience center and, after executing an affidavit stating that the person ~~[did not and will not vote the]~~ wishes to void any previous mailed ballot that was issued, shall be permitted to vote [on a provisional paper ballot].

B. If the county clerk has real-time synchronization between the ~~[election-day polling places]~~ voter convenience centers and the qualification of ballots received by mail, the voter shall be issued a replacement ballot to be filled out and fed by the voter into the electronic vote tabulator. If the county clerk does not have real-time synchronization between the voter convenience centers and the qualification of ballots received by mail, the voter shall be issued a provisional paper ballot, which shall be counted if no challenge is interposed and once the county clerk has verified that no other ballot from the same voter has been processed in that election."

**SECTION 41.** Section 1-6-22.1 NMSA 1978 (being Laws 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274, Section 1, as amended) is amended to read:

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

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

B. If a precinct is designated a mail ballot election precinct, in addition to the notice required pursuant to Section 1-3-8 NMSA 1978, the county clerk shall notify by mail with delivery confirmation all voters in that precinct at least forty-two days before an election that each voter will be sent an absentee ballot twenty-eight days before the election and that there will be no polling place for the precinct on election day. The county clerk shall include in the notice a card informing the voter that if the voter does not want to receive an absentee ballot for that election, the voter should return the card before the date the county clerk is scheduled to mail out absentee ballots. The notice shall also inform the voter that a voting system equipped for persons with disabilities will be available at all early voting ~~[sites]~~ locations before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail. In addition, the notice shall inform the voter ~~[if the county is consolidating precincts on election day and, if so]~~ of the ability of the voter to cast a ballot at any [consolidated precinct] voter convenience center on election day if the voter chooses not to receive an absentee ballot, or to cast a [provisional] replacement ballot at any [consolidated precinct] early voting location or voter convenience center if the voter does not receive an absentee ballot, which will be counted upon confirmation that the voter has not returned the absentee ballot. The notice shall also contain the information required in the voter notification sent by the secretary of state on behalf on each county clerk in advance of a statewide election pursuant to Section 1-11-4.1 NMSA 1978.

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

~~[D. The county clerk shall keep a sufficient number of ballots from a mail ballot election precinct such that a voter from that precinct may vote on a replacement or provisional paper ballot pursuant to Section 1-6-16 NMSA 1978 or on an emergency paper ballot pursuant to Section 1-6-16.2 NMSA 1978.]"~~

**SECTION 42.** Section 1-6B-5 NMSA 1978 (being Laws 2015, Chapter 145, Section 29, as amended) is amended to read:

"1-6B-5. METHODS OF REGISTERING TO VOTE.--

A. A federal qualified elector may register to vote using any of the following methods; provided that the document is received by the county clerk by the deadline for registering to vote as provided in Section 1-4-8 NMSA 1978:

(1) using the procedures provided in Chapter 1, Article 4 NMSA 1978; or

(2) using a federal postcard application or the application's approved electronic equivalent.

B. A voter's certificate of registration completed pursuant to the Uniform Military and Overseas Voters Act shall remain valid until canceled in accordance with the procedures specified in Chapter 1, Article 4 NMSA 1978.

C. In registering to vote, a federal qualified elector shall use and must be assigned to the voting precinct of the address of:

(1) the residence of the voter, if the voter resides in this state; or

(2) the last place of residence of the voter in this state, or the last place of residence in this state of the parent or legal guardian of the voter if the voter did not reside in this state; provided that if that address is no longer a recognized residential address, the voter shall be assigned an address or other location within that precinct.

D. A federal qualified elector who registered for the

first time in this state by mail is exempt pursuant to federal law from the requirement to provide documentary identification as otherwise required by Subsection F of Section 1-6-4 NMSA 1978."

**SECTION 43.** Section 1-6B-6 NMSA 1978 (being Laws 2015, Chapter 145, Section 30, as amended) is amended to read:

"1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS BALLOT--  
TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT.--

A. A federal qualified elector who is currently registered to vote in this state may [~~by the deadline specified in the Absent Voter Act for receipt of mailed ballot applications~~] apply for a military-overseas ballot by:

(1) using a mailed ballot application pursuant to the Absent Voter Act; or

(2) using the federal postcard application or the application's electronic equivalent.

B. A federal qualified elector who is not currently registered to vote in this state may, by the deadline in the Election Code for registering to vote, simultaneously register to vote and apply for a military-overseas ballot by using a federal postcard application or the application's electronic equivalent.

C. An application for a military-overseas ballot for [~~a primary election~~] any election conducted pursuant to the Election Code, whether or not timely, is effective as an automatic application for a military-overseas ballot for [the general election] all subsequent elections the voter is eligible to participate in through the conclusion of the election cycle.

D. An application [~~for a military-overseas ballot is effective as an automatic application for a military-overseas ballot for a top-two runoff election necessary to conclude the election for which the application was submitted~~] from a federal qualified elector who provides information permitting secured electronic delivery of the ballot is timely if received by the county clerk no later than three days prior to election day. An application from a federal qualified elector who does not provide information

permitting secured electronic delivery of the ballot is timely if received by the county clerk by the deadline specified in the Absent Voter Act for receipt of mailed ballot applications."

**SECTION 44.** Section 1-6B-10 NMSA 1978 (being Laws 2015, Chapter 145, Section 34, as amended) is amended to read:

"1-6B-10. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--  
QUALIFICATION.--

A. A federal qualified elector may use a federal write-in absentee ballot to vote for all offices and ballot questions in an election.

B. In completing the federal write-in absentee ballot, the federal qualified elector may designate a candidate by writing in the name of the candidate. In a general election when voting for a specified office, a federal qualified elector may in the alternate complete the federal write-in absentee ballot by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party.

C. A qualified federal write-in absentee ballot shall be processed [by] during the [~~canvassing board~~] county canvass in the same manner as a provisional ballot. A federal write-in absentee ballot from a federal qualified elector shall not be qualified if the federal qualified elector voted on any other type of ballot. A federal write-in absentee ballot of an overseas voter shall not be qualified if the ballot is submitted from any location in the United States."

**SECTION 45.** Section 1-6C-2 NMSA 1978 (being Laws 2019, Chapter 226, Section 2) is amended to read:

"1-6C-2. DEFINITIONS.--As used in the Intimate Partner Violence Survivor Suffrage Act:

A. "administrator" means the person appointed by the secretary of state to administer the election component of the confidential substitute address program;

B. "appropriate county clerk" means the county clerk of

the county in which the residential address on a voter registration certificate is located and includes the elected official, the county clerk's chief deputy, an appointed election board and employees or agents of the county clerk with duties related to the Intimate Partner Violence Survivor Suffrage Act;

C. "certification" means the procedure provided by the Confidential Substitute Address Act for a person to be certified as a participant in the confidential substitute address program;

D. "confidential substitute address program" means the program administered by the secretary of state pursuant to the Confidential Substitute Address Act;

E. "decertification" means the procedure provided by the Confidential Substitute Address Act for a person to be decertified as a participant in the confidential substitute address program;

F. "delivery address" means the address where a voter-participant receives mail;

G. "election" means a statewide or special election called, conducted and canvassed pursuant to the provisions of the Election Code;

H. "participant" means a person certified to participate in the confidential substitute address program pursuant to the procedures of the Confidential Substitute Address Act; and

I. "voter-participant" means a participant who is also a voter or a participant who is also a qualified resident who may be considered a voter pursuant to Section 1-4-2 NMSA 1978."

**SECTION 46.** Section 1-6C-6 NMSA 1978 (being Laws 2019, Chapter 226, Section 6) is amended to read:

**"1-6C-6. TRANSMISSION OF BALLOTS TO VOTER-PARTICIPANTS.--**

A. On the thirty-fifth day before an election, on behalf of each voter-participant eligible to vote in that election, the administrator shall request from each appropriate county clerk the ballot to be used by each voter-participant registered to vote in

that county.

B. The request shall not reveal the name or address of the voter-participant. In place of a voter-participant's name and address, the administrator shall provide the appropriate county clerk the random identifier and verification code associated with the voter-participant for that election. The request made pursuant to this section is a record related to voting subject to the disclosure and retention procedures of Section 1-12-69 NMSA 1978.

C. No later than thirty-two days before the election, the appropriate county clerk shall transmit to the administrator the ballot for each voter-participant registered to vote in that county.

D. Twenty-eight days before the election, the administrator shall mail a ballot and balloting materials to a voter-participant's delivery address, along with a return envelope necessary to return the voted ballot to the appropriate county clerk. The return envelope shall be the same as for all other voters, except that in place of the required voter identification to be written under the privacy flap, the administrator shall provide the random identifier assigned to that voter-participant for that election. The return envelope for the voted ballot shall be postage-paid and the return address shall be the address for the appropriate county clerk.

E. When a participant registers to vote or updates a voter registration after the thirty-fifth day before an election but before the deadline to register to vote or to update an existing registration pursuant to Section 1-4-8 NMSA 1978, the administrator shall:

(1) request from the appropriate county clerk, and the appropriate county clerk shall transmit to the administrator as soon as practicable, a ballot and balloting materials; and

(2) send a voter-participant the ballot and balloting materials within twenty-four hours of receipt from the appropriate county clerk.

F. When an unvoted ballot is transmitted to the administrator on behalf of a voter-participant, the appropriate



county clerk shall note in the ballot register the random identifier in place of the voter-participant's name and the address of the confidential substitute address program in place of the voter-participant's address and shall not note the voter-participant's gender or year of birth.

G. A voter-participant needing a replacement ballot may appear in person only at the office of the county clerk and execute an affidavit stating that the voter-participant wishes to void any previous mailed ballot that was mailed in that election. When completing the affidavit, the voter-participant shall use the random identifier in place of the voter-participant's name and the verification code in place of the voter-participant's signature. Upon receipt of the sworn affidavit, if the ballot register does not show that a ballot from the voter-participant has been received in that election, the county clerk shall void the ballot that was previously issued and issue to the voter-participant a replacement ballot and ballot materials, which shall include the voter-participant's random identifier, but the county clerk shall not provide to the voter-participant the verification code when issuing a replacement ballot pursuant to this subsection."

**SECTION 47.** Section 1-6C-7 NMSA 1978 (being Laws 2019, Chapter 226, Section 7) is amended to read:

"1-6C-7. RECEIPT OF VOTED BALLOTS FROM VOTER-PARTICIPANTS.--

A. A voted ballot shall be returned by the voter-participant to the appropriate county clerk. A voted ballot from a voter-participant shall be considered timely if it is received no later than the deadline for receiving mailed absentee ballots or mailed ballots pursuant to Section 1-6-10 NMSA 1978.

B. When a voted ballot is received from a voter-participant, the appropriate county clerk or election board shall compare the random identifier provided by the voter-participant under the privacy flap to the list of random identifiers provided by the administrator for that election. If the random identifier appears in both places, the appropriate county clerk shall verify that the verification code assigned to that random identifier for that election matches the verification code provided by the voter-participant under the privacy flap in lieu of the voter's signature.

If the verification code is on the list provided by the administrator for use in that election and matches the random identifier assigned by the administrator to identify the voter-participant, the ballot shall be qualified and processed in the same manner as mailed absentee ballots or mailed ballots received and qualified in that election.

C. If either the random identifier or the verification code is missing, or if the random identifier and verification code under the privacy flap do not match, the ballot shall not be qualified and shall be disposed of in the same manner as mailed absentee ballots or mailed ballots received in that election and not qualified.

D. Following an election and within the time frames provided in the Election Code, the appropriate county clerk shall provide to the administrator using the random identifier for that election the voter credit information for each voter-participant who voted [~~and the appropriate notations for any voter-participant whose election mail was returned as undeliverable~~]."

**SECTION 48.** Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) is amended to read:

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

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

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

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative

offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by nominating petitions containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the state for statewide offices; and

(2) in the district for offices other than statewide offices; provided that if there are fewer members of the minor party registered to vote in the state for statewide offices or registered to vote in the district for offices other than statewide offices than the number of signatures required for that office, nominating petitions shall contain the signatures of voters totaling not less than the required number of signatures of voters for independent candidates for the same office; and provided further that for the public education commission, nominating petitions shall be signed by at least one-third of the number of signatures that would otherwise be required, and for a judicial office, nominating petitions shall be signed by two-thirds of the number of signatures that would otherwise be required.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by a nominating petition containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the county for countywide offices; and

(2) in the district for offices other than countywide offices; provided that if there are fewer members of the minor party registered to vote in the county for countywide offices or

registered to vote in the district for offices other than countywide offices than the number of signatures required for that office, nominating petitions shall contain the signatures of voters totaling not less than the required number of signatures of voters for independent candidates for the same office; and provided further that for a judicial office, nominating petitions shall be signed by two-thirds of the number of signatures that would otherwise be required.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

D. Except in the case of a political party certified in the year of the election, persons certified as candidates shall be members of that party on the day the secretary of state issues the general election proclamation.

E. When a political party is certified in the year of the general election, and after the day the secretary of state issues the general election proclamation, a person certified as a candidate shall be:

(1) a member of that party not later than the date the political party filed its rules and qualifying petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

(2) a resident in the district of the office for which the person is a candidate on the date of the secretary of state's proclamation for the general election or in the case of a person seeking the office of United States senator or United States representative, a resident within New Mexico on the date of the secretary of state's proclamation for the general election. No person who is a candidate for a party in a primary election may be certified as a candidate for a different party in the general election in the same election cycle.

F. No voter shall sign a petition prescribed by this section for more persons than the number of candidates necessary to fill the office at the next ensuing general election."

**SECTION 49.** Section 1-8-3 NMSA 1978 (being Laws 1969, Chapter

240, Section 153, as amended) is amended to read:

"1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER METHODS.--  
If the rules and regulations of a minor political party require nomination by a method other than a political convention:

A. the state [~~chairman~~] chair and the governing board of the state party shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, [~~public regulation commission~~] all elective judicial officers in the judicial department and all offices representing a district composed of more than one county;

B. the county [~~chairman~~] chair and the governing board of the county party shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county; and

C. the names of such nominees shall be filed in the same time and manner prescribed by the Election Code for convention-designated nominees of minor political parties, and each list of names certified shall be accompanied by the petition containing a list of signatures and addresses of voters as prescribed for convention-designated nominees."

**SECTION 50.** Section 1-8-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 156, as amended) is amended to read:

"1-8-6. VACANCY ON PRIMARY BALLOT.--Regardless of the cause, no vacancy on the primary election ballot occurring after the period for filing a declaration of candidacy [~~or the date of filing with the secretary of state a certificate of designation by state convention, whichever the case may be~~] shall be filled."

**SECTION 51.** Section 1-8-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 157, as amended) is amended to read:

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

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

(1) the death of a candidate after filing of the declaration of candidacy [~~or after certification as a convention-designated nominee~~] and before the primary election;

(2) the failure of a major political party to nominate a candidate for lieutenant governor; provided that the major political party nominated a candidate for governor; or

(3) the resignation or death of a person holding a public office after the last Friday before the first Tuesday in March, when such office was not included in the general election proclamation and is required by law to be filled at the next succeeding general election after the vacancy is created.

B. The vacancy may be filled subsequent to the primary election by the central committee of the state or county political party, as the case may be, as provided by Subsection A of Section 1-8-8 NMSA 1978.

C. [~~The name of the person to fill the vacancy on the general election ballot shall be~~] Appointments to fill vacancies in the list of a party's nominees shall be made and filed with the proper filing officer [on a form approved by the secretary of state] on the twenty-third day after the primary election using the form prescribed by the secretary of state, along with [a] the declaration of candidacy subscribed and sworn by the selected nominee and the required form for candidates pursuant to the Campaign Reporting Act.

D. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

**SECTION 52.** Section 1-8-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 158, as amended) is amended to read:

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

PRIMARY.--

A. If after a primary election, but [~~seventy~~] ninety or more days before the general election, a vacancy occurs, for any cause, in the list of the nominees of a qualified political party for any public office to be filled in the general election, or a vacancy occurs because of the resignation or death of a person holding a public office not included in the secretary of state's general election proclamation and which office is required by law to be filled at the next succeeding general election, or a vacancy occurs because a new public office is created and was not included in the secretary of state's general election proclamation but is capable by law of being filled at the next succeeding general election, the vacancy on the general election ballot may be filled by:

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

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

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

C. The county or state central committee members making the appointment pursuant to Subsection A of this section shall be as provided for in the rules of the respective party; provided that, at a minimum, the committee shall include those members residing within the boundaries of the area to be represented by the public office.

D. Appointments to fill vacancies in the list of a party's nominees shall be made and filed with the proper filing officer on or before the seventieth day prior to a general election using [~~a~~] the form [approved] prescribed by the secretary of state [~~at least sixty-three days prior to the general election~~], along with [~~a~~] the declaration of candidacy form subscribed and sworn by the selected

nominee and the [~~required~~] form for candidates pursuant to the Campaign Reporting Act.

E. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

**SECTION 53.** A new Section 1-8-10.1 NMSA 1978 is enacted to read:

"1-8-10.1. [NEW MATERIAL] SHORT TITLE.--Sections 1-8-10.1 through 1-8-52 NMSA 1978 may be cited as the "Primary Election Law"."

**SECTION 54.** Section 1-8-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 162, as amended) is amended to read:

"1-8-13. PRIMARY [~~ELECTION LAW~~] AND GENERAL ELECTIONS--  
CONTENTS OF PROCLAMATION.--The general election proclamation calling a primary and general election shall contain:

A. the names of the major political parties participating in the primary election;

B. the offices to be elected at the general election and for which each political party shall nominate candidates; provided that if any law is enacted by the legislature in the year in which the primary election is held and the law does not take effect until after the date to amend the proclamation but prior to the date to fill vacancies pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the secretary of state shall conform the proclamation to the intent of the law with respect to the offices for which each political party shall nominate candidates;

C. the date on which declarations of candidacy and nominating petitions for United States representative, any office voted upon by all the voters of the state, a legislative office, the office of district judge, district attorney, public education commission [~~public regulation commission~~] or magistrate shall be filed and the places where they shall be filed in order to have the candidates' names printed on the official ballot of their party at the primary election or in order to have the candidates' names



printed on the official ballot at the general election, as applicable;

D. the date on and place at which declarations of candidacy shall be filed for any other office and filing fees paid or, in lieu thereof, a [~~pauper's statement of inability to pay~~] nominating petition;

~~[E. the final date on and place at which candidates for the office of United States representative and for any statewide office seeking preprimary convention designation by the major parties shall file petitions and declarations of candidacy;~~

~~F. the final date on which the major political parties shall hold state preprimary conventions for the designation of candidates;~~

~~G. the final date on and place at which certificates of designation of primary election candidates shall be filed by political parties with the secretary of state;~~

H.] E. the date on which declarations of candidacy for minor party candidates shall be filed and the places where the declarations of candidacy shall be filed in order to have the minor party candidate names printed on the official ballot of the general election;

[I.] F. the date on which declarations of candidacy for unaffiliated candidates shall be filed and the places where the declarations of candidacy shall be filed in order to have the unaffiliated candidate names printed on the official ballot of the general election;

[J.] G. the date on which declarations of candidacy for nonpartisan judicial retention shall be filed and the places where the declarations of candidacy shall be filed in order to have the judicial retention names printed on the official ballot of the general election; and

[K.] H. the date on which declarations to be a write-in candidate are to be filed and the places where the declarations of candidacy shall be filed in order to have write-in votes counted and

canvassed at the political party primary or general election."

**SECTION 55.** Section 1-8-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 165, as amended) is amended to read:

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

**SECTION 56.** Section 1-8-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 167, as amended) is amended to read:

"1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A CANDIDATE.--

A. No person shall become a candidate for nomination by a political party or have the person's name printed on the primary election ballot unless the person's record of voter registration shows:

(1) affiliation with that political party on the date of the secretary of state's general election proclamation; and

(2) residence in the district of the office for which the person is a candidate on the date of the secretary of state's general election proclamation or in the case of a person seeking the office of United States senator or United States representative, residence within New Mexico on the date of the secretary of state's general election proclamation.

B. A voter may challenge the candidacy of a person seeking nomination by a political party for the reason that the person does not meet the requirements of Subsection A of this section by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy [~~or a statement of candidacy for convention designation~~]. The district court shall hear and render a decision on the matter within ten days after the filing of

the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

**SECTION 57.** Section 1-8-21 NMSA 1978 (being Laws 1996, Chapter 20, Section 3, as amended) is amended to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON PRIMARY BALLOT.--

~~[A. All candidates seeking primary election nomination to a statewide office or the office of United States representative shall file declarations of candidacy with the proper filing officer. Candidates shall file nominating petitions at the time of filing their declarations of candidacy. Candidates who seek, but do not obtain, preprimary convention designation by a major political party may file new declarations of candidacy and nominating petitions pursuant to Section 1-8-33 NMSA 1978.~~

~~B. Except as provided in Subsection C of this section]~~ A. Candidates for any ~~[other]~~ state office listed in the proclamation issued pursuant to Section [1-8-13G] 1-8-13 NMSA 1978 shall have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions with the proper filing officer.

~~[C.]~~ B. Candidates for any county office listed in the proclamation issued pursuant to Section 1-8-13 NMSA 1978 shall have their names placed on the primary election ballot by filing declarations of candidacy and paying a fifty-dollar (\$50.00) filing [fees] fee or filing ~~[the proper paupers' statements]~~ a nominating petition containing no fewer than ten signatures for offices elected by district or twenty signatures for offices elected countywide at the time of filing declarations of candidacy with the proper filing officer."

**SECTION 58.** Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended) is amended to read:

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

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

B.] A. Declarations of candidacy for any [other] office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

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

D.] B. No name shall be placed on the ballot until the person has been notified in writing by the proper filing officer that the certificate of registration on file, the declaration of candidacy and the petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The proper filing officer shall mail the notice [no later than 5:00 p.m.] on the Tuesday following the filing date.

~~[E.]~~ C. If a person is notified by the proper filing officer that the person is not qualified to be a candidate, the person may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

**SECTION 59.** Section 1-8-27 NMSA 1978 (being Laws 1969, Chapter 240, Section 172, as amended) is amended to read:

"1-8-27. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--MANNER OF FILING.--Each declaration of candidacy [by nominating petition or by preprimary convention designation] shall be delivered for filing in person by the candidate therein named or by a person acting, by virtue of written authorization, solely on the

candidate's behalf. The proper filing officer shall not accept for filing more than one declaration of candidacy from any one individual [~~except that candidates who seek but fail to receive preprimary convention designation shall file a declaration of candidacy by nomination, according to provisions of the Primary Election Law, to have their names placed on the primary election ballot~~]."

SECTION 60. Section 1-8-29 NMSA 1978 (being Laws 1973, Chapter 228, Section 3, as amended) is amended to read:

"1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--FORM.--In making a declaration of candidacy [~~by nominating petition or by pre-primary convention designation~~], the candidate shall submit substantially the following form as approved by the secretary of state for that election:

"DECLARATION OF CANDIDACY  
[~~BY PRE-PRIMARY CONVENTION DESIGNATION  
(OR BY NOMINATING PETITION)~~]

I, \_\_\_\_\_, (candidate's name on certificate of registration) being first duly sworn, say that I reside at \_\_\_\_\_, as shown by my certificate of registration as a voter of Precinct No. \_\_\_\_\_ of the county of \_\_\_\_\_, State of New Mexico;

I am a member of the \_\_\_\_\_ party as shown by my certificate of registration and I have not changed such party affiliation subsequent to the secretary of state's general election proclamation calling the primary in which I seek to be a candidate;

I desire to become a candidate for the office of \_\_\_\_\_ at the primary election to be held on the date set by law for this year, and [~~if the office be that of a member of the legislature or that of a member of the public education commission~~] that I actually reside at the address designated on my certificate of voter registration;

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

If a candidate for any office for which a nominating petition is required, I am submitting with this statement a nominating petition in the form and manner as prescribed by the Primary Election Law; and

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

\_\_\_\_\_  
(Declarant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Residence Address)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_, 20 \_\_.

\_\_\_\_\_  
(Notary Public)

My commission expires:  
\_\_\_\_\_ ". "

SECTION 61. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION-- NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

~~[B. Candidates who seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent of the total vote of the candidate's party in the state or congressional district, or the following number of voters, whichever is greater: for statewide offices, two hundred thirty voters; and for congressional candidates, seventy-seven voters.]~~

~~G.]~~ B. Nominating petitions for candidates for ~~[any other]~~ an office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least the greater of:

(1) for the public education commission, one percent of the total vote of the candidate's party in the district; for judicial candidates, two percent of the total vote of the candidate's party in the district or division; and for all other candidates, three percent of the total vote of the candidate's party in the district [or division or the following number of voters, whichever is greater]; or

(2) for metropolitan court and magistrate courts, ten voters; [for the public regulation commission, fifty voters] for the public education commission, twenty-five voters; for state representative, ten voters; for state senator, seventeen voters; and for district attorney and district judge, fifteen voters.

~~[D. A candidate who fails to receive the preprimary convention designation that the candidate sought may collect additional signatures to total at least four percent of the total vote of the candidate's party in the state or congressional district, whichever applies to the office the candidate seeks, and file a new declaration of candidacy and nominating petitions for the office for which the candidate failed to receive a preprimary designation. The declaration of candidacy and nominating petitions shall be filed with the secretary of state either ten days following the date of the preprimary convention at which the candidate failed to receive the designation or on the date all declarations of candidacy and nominating petitions are due pursuant to the provisions of the Primary Election Law, whichever is later.]"~~

**SECTION 62.** Section 1-8-36.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 1, as amended) is amended to read:

"1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

A. Write-in candidates are permitted in the primary election only for the offices of United States representative, members of the legislature, district judges, district attorneys, ~~[public regulation commission]~~ public education commission,

magistrates and any office voted upon by all voters of the state.

B. A person may be a write-in candidate only for nomination by the major political party with which the person is affiliated as shown by the certificate of registration, and such person shall have the same qualifications to be a candidate in the primary election for the political party for which the person is a write-in candidate.

C. A person desiring to be a write-in candidate for one of the offices listed in Subsection A of this section in the primary election shall file with the proper filing officer a declaration of intent to be a write-in candidate, accompanied by a nominating petition containing the same number of signatures required of other candidates for major party nomination for the same office. Such declaration of intent shall be filed between 9:00 a.m. and 5:00 p.m. on the third Tuesday in March.

D. ~~[At the time of filing the declaration of intent to be a write-in candidate, the]~~ A person shall not be a declared write-in candidate until the person has been notified in writing by the proper filing officer that the certificate of registration on file, the declaration of candidacy and the nominating petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The proper filing officer shall mail the notice on the Friday following the filing date. The determination by the proper filing officer that a person is a declared write-in candidate is subject to the provisions of Section 1-8-18 NMSA 1978.

E. If a person is notified by the proper filing officer that the person is not qualified to be a write-in candidate, the person may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith.

F. A write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the



Election Code, including the obligations to report pursuant to the Campaign Reporting Act, except that the write-in candidate's name shall not be printed on the ballot."

**SECTION 63.** Section 1-8-40 NMSA 1978 (being Laws 1969, Chapter 240, Section 175, as amended) is amended to read:

"1-8-40. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--FALSE STATEMENT.--Any person knowingly making a false statement in [~~his~~ the person's declaration of candidacy [~~by nominating petition or by preprimary convention designation~~] is guilty of a fourth degree felony."

**SECTION 64.** Section 1-8-51 NMSA 1978 (being Laws 1977, Chapter 322, Section 7, as amended) is amended to read:

"1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE ELECTIONS--NOMINATING PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

A. The basis of percentage for the total number of votes cast in each instance referred to in this section shall be the total vote cast for governor at the last preceding general election at which a governor was elected.

B. Nominating petitions for an independent candidate for president of the United States shall be signed by a number of voters equal to the number of signatures required to form a new political party.

C. Nominating petitions for an independent candidate for United States senator or any other statewide elective office shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the state.

D. Nominating petitions for an independent candidate for United States representative shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the district.

E. Nominating petitions for an independent candidate for a member of the legislature, [~~public regulation commission, district~~

judge] district attorney [~~member of the public education commission, magistrate~~] or county office shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the district, division or county, as the case may be; provided that for the public education commission, nominating petitions shall be signed by at least one-third of the number of signatures that would otherwise be required, and for a judicial office, nominating petitions shall be signed by two-thirds of the number of signatures that would otherwise be required.

F. When a vacancy for any office occurs on the general election ballot pursuant to Section 1-8-7 or 1-8-8 NMSA 1978 in which all political parties may name a general election candidate or when a vacancy occurs in the office of United States representative pursuant to Section 1-15-18.1 NMSA 1978, an independent candidate may file a declaration of candidacy on or by the same deadline applicable to the political parties. The nominating petitions for an independent candidate in such circumstances shall be signed by the number of voters provided in this section, unless there are fewer than:

(1) sixty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to two-thirds the number of voters otherwise required by this section for an independent candidate; or

(2) thirty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to one-third the number of voters otherwise required by this section for an independent candidate.

G. A voter shall not sign a petition for an independent candidate as provided in this section if the voter has signed a petition for another independent candidate for the same office."

**SECTION 65.** Section 1-8-66 NMSA 1978 (being Laws 1981, Chapter 156, Section 2, as amended) is amended to read:

"1-8-66. GENERAL ELECTIONS--WRITE-IN CANDIDATES.--

A. A person desiring to be a write-in candidate in a general election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election a declaration of intent to be a write-in candidate, accompanied by a petition signed by a number of voters equal to at least one percent of the total number of votes cast in the area sought to be represented as were cast for governor at the last preceding general election at which a governor was elected.

~~B. [The form of the declaration of intent shall be prescribed by the secretary of state and shall contain a sworn statement by the person that the person is qualified to be a candidate for and to hold the office for which the person is filing]~~  
A person shall not be a declared write-in candidate until the person has been notified in writing by the proper filing officer that the certificate of registration on file, the declaration of candidacy and the nominating petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The proper filing officer shall mail the notice on the Friday following the filing date. The determination by the proper filing officer that a person is a declared write-in candidate is subject to the provisions of Section 1-8-18 NMSA 1978.

C. If a person is notified by the proper filing officer that the person is not qualified to be a write-in candidate, the person may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith.

~~[C. At the time of filing the declaration of intent to be a write-in candidate, the]~~ D. A write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including the obligation to report under the Campaign Reporting Act, except that the candidate shall not be entitled to have the candidate's name printed on the ballot.

~~[D.]~~ E. The secretary of state shall, not more than ten days after the filing date, certify the names of the declared write-

in candidates to the county clerks of every county affected by such candidacy.

[E.] F. No person shall be a write-in candidate in the general election who was a candidate or who filed a declaration of candidacy in the primary election immediately prior to the general election. A write-in candidate for governor or lieutenant governor in the general election shall have a companion write-in candidate, and they shall be candidates to be elected jointly by the casting by a voter of a single vote applicable to both offices."

**SECTION 66.** Section 1-9-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 184, as amended) is amended to read:

"1-9-1. SECRETARY OF STATE--DUTIES--VOTING SYSTEM DEFINED.--

A. The secretary of state shall study, examine and certify all voting systems used in elections for public office in New Mexico. The secretary of state shall maintain a current list of certified voting systems and copies of filed testing and evaluation reports accessible by the public on the secretary of state's [~~web site~~] website. Only certified voting systems [~~certified~~] that are also approved for use by the secretary of state and acquired pursuant to a competitive bid process in accordance with the provisions of the Procurement Code shall be used in any election for public office in New Mexico.

B. As used in Chapter 1, Article 9 NMSA 1978, "voting system" means a combination of mechanical, electromechanical or electronic equipment, including the software and firmware required to program and control the equipment, that is used to cast and count votes, and also including any type of system that is designed to print or to mark ballots at a polling location; equipment that is not an integral part of a voting system but that can be used as an adjunct to it is considered to be a component of the system."

**SECTION 67.** Section 1-9-7.10 NMSA 1978 (being Laws 2010, Chapter 28, Section 8) is amended to read:

"1-9-7.10. VOTING SYSTEMS--BALLOT HANDLING AND PROCESSING REQUIREMENTS.--Voting systems certified for use in state elections shall:

- A. accept a ballot that is a minimum of six inches wide and a maximum of [~~twenty-four~~] twenty-two inches long, in dual columns and printed on both sides;
- B. accept a ballot in any orientation when inserted by a voter;
- C. have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;
- D. be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction; [~~and~~]
- E. be able to read a single ballot with at least four hundred twenty voting positions; and
- F. tabulate as a vote only the human-readable marks in the voter response area of a ballot."

**SECTION 68.** Section 1-10-4 NMSA 1978 (being Laws 1977, Chapter 222, Section 27, as amended) is amended to read:

"1-10-4. BALLOTS--PREPARATION.--

A. In a primary election, not less than sixty days before the election, each county clerk shall group each candidate who has been qualified by a proper filing officer and a space for any offices with a declared write-in candidate, separated by political party and certify in writing a separate ballot for each precinct in the county for each major political party to be voted on at the primary election.

B. In a general election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified by a proper filing officer, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the general election.

C. In a regular local election, not less than [~~sixty~~ fifty-six] days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing the name of each candidate who has been qualified by a proper filing officer, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the regular local election.

D. In a special local election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing any ballot questions to be voted on at the special election.

E. In a special state election, not less than sixty days before the election, the secretary of state shall certify in writing the ballot containing any ballot questions to be voted on at the special state election.

F. In an election to fill a vacancy in the office of United States representative and except as provided in Subsection G of this section, not less than fifty-three days before the election, the secretary of state shall certify in writing the ballot containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

G. In an election to fill a vacancy in the office of United States representative in extraordinary circumstances pursuant to 2 U.S.C. Section 8(b), not more than seventeen days after the announcement of a vacancy in the office of United States representative, the secretary of state shall certify in writing the ballot containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

H. On the date specified for each election in this section, each ballot certified pursuant to this section shall be sent to the ballot printer or other person preparing the ballot for

use by voters and sent to the secretary of state to keep on file for twelve months, after which the certified ballot shall be transferred to be a permanent record at the state records center. Upon request of the county chair of a political party participating in a partisan election, the county clerk shall furnish proof sheets or a copy of the proof sheets of the certified ballot as soon as they become available."

**SECTION 69.** Section 1-10-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 29, as amended) is amended to read:

"1-10-6. BALLOTS--NAME TO BE PRINTED--ORDER OF NAMES--SIMILAR NAMES--NAMES NOT TO BE PRINTED.--

A. In the preparation of ballots for a statewide election, the candidate's name shall be printed on the ballot as it appears on the candidate's certificate of registration that is on file in the county clerk's office on the day the secretary of state issues the proclamation for that election; provided that:

- (1) the last name printed on the ballot shall match the candidate's legal last name;
- (2) academic, honorific and elected titles shall not be printed;
- (3) periods after initials shall not be printed;
- (4) punctuation common to names, other than a period, shall be printed as it appears on the candidate's certificate of registration; and
- (5) only letters and punctuation used in roman typefaces shall be printed.

B. The order of candidates for the same office in a statewide election shall be determined using a randomization method provided by rule.

[B.] C. If it appears that the names of two or more candidates for any office to be voted on at the election are the same or are so similar as to tend to confuse the voter as to the

candidates' identities, the occupation and, if further differentiation is necessary, the year of birth, of each such candidate shall be printed immediately under the candidate's name on the ballot.

[~~C.~~] D. A candidate's name shall not be printed on the ballot if at least seventy days before a general election, sixty-three days before a primary election or regular local election or seven days after the filing day for declarations of candidacy for any other election:

(1) the candidate files with the proper filing officer a signed and notarized statement of withdrawal as a candidate in that election;

(2) a judicial determination is made that the candidate does not qualify to be a candidate for the office sought;

(3) the voter registration of the candidate is updated by the candidate in such manner that the candidate does not qualify to be a candidate for the office sought; or

(4) the voter registration of the candidate is canceled for any reason provided in Chapter 1, Article 4 NMSA 1978."

**SECTION 70.** Section 1-10-8 NMSA 1978 (being Laws 2019, Chapter 212, Section 103) is amended to read:

"1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT QUESTIONS.--

A. In the year in which the president of the United States is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

(1) in a presidential primary, president;

(2) in a general election, president and vice president as a ticket;

(3) United States senator;



(4) United States representative;

(5) state senator;

(6) state representative;

(7) supreme court;

(8) court of appeals;

~~[(9) public regulation commission districts with odd-numbered designations];~~

~~(10)]~~ (9) public education commission ~~[districts with odd-numbered designations];~~

(10) district attorney;

(11) district court;

(12) metropolitan court;

(13) county clerk;

(14) county treasurer; ~~and~~

(15) county commission; ~~[districts and positions with odd-numbered designations]~~ and

(16) when applicable:

(a) county sheriff;

(b) county assessor; and

(c) probate judge.

B. In the year in which the governor is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

- (1) United States senator;
- (2) United States representative;
- (3) in a major political party primary, governor;
- (4) in a major political party primary, lieutenant governor;
- (5) in a general election, governor and lieutenant governor as a ticket;
- (6) secretary of state;
- (7) attorney general;
- (8) state auditor;
- (9) state treasurer;
- (10) commissioner of public lands;
- (11) state representative;
- (12) supreme court;
- (13) court of appeals;
- ~~[(14) public regulation commission districts with even-numbered designations;~~
- ~~(15)] (14) public education commission; [districts with even-numbered designations;~~
- ~~(16)] (15) district court;~~
- ~~[(17) district attorney;~~
- ~~(18)] (16) metropolitan court;~~
- ~~[(19)] (17) magistrate court;~~

[~~(20)~~] (18) county sheriff;

[~~(21)~~] (19) county assessor;

[~~(22)~~] (20) county commission; [~~districts and positions with even-numbered designations; and~~]

~~(23)~~] (21) probate judge; and

(22) when applicable:

(a) county clerk; and

(b) county treasurer.

C. The ballot in a regular local election shall contain, when applicable, nonpartisan offices to be voted on in the following order:

- (1) municipal, with elective executive officers listed first, governing board members listed second and judicial officers listed third;
- (2) board of education of a school district;
- (3) community college, branch community college, technical and vocational institute district or learning center district; and
- (4) special districts listed in order by voting population of each special district, with the most populous listed first and the least populous listed last.

D. The ballot in a statewide election shall contain, when applicable, nonpartisan judicial retention and in a statewide or special election, when applicable, ballot questions to be voted on in the following order, unless a different order is prescribed by the secretary of state:

- (1) judicial retention;
- (2) proposed state constitutional amendments;

(3) other state ballot questions;

(4) county ballot questions; and

(5) local government ballot questions listed in the same order as the list of local governments in Subsection C of this section.

E. When multiple positions for the same nondistricted, nonjudicial office are to be elected on the same ballot and the qualifications for each of those positions are the same, the nondistricted, nonjudicial district shall be elected at large in the next election in a single contest on the ballot in which voters shall be given the instruction to "vote for no more than X". If two or more positions for the same office are to be elected to represent the same area but with terms of different lengths of time, the candidate receiving the highest number of votes shall be elected to the position with the longest term length, and the candidate receiving the next highest number of votes shall be elected to the position with the next longest term length, with additional candidates elected to positions accordingly.

~~[E.]~~ F. When multiple positions for the same districted, nonjudicial office are listed on the same ballot [and each position is to be elected individually] or the qualifications for one or more at-large positions are distinct from the qualifications of the rest:

(1) offices designated by district number shall appear on the ballot in ascending numerical order of the districts; and

(2) offices not designated by district number shall appear on the ballot in ascending numerical order of the position; provided that the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, and only one member shall be elected for each position [~~and~~

~~(3) whenever two or more positions for the same office are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall first group the offices with the shorter length of time and shall designate each~~

~~position with "for a term expiring \_\_\_\_\_", specifying the date the term expires].~~

[F.] G. When multiple positions for the same judicial office are listed on the same ballot, ~~and~~ each position is to be elected or voted on individually as follows:

(1) district, metropolitan and magistrate court positions, either for partisan election or for nonpartisan judicial retention, shall appear on the ballot in ascending numerical order of the division number assigned to each position;

(2) supreme court and court of appeals for partisan election shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the date of the vacancy causing the position to be listed on the ballot; provided that if multiple vacancies occurred on the same day, the positions shall appear on the ballot based on the order of seniority of the justice or judge who vacated the position, with the highest seniority listed first; and

(3) supreme court and court of appeals for nonpartisan judicial retention shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the seniority of the justice or judge seeking retention, with the highest seniority listed first."

**SECTION 71.** A new Section 1-11-4.1 NMSA 1978 is enacted to read:

"1-11-4.1. [NEW MATERIAL] VOTER NOTIFICATION.--

A. At least forty-two days prior to each statewide election, the secretary of state, on behalf of each county clerk, shall mail a voter notification of the election. The voter notification shall include:

(1) the date and purpose of the election;

(2) an internet web address where a voter may apply for a mailed ballot;

(3) a telephone number where a voter may call to request the paper form of the mailed ballot application;

(4) a list of the days and times and addresses of early voting locations and voter convenience centers where a voter may vote in person; and

(5) a list of the locations of monitored secured containers where a voter may return a mailed ballot.

B. At least forty-nine days prior to each special election, the county clerk shall mail a voter notification of the election. The voter notification shall include:

(1) the date and purpose of the election;

(2) notification that the election will be conducted by mail and that no polling places will be available for the special election;

(3) the deadline for voted mailed ballots to be received by the county clerk and the recommended deadline to deposit the voted mailed ballot with the United States postal service for return by mail, which shall be seven days before the election;

(4) the address and the telephone number of the county clerk's office for a voter requiring a replacement ballot or returning a mailed ballot; and

(5) a list of the monitored secured containers where a voter may return a mailed ballot.

C. The voter notification shall be sent to each voter, except the voter notification shall not be sent to a voter whose:

(1) election mail has been returned as undeliverable and who has not updated the voter's certificate of registration with a new address;

(2) ballot is delivered pursuant to the provisions of the Uniform Military and Overseas Voters Act;

(3) ballot is delivered pursuant to the provisions of

the Intimate Partner Violence Survivor Suffrage Act; or

(4) ballot, in a statewide election, is delivered pursuant to the provisions of Section 1-6-22.1 NMSA 1978."

**SECTION 72.** Section 1-11-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 215, as amended) is amended to read:

"1-11-5. VOTING DEVICE--PREPARATION--CERTIFICATION.--

A. Forty-two days before the election, the county clerk may begin to prepare, inspect, certify and seal electronic voting machines that are to be used in the election, and such preparation, inspection, certification and sealing shall continue until all machines are prepared, inspected, certified and sealed. The process of preparing, inspecting, certifying and sealing electronic voting machines shall be open to observation by the public.

B. The county clerk shall certify to the secretary of state and the county chair of each political party represented on the ballot the type and serial number of each voting machine to be used."

**SECTION 73.** Section 1-11-19 NMSA 1978 (being Laws 2018, Chapter 79, Section 33, as amended) is amended to read:

"1-11-19. COSTS OF ELECTIONS--~~[LOCAL ELECTION ASSESSMENT]~~ STATE ELECTION FUND [ESTABLISHED].--

A. There is created in the state treasury the "state election fund" solely for the purposes of:

(1) paying the costs of conducting and administering statewide elections required by the Election Code;

(2) reimbursing the counties for the costs of conducting and administering statewide elections required by the Election Code;

(3) paying the administrative costs of the office of the secretary of state for administering elections required by the Election Code and for administering the state election fund; and

(4) carrying out all other specified provisions of the Election Code not already covered by another fund administered by the secretary of state.

B. The state treasurer shall invest the state election fund as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund. Money in the fund is appropriated to the office of the secretary of state for the purposes authorized in Subsection A of this section. Money in the fund shall only be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of state or the secretary's designee.

C. Money received from the following sources shall be deposited directly into the state election fund:

(1) money appropriated to the fund by the legislature;

(2) reimbursements from the state or a local government for elections costs; ~~and~~

(3) federal funds received by the state that are designated by the federal government or the state executive for elections or that have been appropriated by the legislature for election purposes;

(4) grants or capital outlay funds received by a county clerk for which the secretary of state has agreed to serve as the fiscal agent; and

~~(3)~~ (5) grants or capital outlay funds received by the secretary of state for the purposes of Subsection A of this section and not designated for any other fund.

D. The secretary of state may submit a budget adjustment request to use money in the state election fund for the purposes authorized in Subsection A of this section beyond a five percent variance from the approved elections budget for the current fiscal year.



~~[D. In the event that]~~ E. If the current year balances in the state election fund do not cover the costs of elections, the secretary of state may apply to the state board of finance for an emergency grant to cover those costs pursuant to Section 6-1-2 NMSA 1978."

SECTION 74. A new Section 1-11-12.2 NMSA 1978 is enacted to read:

"1-11-12.2. [NEW MATERIAL] MONITORED SECURED CONTAINERS--  
DISTRIBUTION TO COUNTIES.--

A. Each county shall have at least two monitored secured containers. The secretary of state may approve a request by a county clerk for additional monitored secured containers in a county.

B. In addition to the monitored secured containers provided pursuant to Subsection A of this section, a municipality, school district, community college or other political subdivision of the state may make a written request to the county clerk for one or more monitored secured containers on or near the boundaries of the municipality, school district, community college or other political subdivision of the state. A county clerk that receives a written request for monitored secured containers from a municipality, school district, community college or other political subdivision of the state shall evaluate the population in and near the area of the request, the distance voters have to travel to get to the nearest monitored secured container and the number of monitored secured containers and early voting locations on or near the area of the request. The county clerk shall respond in writing to the municipality, school district, community college or other political subdivision within thirty days of receiving the written request. A written request for monitored secured containers for future statewide elections may be made between the second Tuesday in March and the second Tuesday in April of any year.

C. A municipality, school district, community college or other political subdivision of the state whose written request to a county clerk for monitored secured containers is denied may appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along

with any response to the denial letter from the requesting political subdivision. The secretary of state may place a monitored secured container on or near an area that is the subject of the request in response to an appeal submitted pursuant to this subsection.

D. A monitored secured container located on or near the boundaries of a municipality, school district, community college or other political subdivision of the state shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is provided pursuant to this section, the requesting political subdivision shall provide the facility and services necessary for the monitored secured container."

**SECTION 75.** A new Section 1-11-20 NMSA 1978 is enacted to read:

"1-11-20. [NEW MATERIAL] COSTS OF ELECTIONS--COUNTY ELECTION FUND.--

A. A "county election fund" is created within the county treasury of each county.

B. Expenditures from the county election fund shall be determined by the county clerk and shall be used exclusively for purposes relating to the administration of elections pursuant to the provisions of the Election Code and rules issued by the secretary of state. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the county general fund.

C. Money received from the following sources shall be deposited directly into the county election fund:

- (1) county general funds appropriated for the costs of elections;
- (2) other money appropriated to the fund by the board of county commissioners;
- (3) filing fees paid for elections;
- (4) money received from the state or a local public

body for the costs of conducting a special election pursuant to the Special Election Act;

(5) grants and reimbursements from the state for elections costs;

(6) federal funds received by the county that are designated for elections or that have been appropriated for election purposes; and

(7) grants or capital outlay funds received by a county for election purposes from any source and not designated to any other county fund.

D. The county election fund is subject to being audited in the same manner as other funds in the county. The county clerk shall prepare a report detailing the source of funds deposited into the county election fund, the use of funds and the remaining balances within the county election fund during the annual county budgeting process. The county clerk shall report to the secretary of state the use and remaining balances of state funds within the county election fund as required by the secretary of state."

**SECTION 76.** Section 1-12-25.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 3, as amended) is amended to read:

"1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--  
INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

A. If a voter is required to vote on a provisional paper ballot, the presiding judge or election judge shall give the voter written instructions on how the voter may determine whether the vote was counted and, if the vote was not counted, the reason it was not counted.

B. The secretary of state shall provide a free access system, such as a toll-free telephone number or internet website, that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted and, if the vote was not counted, the reason it was not counted and how to appeal the decision pursuant to rules issued by the secretary of state. Access to information about an individual voter's provisional paper ballot

through the free access system is restricted to the voter who cast the ballot.

C. Beginning with the closing of the polls on election day through the tenth day following the election, the county clerk shall notify by mail each person whose provisional paper ballot was not counted of the reason the ballot was not counted. The voter shall have until the Friday prior to the meeting of the state canvassing board to appeal to the county clerk a decision to reject the voter's ballot. At any time up to and including the appeal, the voter may provide information or documentation to satisfy the reason the ballot was rejected."

**SECTION 77.** Section 1-12-65 NMSA 1978 (being Laws 1977, Chapter 222, Section 68, as amended) is amended to read:

"1-12-65. [~~EMERGENCY SITUATIONS~~] PAPER BALLOTS--COUNTING AND TALLYING PROCEDURES.--

A. The presiding judge and the election judges, assisted by the election clerks, shall count the number of paper ballots that were not tabulated by the electronic vote tabulator, write the number of such ballots on each copy of the certificate of returns for that polling place and place the paper ballots that were not tabulated by the electronic vote tabulator in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be sealed with either a numbered seal or a locking device and transmitted directly to the county clerk for machine-tabulation or hand-tallying of the ballots.

B. The presiding judge and the election judges, assisted by the election clerks, shall count the number of machine-tabulated paper ballots with write-in votes, write the number of such ballots on each copy of the certificate of returns for that polling place and place those paper ballots with write-in votes in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be sealed with either a numbered seal or a locking device and transmitted directly to the county clerk for manual counting of the write-in votes.

~~[C. The tallying of paper ballots that were not tabulated by the electronic vote tabulator at the polling place and the~~

~~counting of ballots with write-in votes shall be in accordance with procedures prescribed by the secretary of state.]~~

C. If the county clerk receives a sealed envelope pursuant to Subsection A or B of this section and the absent voter election board has not adjourned, the sealed envelope shall be logged and transmitted to the absent voter election board to be opened and tallied immediately. If the sealed envelope is received by the county clerk after the absent voter election board has adjourned, the sealed envelope shall be logged and transmitted to be opened and tallied by an election board appointed to assist in the preparation of the county canvass report."

**SECTION 78.** Section 1-12-69 NMSA 1978 (being Laws 1977, Chapter 222, Section 72, as amended) is repealed and a new Section 1-12-69 NMSA 1978 is enacted to read:

"1-12-69. [NEW MATERIAL] DISPOSITION OF PAPER BALLOTS AND RECORDS RELATED TO VOTING.--

A. Paper ballots marked by voters and records related to voting in any election shall be retained and preserved for the greater of:

(1) twenty-two months from the date of the election for any election in which a federal office appears on the ballot;

(2) ten months from the date of the election for all other elections; or

(3) four months following resolution of a contest or other judicial inquiry, including all appeals, for any election, precinct or polling place that is the subject of the contest or other judicial inquiry.

B. Following the retention period, paper ballots marked by voters and records related to voting retained and preserved in the county may be destroyed at a time and in a manner as determined by the county clerk; provided that the county clerk shall use one of the destruction methods approved by the state records administrator for destruction of public records. Any interested person shall be permitted to be present during the destruction of paper ballots

marked by a voter and records related to voting by the county clerk. At least seven days prior to a destruction, the clerk shall post on the county website a notice of destruction of paper ballots and records related to voting and shall provide notice to the county chair of each political party participating in that election. The notice shall include information regarding the election that is the subject of the records destruction and the date, time and place where marked ballots and records related to voting will be destroyed.

C. During the retention period, the county clerk may determine that paper ballots marked by voters and physical records related to voting from an election should be retained and preserved by the state records administrator. The state records administrator shall receive for storage paper ballots marked by voters and physical records related to voting and, following the retention periods required by this section, may destroy the ballots and physical records pursuant to the procedures used by the state records administrator for destruction of public records following a retention period. The state records administrator may enter into a memorandum of understanding with the secretary of state to cover the costs of storage through the state election fund. The county clerk shall post on the county website a notice at least seven days prior to sending ballots and physical records related to voting to the state records administrator.

D. Paper ballots marked by voters, their digitized equivalents and records related to voting are exempt from third-party inspection except as otherwise provided in the Election Code until the later of sixty days following adjournment of the state or county canvassing board for that election or sixty days following any recount, contest or other judicial inquiry for any election, precinct or polling place that is the subject of the recount, contest or judicial inquiry. Thereafter, during the retention period and prior to destruction of the ballots or records, a third-party inspection not otherwise provided for in the Election Code shall be conducted for good cause shown and upon order of the district court. When a third-party inspection is ordered, a county clerk, the clerk's agent, the state records administrator or the state records administrator's agent shall be present during the inspection to ensure that all ballots and records are properly catalogued and returned in proper order. An inspection of paper

ballots marked by voters, their digitized equivalents or records related to voting shall be conducted in such a manner as to secure the secrecy of the ballot."

**SECTION 79.** Section 1-13-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 303, as amended) is amended to read:

"1-13-1. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD.--

A. The board of county commissioners is ex officio the county canvassing board in each county.

B. The board of county commissioners may designate the board of registration to serve as the county canvassing board for the county. The designation shall be made in the polling place resolution adopted pursuant to Section 1-3-2 NMSA 1978 and is valid for all statewide and special elections conducted within the county until the expiration of the resolution.

C. The county canvass report prepared by the county clerk and approved by the county canvassing board shall consist of:

(1) the certificate of canvass to be signed by the county clerk and the county canvassing board members;

(2) a report of the final vote counts for each candidate contest and ballot question voted on by voters of the county separated by mailed ballots, early voting and election day voting;

(3) a report of the total ballots requested, returned, accepted and rejected from uniformed-service voters or overseas voters; and

(4) a report of all provisional ballots accepted and rejected.

D. Immediately after the meeting of the county canvassing board, the county clerk shall transmit a copy of the county canvass report, along with any hand tally sheets, to the secretary of state."

**SECTION 80.** Section 1-13-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 306, as amended) is amended to read:

"1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--METHOD.-- The county clerk shall:

A. appoint an election board to conduct a machine-tabulation or hand-tally if the county clerk has received and logged any:

(1) paper ballots not previously tabulated;

(2) absentee ballots delivered to an election board not previously tabulated;

(3) provisional paper ballots that have been qualified and contain votes that are to be counted; or

(4) ballots with write-in votes not previously counted;

~~A.] B.~~ prepare the report of the canvass of the election returns by carefully examining the returns of each precinct to ascertain if they contain the properly executed certificates required by the Election Code and to ascertain whether any discrepancy, omission or error appears on the face of the election returns; ~~and~~

~~B.] C.~~ present the report of the canvass to the county canvassing board for the board's consideration and approval; and

D. provide the county canvassing board a summary report of the ballots tallied by the election board pursuant to Subsection A of this section and deliver directly to the secretary of state a cumulative report to be used in the event of a recount."

**SECTION 81.** Section 1-13-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 310, as amended) is amended to read:

"1-13-8. POST-ELECTION DUTIES--COUNTY CANVASS--SEARCH FOR MISSING RETURNS.--If it is necessary to open a ballot box on election night through the adjournment of the state canvass to



ascertain if missing election returns are enclosed in the ballot box, the ballot box shall be opened in the presence of the presiding judge and two election judges of an election board that meets the requirements of Subsection B of Section 1-2-12 NMSA 1978 by the county clerk ~~[and the district judge]~~ or ~~[someone]~~ a deputy clerk designated by the [district judge. In the presence of the district judge or the designated representative of the district judge] county clerk. The county clerk or deputy clerk may remove the missing returns necessary to canvass the election. ~~[When such omission or negligence of the precinct board causes an additional expense to be incurred, no compensation shall be paid to the precinct board for its services on election day]~~ The presiding judge and election judges shall document the search for missing returns using a form prescribed by the secretary of state."

**SECTION 82.** Section 1-14-9 NMSA 1978 (being Laws 1971, Chapter 249, Section 2) is amended to read:

"1-14-9. **IMPOUNDING BALLOTS--APPLICATION FOR COURT ORDER--DEPOSIT REQUIRED.--**

A. Upon an order of the district court, ballots may be impounded during the period of time between the completion of the county canvass and the last day to file a candidate contest in that election.

B. Any candidate in an election may petition the district court for an order impounding ballots in one or more precincts or polling places within which [he is a candidate] the candidate's name appeared on the ballot. The action shall be brought in the district court for the county in which the precincts or polling places are located. The petition shall state what specific items of ballots are requested to be impounded. Upon receipt of the petition, along with a sufficient cash deposit [of twenty-five dollars (\$25.00) per precinct] or a sufficient surety bond, to cover the costs of each precinct or polling place for which impoundment is demanded, the court shall issue an order of impoundment.

C. Ballots shall be impounded in the county courthouse or secured in the county clerk's office. When impounded ballots are being handled, a county clerk or the clerk's agent shall be present to ensure that all documents are properly catalogued and returned in

proper order.

D. The state canvassing board shall determine the estimated actual cost of impoundment per polling place and for mailed ballots no later than March 15 of even-numbered years. The secretary of state shall post the impoundment cost determinations on the secretary of state's website when the state canvassing board issues its cost determinations."

**SECTION 83.** Section 1-14-13.2 NMSA 1978 (being Laws 2009, Chapter 233, Section 1, as amended) is amended to read:

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

A. At least ninety days prior to each [~~general~~] statewide election or as soon as practicable prior to an election to fill a vacancy in the office of United States representative, the secretary of state shall contract with an auditor qualified by the state auditor to audit state agencies to oversee a check on the accuracy of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators. The voting system check shall be conducted for all federal offices, for governor and for the statewide elective office, other than the office of the governor, for which the winning candidate won by the smallest percentage margin of all candidates for statewide office in New Mexico. The voting system check is waived for any office for which [a] an automatic recount is conducted.

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

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

Table 1

Winning margin between top two candidates for the office according to the county canvasses	Number of precincts in the state to be tested for that office
Percent greater than 15	no precincts for that office
greater than 14 but less than or equal to 15	4
greater than 13 but less than or equal to 14	4
greater than 12 but less than or equal to 13	5
greater than 11 but less than or equal to 12	5
greater than 10 but less than or equal to 11	6
greater than 9.0 but less than or equal to 10	6
greater than 8.0 but less than or equal to 9.0	7
greater than 7.0 but less than or equal to 8.0	9

greater than 6.0 but less than or equal to 7.0	10
greater than 5.5 but less than or equal to 6.0	11
greater than 5.0 but less than or equal to 5.5	13
greater than 4.5 but less than or equal to 5.0	14
greater than 4.0 but less than or equal to 4.5	16
greater than 3.5 but less than or equal to 4.0	18
greater than 3.0 but less than or equal to 3.5	22
greater than 2.5 but less than or equal to 3.0	26
greater than 2.0 but less than or equal to 2.5	32
greater than 1.8 but less than or equal to 2.0	37
greater than 1.6 but less than or equal to 1.8	42
greater than 1.4 but less than or equal to 1.6	47
greater than 1.2 but less than or equal to 1.4	54
greater than 1.1 but less than or equal to 1.2	59

greater than 1.0 but less than or equal to 1.1	65
greater than 0.9 but less than or equal to 1.0	73
greater than 0.8 but less than or equal to 0.9	82
greater than 0.7 but less than or equal to 0.8	93
greater than 0.6 but less than or equal to 0.7	109
greater than 0.5 but less than or equal to 0.6	130
0.5 or less	165.

C. After selecting the random sample of precincts pursuant to Subsection B of this section or as required for a regular local election, the auditor shall also randomly select one precinct from each county where a precinct was not selected in the random sample.

~~[C.]~~ D. The auditor shall notify the appropriate county clerks of the precincts that are to be included in the voting system check upon their selection. The auditor shall direct the appropriate county clerks to open the locked ballot boxes and remove ballots from the selected precincts and:

(1) in a primary or general election, the auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals [including early absentee and absentee by mail machine count vote totals] for candidates for offices subject to the voting system check from the selected precincts for each office with the respective vote totals of a hand recount of the paper ballots from those precincts;

(2) in a regular local election, the size of the random sample shall be the largest number of precincts that were used for the random sample in the previous general election. The

auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals for the three contests with the closest margin between the two candidates receiving the greatest number of votes affecting the final outcome for an office from each of the selected precincts with the respective vote totals of a hand recount of the paper ballots from those precincts; provided that if there are fewer than three contested contests in a precinct, the auditor shall randomly select one or more contests so that three contests are included in the sample from that precinct; and

(3) in an election called to fill a vacancy in United States representative, the auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals for candidates for United States representative from the selected precincts with the respective vote totals of a hand recount of the paper ballots from those precincts.

E. The county clerks shall report their results to the auditor within [~~ten~~] fourteen days of the notice to conduct the voting system check unless a county clerk is aware of a recount in any office that includes one or more precincts in the county, in which case the county clerk shall report the results of the post-election audit to the auditor within [~~ten~~] fourteen days following the conclusion of the recount.

[~~D.~~] F. Based on the results of the voting system check and any other auditing results, the auditor shall determine the error rate in the sample for each office. If the winning margin decreases and the error rate based on the difference between the vote totals of hand recounts of the paper ballots and the original precinct vote totals exceeds ninety percent of the winning margin for an office, another sample equal in size to the original sample shall be selected and the original precinct vote totals compared to the vote totals of hand recounts. The error rate based on the first and second sample shall be reported, and if it exceeds ninety percent of the winning margin for the office, the state canvassing board shall order that a full hand recount of the ballots for that office be conducted.

[~~E.~~] G. The auditor shall report the results of the voting system check to the secretary of state upon completion of the voting

system check and release the results to the public.

~~[F.]~~ H. Persons designated as county canvass observers may observe the hand recount described in Subsection ~~[G]~~ D of this section. Observers shall comply with the procedures governing county canvass observers as provided in Section 1-2-31 NMSA 1978.

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

~~[H.]~~ J. All costs of a voting system check or required hand recount shall be paid in the same manner as automatic recounts."

**SECTION 84.** Section 1-14-15 NMSA 1978 (being Laws 1978, Chapter 48, Section 1, as amended) is amended to read:

"1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

A. An applicant for a recount shall deposit with the proper canvassing board or, in the case of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of a recount for each precinct for which a recount is demanded. An applicant for a recheck shall deposit with the proper canvassing board or, in the case of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of the recheck for each voting machine to be rechecked. The state canvassing board shall determine the estimated actual cost of a recount per ~~[precinct]~~ polling place and for mailed ballots and a recheck per voting machine no later than March 15 of even-numbered years. The secretary of state shall post the recount and recheck cost determinations on the secretary of state's ~~[web site]~~ website when the state canvassing board issues its cost determinations.

B. The deposit or surety bond shall be security for the payment of the costs and expenses of the recount or recheck in case

the results of the recount or recheck are not sufficient to change the results of the election.

C. If it appears that error or fraud sufficient to change the winner of the election has been committed, the costs and expenses of the recount or recheck shall be paid by the state upon warrant issued by the secretary of finance and administration supported by a voucher of the secretary of state, or shall be paid by the county upon warrant of the county clerk from the general fund of the county, as the case may be.

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

**SECTION 85.** Section 1-14-24 NMSA 1978 (being Laws 2008, Chapter 41, Section 1, as amended) is amended to read:

"1-14-24. AUTOMATIC RECOUNTS--~~[ELECTIONS FOR STATE AND FEDERAL OFFICES]~~ PROCEDURES.--

A. An automatic recount of the vote is required when the canvass of returns indicates that the margin between the two candidates receiving the greatest number of votes for an office, the margin between those supporting and those opposing a ballot question or the margin affecting the outcome of a nonpartisan judicial retention election is less than:

(1) one-fourth percent of the total votes cast in that election:

(a) for that office in the case of a federal or statewide office;

(b) on a ballot question in the case of a state ballot question; or



(c) on a nonpartisan judicial retention election in the case of the supreme court or the court of appeals;

(2) one-half percent of the total votes cast in that election:

(a) for that office in the case of a [~~public regulation commissioner~~] public education commissioner, district attorney or any office elected countywide in a county with more than one hundred fifty thousand registered voters;

(b) on a ballot question in the case of a local ballot question; or

(c) on a nonpartisan judicial retention election in the case of a district court or the metropolitan court; or

(3) one percent of the total votes cast in that election or five or fewer votes between the two candidates receiving the greatest number of votes for that office in the case of any other office.

B. For an office for which ballots were cast in more than one county, the secretary of state shall file notice with the state canvassing board upon the completion of the state canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office. For an office in which ballots were cast solely within one county, the secretary of state shall file notice with the state canvassing board within seven days after receiving notice from the county clerk following the completion of the county canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office.

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

**SECTION 86.** Section 1-15-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 371) is amended to read:

"1-15-21. EXPIRING TERM AND NEXT SUCCEEDING TERM--

## NOMINATION.--

A. If a vacancy in the office of United States representative occurs for an expiring term after the last day to amend a general election proclamation, no election shall be held pursuant to Section 1-15-18.1 NMSA 1978.

~~[A.]~~ B. If any political party ~~[convention]~~ nominates any individual to be placed on the general election ballot for the term next succeeding the expiring term, then ~~[such]~~ the person nominated by the party ~~[convention]~~ shall be deemed to also be designated by the ~~[convention]~~ party for the expiring term. No candidate may be designated by the ~~[convention]~~ party for the expiring term only.

~~[B.]~~ C. Any candidate whose name is placed on the ~~[direct primary]~~ general election ballot ~~[in the primary election]~~ for the term next succeeding the expiring term shall be conclusively presumed to have declared as a candidate for both the expiring term and the succeeding term."

**SECTION 87.** Section 1-15A-9 NMSA 1978 (being Laws 1977, Chapter 230, Section 8, as amended) is amended to read:

"1-15A-9. CERTIFICATION OF PRESIDENTIAL PRIMARY VOTE FOR NATIONAL CONVENTION.--~~[A.]~~ Upon the completion of the state canvass of the results of the presidential primary, the secretary of state shall forthwith certify to the state ~~[chairman]~~ chair of each political party participating in the primary and to the credentials committee of the national convention of each ~~[such]~~ political party ~~[the following:~~

~~(1)]~~ the names of all candidates ~~[and uncommitted category; and~~

~~(2)]~~ in that party's presidential primary, the total vote and the percentage of the total vote ~~[of such]~~ the candidates ~~[or uncommitted category]~~ received.

~~[B. Each political party shall select as many delegates and alternates to the national party convention in the manner prescribed by the rules of that party and as are allotted to it by the national committee of that party.~~

~~C. The vote of the delegates or their alternates to the national convention from each such political party from New Mexico shall be cast on the first presidential nomination ballot of the national convention by the chairman of the delegation. The manner of casting the vote of each party delegation shall be as follows:~~

~~(1) each candidate and the uncommitted category shall be entitled to a share of the total vote allotted to the delegation that is equal to the proportion that the vote he received in the presidential primary bears to the total combined vote received by all qualified candidates; provided that no candidate shall be excluded who has received at least fifteen percent of the total vote cast for candidates for president of that party, and no candidate shall be excluded in violation of any political party rule; and~~

~~(2) the method used to compute the total votes allowed to a candidate or the uncommitted category shall be determined by the party rules on file in the office of the secretary of state.~~

~~D. The provisions of this section with regard to the manner of voting by the New Mexico delegations at the national party conventions apply only to the first nominating ballot cast at such conventions. Such delegations may be released prior to the first ballot from voting in the manner provided by this section upon death of the candidate or upon his written unconditional release of such votes allotted to him. Any votes so released shall be cast in the manner of votes allotted to the uncommitted category.]"~~

SECTION 88. Section 1-17-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 393) is amended to read:

"1-17-8. REFERENDUM PETITIONS--APPROVAL BEFORE CIRCULATION.--

A. Before any referendum petition is circulated for signatures, the sponsors shall submit the original draft thereof to the secretary of state to determine whether or not it meets the requirements of law for referendum petitions. At the same time the original draft is submitted to the secretary of state, the sponsors shall also submit a suggested popular name for the law [which] that is the object of the petition.

B. Within [~~ten~~] thirty days after submission of the original draft and suggested popular name, the secretary of state shall:

(1) approve and certify the original draft of the petition and approve and certify the suggested popular name or a more suitable and correct popular name; or

(2) disapprove the original draft and specify each deficiency not in compliance with the law."

**SECTION 89.** Section 1-17-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 395) is amended to read:

"1-17-10. REFERENDUM PETITIONS--SUFFICIENCY OR INSUFFICIENCY.--The secretary of state shall ascertain and declare the sufficiency or insufficiency of each complete referendum petition within [~~fifteen~~] thirty days after it is filed in [~~his~~] the secretary's office."

**SECTION 90.** Section 1-19-26 NMSA 1978 (being Laws 1979, Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign Reporting Act:

A. "advertisement" means a communication referring to a candidate or ballot question that is published, disseminated, distributed or displayed to the public by print, broadcast, satellite, cable or electronic media, including recorded phone messages, or by printed materials, including mailers, handbills, signs and billboards, but "advertisement" does not include:

(1) a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel;

(2) a communication appearing in a news story or editorial distributed through a print, broadcast, satellite, cable or electronic medium;

(3) a candidate debate or forum or a communication announcing a candidate debate or forum paid for on behalf of the

debate or forum sponsor; provided that two or more candidates for the same position have been invited to participate or, in the case of an uncontested election, that the single candidate for the position has been invited to participate;

(4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986, as amended, for Section 501(c)(3) organizations; or

(5) statements made to a court or administrative board in the course of a formal judicial or administrative proceeding;

B. "anonymous contribution" means a contribution the contributor of which is unknown to the candidate or the candidate's agent or the political committee or its agent who accepts the contribution;

C. "ballot question" means a constitutional amendment or other question submitted to the voters in an election;

D. "bank account" means an account in a financial institution regulated by the United States or a state of the United States;

E. "campaign committee" means an association of two or more persons authorized by a candidate to act on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate shall not authorize more than one campaign committee;

F. "campaign expenditure" means an expenditure that is made by a campaign committee or by a candidate in support of the candidate's campaign in an election;

G. "candidate" means an individual who seeks or considers an office in an election covered by the Campaign Reporting Act, including a public official, who has filed a declaration of candidacy and has not subsequently filed a statement of withdrawal or:

(1) for a nonstatewide office, has received

contributions or made expenditures of more than one thousand dollars (\$1,000) or authorized another person or campaign committee to receive contributions or make expenditures of more than one thousand dollars (\$1,000) for the purpose of seeking election to the office; or

(2) for a statewide office, has received contributions or made expenditures of more than three thousand dollars (\$3,000) or authorized another person or campaign committee to receive contributions or make expenditures of more than three thousand dollars (\$3,000) for the purpose of seeking election to the office or for candidacy exploration purposes in the years prior to the year of the election;

H. "contribution":

(1) means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign;

(2) includes a coordinated expenditure;

(3) does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee; and

(4) does not include the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

I. "coordinated expenditure" means an expenditure that is made:

(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in

cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

J. "deliver" or "delivery" means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;

K. "election" means any primary, general or statewide special election in New Mexico and includes county and judicial retention elections but excludes federal, municipal, school board and special district elections;

L. "election year" means an even-numbered year in which an election covered by the Campaign Reporting Act is held;

M. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign [~~or pre-primary convention~~];

N. "independent expenditure" means an expenditure that is:

(1) made by a person other than a candidate or campaign committee;

(2) not a coordinated expenditure as defined in the Campaign Reporting Act; and

(3) made to pay for an advertisement that:

(a) expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;

(b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or

(c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot question is on the ballot;

O. "legislative caucus committee" means a political committee established by the members of a political party in a chamber of the legislature;

P. "person" means an individual or entity;

Q. "political committee" means:

(1) a political party;

(2) a legislative caucus committee;

(3) an association that consists of two or more persons whose primary purpose is to make contributions to candidates, campaign committees or political committees or make coordinated expenditures or any combination thereof; or

(4) an association that consists of two or more persons whose primary purpose is to make independent expenditures and that has received more than five thousand dollars (\$5,000) in contributions or made independent expenditures of more than five thousand dollars (\$5,000) in the election cycle;

R. "political party" means an association that has qualified as a political party pursuant to the provisions of Section 1-7-2 NMSA 1978;

S. "political purpose" means for the purpose of supporting



or opposing a ballot question or the nomination or election of a candidate;

T. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;

U. "public official" means a person elected to an office in an election covered by the Campaign Reporting Act or a person appointed to an office that is subject to an election covered by that act; and

V. "reporting individual" means a public official, candidate or treasurer of a campaign committee or a treasurer of a political committee."

**SECTION 91.** Section 1-19-29 NMSA 1978 (being Laws 1993, Chapter 46, Section 5, as amended) is amended to read:

"1-19-29. TIME AND PLACE OF FILING REPORTS.--

A. Except as otherwise provided in this section, all reporting individuals shall file with the secretary of state no later than the second Monday in April and October a report of all expenditures made and contributions received on or before the first Monday in those months and not previously reported; provided that, if the date falls on a state holiday, the report shall be filed no later than the next business day. The report shall be filed biannually until the provisions specified in Subsection F or G [~~or~~ H] of this section have been satisfied.

B. In an election year, instead of the biannual reports provided for in Subsection A of this section, all reporting individuals, except for public officials who are not candidates in an election that year, shall file reports of all expenditures made and contributions received or, if applicable, statements of no activity, according to the following schedule:

(1) no later than the second Monday in April, a report of all expenditures made and contributions received on or before the first Monday in April and not previously reported;

(2) no later than the second Monday in May, a report

of all expenditures made and contributions received on or before the first Monday in May and not previously reported;

(3) no later than the second Monday in September, a report of all expenditures made and contributions received on or before the first Monday in September and not previously reported;

(4) no later than the second Monday in October, a report of all expenditures made and contributions received on or before the first Monday in October and not previously reported; provided that if the second Monday of October is a state holiday, the report shall be made on the following day;

(5) no later than the Thursday before a primary, general or statewide special election, a report of all expenditures made and contributions received by 5:00 p.m. on the Tuesday before the election and not previously reported. Any contribution or pledge to contribute that is received after 5:00 p.m. on the Tuesday before the election and that is for more than one thousand dollars (\$1,000) in a nonstatewide election, or more than three thousand dollars (\$3,000) in a statewide election, shall be reported to the secretary of state either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed no later than the Thursday before a primary, general or statewide special election, except that any such contribution or pledge to contribute that is received after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election;

(6) no later than the thirtieth day after a primary election, a report by all reporting individuals, except those individuals that become candidates after the primary election, of all expenditures made and contributions received on or before the twenty-fifth day after the primary election and not previously reported;

(7) no later than the thirtieth day after a statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the statewide special election and not previously reported; and

(8) no later than January 7 after a general election,

a report of all expenditures made and contributions received on or before December 31 after the general election and not previously reported.

C. If a candidate, political committee, campaign committee or public official has not received any contributions and has not made any expenditures since the candidate's, committee's or official's last report was filed with the proper filing officer, the candidate, committee or official shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due and shall not be required to file a full report until the next required filing date occurring after an expenditure is made or a contribution is received.

D. In an election year, a public official who is not a candidate shall file biannual reports of expenditures made and contributions received or statements of no activity in accordance with the schedule provided for in Subsection A of this section.

E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates, campaign committees and public officials who file a statement of no activity, each candidate, campaign committee or public official shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the reporting individual delivers a report to the secretary of state stating that:

- (1) there are no outstanding campaign debts;
- (2) all money has been expended in accordance with the provisions of Section 1-19-29.1 NMSA 1978; and
- (3) the bank accounts have been closed.

~~[G. If, during a nonelection year, a political committee has not received any contributions or made any coordinated or~~

~~independent expenditures since it filed its last report pursuant to this section, it need not file any report under this section until the next reporting period, if any, in which it receives contributions or makes expenditures. A political committee that has not received any contributions or made any coordinated or independent expenditures for a continuous period of at least one year may cancel its registration as a political committee by submitting an appropriate request in writing to the secretary of state. The committee shall retain the obligation to submit a new registration pursuant to Section 1-19-26.1 NMSA 1978 in the event that its future activities meet the requisites for registration under that section.~~

~~H.]~~ G. A reporting individual who is a candidate within the meaning of the Campaign Reporting Act because of the amount of contributions the candidate receives or expenditures the candidate makes and who does not ultimately file a declaration of candidacy or a nominating petition with the secretary of state and does not file a statement of no activity shall file biannual reports in accordance with Subsection A of this section.

~~[I.]~~ H. Reports required by this section shall be subscribed and sworn to by the candidate or the treasurer of the political committee or, in the case of candidates for judicial office, by the treasurer of the candidate's campaign committee. A report filed electronically shall be electronically authenticated by the candidate or the treasurer of the committee using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Campaign Reporting Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the candidate or the treasurer of the committee who was required to file the report.

~~[J.]~~ I. Reports required by this section shall be filed electronically by all reporting individuals.

~~[K.]~~ J. Reporting individuals may apply to the secretary of state for exemption from electronic filing in case of hardship, which shall be defined by the secretary of state."

SECTION 92. Section 1-19-34.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 12, as amended) is amended to read:

"1-19-34.1. LEGISLATIVE SESSION FUNDRAISING PROHIBITION.--

A. ~~It is unlawful during the prohibited period for [a state legislator, the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for state legislator, attorney general, secretary of state, state treasurer, commissioner of public lands or state auditor, or any agent on behalf of the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for attorney general, the secretary of state, state treasurer, commissioner of public lands or state auditor]~~ an incumbent or candidate for a proscribed office, a campaign committee or a legislative caucus committee to [knowingly]:

(1) solicit a contribution governed by the Campaign Reporting Act; [For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on adjournment of the regular or special session;

~~B. It is unlawful during the prohibited period for the governor or the lieutenant governor, or any agent on the governor's or the lieutenant governor's behalf, to knowingly solicit a contribution governed by the Campaign Reporting Act; For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on the twentieth day following the adjournment of the regular or special session.]~~

(2) accept a contribution from a lobbyist, lobbyist's employer, incumbent or candidate, campaign committee or political committee;

(3) accept a contribution from any person, other than a person excluded by Paragraph (2) of this subsection, who prior to the start of a prohibited period signed up to have an automated, recurring contribution of more than one hundred dollars (\$100) per

month; or

(4) accept a contribution from any person, other than a person excluded by Paragraph (2) of this subsection or allowed by Paragraph (3) of this subsection, of more than one hundred dollars (\$100); provided that the aggregate of contributions of one hundred dollars (\$100) or less accepted during the prohibited period shall not exceed:

(a) two thousand dollars (\$2,000) for a campaign committee, a legislative caucus committee or an incumbent or candidate for a statewide office; and

(b) five hundred dollars (\$500) for any other incumbent or candidate for a proscribed office.

B. Any contribution received during the prohibited period in excess of the limits established in this section shall be returned to the donor or donated to the public election fund prior to the end of the reporting period in which the excess donation was received.

C. As used in this section:

(1) "incumbent or candidate" means:

(a) a person currently holding an office subject to election;

(b) a person who is a candidate for an office subject to election;

(c) a campaign committee; or

(d) an agent on behalf of a person or a committee described in Subparagraphs (a) through (c) of this paragraph;

(2) "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act;

(3) "lobbyist's employer" means the person whose

interests are being represented and by whom a lobbyist is directly or indirectly retained, compensated or employed;

(4) "prohibited period" means:

(a) for an incumbent or candidate for any proscribed office other than governor or lieutenant governor and for a campaign committee or a legislative caucus committee, the period beginning January 1 prior to any regular session of the legislature or, in the case of a special or extraordinary session, the lesser of the period beginning after the proclamation has been issued or seventy-two hours prior to the start of the special or extraordinary session, and ending on the first calendar day after adjournment of the regular, special or extraordinary session; and

(b) for an incumbent or candidate for governor or lieutenant governor, the period beginning January 1 prior to any regular session of the legislature or, in the case of a special or extraordinary session, the lesser of the period beginning after the proclamation has been issued or seventy-two hours prior to the start of the special or extraordinary session, and ending on the earlier of the twenty-first day following adjournment of the regular, special or extraordinary session or the first calendar day after all bills passed by the legislature have been signed or vetoed and deposited with the secretary of state; and

(5) "proscribed office" means:

(a) governor;

(b) lieutenant governor;

(c) secretary of state;

(d) attorney general;

(e) state auditor;

(f) state treasurer;

(g) commissioner of public lands;

(h) state senator; and

(i) state representative."

**SECTION 93.** Section 1-19A-7 NMSA 1978 (being Laws 2003, Chapter 14, Section 7, as amended) is amended to read:

"1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

A. All money distributed to a certified candidate shall be used only for that candidate's campaign-related purposes in the election in which the money was distributed.

B. Money from the fund received by a candidate shall not be used for:

(1) the candidate's personal living expenses or compensation to the candidate or the candidate's spouse, domestic partner, children or stepchildren;

(2) a contribution to another campaign of the candidate or a payment to retire debt from another such campaign;

(3) a contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;

(4) an expenditure supporting the election of another candidate or the passage or defeat of a ballot proposition or the defeat of any candidate other than an opponent of the certified candidate; provided that a certified candidate may purchase joint advertisements or services with other certified candidates;

(5) payment of a fine levied by a court or the secretary; or

(6) a gift or transfer for which compensating value is not received.

C. A certified candidate shall return to the fund any amount that is unspent or unencumbered at the time that person



ceases to be a candidate before a primary or general election for which the fund money was distributed.

D. A certified candidate shall limit total campaign expenditures to the amount of money distributed to that candidate from the fund, money received from a political party pursuant to Section 1-19A-8 NMSA 1978 and contributions collected pursuant to Section ~~[8 of this 2019 act]~~ 1-19A-4.1 NMSA 1978. A certified candidate shall not accept contributions from any other source except the certified candidate's political party, as specified in Section 1-19A-8 NMSA 1978 and contributions collected pursuant to Section ~~[8 of this 2019 act]~~ 1-19A-4.1 NMSA 1978.

E. A certified candidate who does not remain a candidate in the general election shall, within thirty days after the primary election, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section ~~[8 of this 2019 act]~~ 1-19A-4.1 NMSA 1978 that remains unspent or unencumbered by the date of the primary election.

F. A certified candidate shall, within thirty days after the general election, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section ~~[8 of this 2019 act]~~ 1-19A-4.1 NMSA 1978 that remains unspent or unencumbered by the date of the general election.

G. If a certified candidate ceases to be a certified candidate for any reason, the previously certified candidate or candidate's campaign committee shall, within thirty days thereafter, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section ~~[8 of this 2019 act]~~ 1-19A-4.1 NMSA 1978 that remains unspent or unencumbered by the date the candidate ceases to be a certified candidate."

**SECTION 94.** Section 1-20-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 431) is amended to read:

"1-20-6. UNLAWFUL POSSESSION OF KEYS.--Unlawful possession of

keys consists of the possession at any time of any key to a voting machine, ~~[or]~~ ballot box or monitored secured container, or possession of an imitation or duplicate thereof, or making or causing to be made any imitation or duplicate thereof, unless authorized by the Election Code. Whoever commits unlawful possession of keys is guilty of a fourth degree felony."

**SECTION 95.** Section 1-20-7 NMSA 1978 (being Laws 1971, Chapter 111, Section 1, as amended) is amended to read:

"1-20-7. UNLAWFUL POSSESSION OF ABSENTEE BALLOT.--Unlawful possession of absentee ballot consists of the possession at any time of absentee ballot materials when not authorized by the Election Code to be in possession of such materials, or when such materials were obtained in an unlawful manner, and includes the establishment, designation or operation of any container or receptacle to receive voted ballots by a person who is not authorized by the Election Code and entering information into or altering the absentee ballot register. As used in this section, "absentee ballot materials" means an absentee ballot, absentee ballot envelopes, the absentee ballot register or an absentee ballot return. Whoever commits unlawful possession of absentee ballot is guilty of a fourth degree felony.""

3. Renumber the succeeding section accordingly.

4. On page 2, between lines 7 and 8, insert the following new sections:

**"SECTION 97.** Section 1-20-17 NMSA 1978 (being Laws 1969, Chapter 240, Section 441, as amended) is amended to read:

"1-20-17. OBSTRUCTING THE POLLING PLACE.--

A. Obstructing the polling place consists of

~~[(1) any person other than a voter offering to vote, a member of the precinct board, a lawfully appointed challenger or watcher, an election observer, an election official having business in the polling place or a person authorized by the Election Code to give assistance to a voter who, during the conduct of the election, approaches nearer than fifty feet from the door through which voters~~

~~may enter to vote at the office of the county clerk, an alternate voting location, a mobile voting site or any location used as a polling place; or~~

~~(2) any] a person other than an authorized individual approaching nearer than fifty feet from the door through which voters may enter to vote at a polling place or a person who willfully blocks access to a monitored secured container or the entrance to a polling place so as to prevent free ingress and egress.~~

B. A person conducting lawful, non-election-related business nearer than fifty feet from the door through which voters may enter to vote is not guilty of obstructing a polling place, provided the person does not willfully block access to a monitored secured container or the entrance to the polling place.

C. As used in this section, "authorized individual" means an individual who is not electioneering and who is:

- (1) a voter offering to vote;
- (2) a member of the election board;
- (3) a lawfully appointed watcher, challenger or election observer;
- (4) an individual giving assistance to a specific person offering to vote;
- (5) an election official or contractor having business in the polling place;
- (6) an attorney representing the county or state, a political party or a candidate having business in the polling place; or
- (7) a language translator where required by federal law.

[G.] D. Whoever obstructs the polling place is guilty of a petty misdemeanor."

**SECTION 98.** Section 1-20-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 445) is amended to read:

"1-20-21. UNLAWFUL POSSESSION OF ALCOHOLIC LIQUORS.--Unlawful possession of alcoholic liquors consists of the use or possession of any alcoholic liquor by any member of the [~~precinct~~] election board while performing [~~his~~] official duties on election day. [~~Unlawful possession also consists of the use, possession or carrying of alcoholic liquor within two hundred feet of the polling place during any election.~~]

Whoever commits unlawful possession of alcoholic liquors is guilty of a petty misdemeanor."

**SECTION 99.** A new Section 1-21A-1 NMSA 1978 is enacted to read:

"1-21A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 1, Article 21A NMSA 1978 may be cited as the "Native American Voting Rights Act"."

**SECTION 100.** A new Section 1-21A-2 NMSA 1978 is enacted to read:

"1-21A-2. [NEW MATERIAL] DEFINITIONS.--As used in the Native American Voting Rights Act:

A. "early voting location" means an alternate voting location and a mobile alternate voting location and includes early voting in the county clerk's office;

B. "Indian nation, tribe or pueblo" means any federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico;

C. "polling place" means an early voting location and a voter convenience center;

D. "voter convenience center" means an election day voting location; and

E. "written request" means a request sent in writing by the president, governor or governing body of an Indian nation, tribe

or pueblo, including a request sent by a person designated by the president, governor or governing body of an Indian nation, tribe or pueblo to submit written requests pursuant to the Native American Voting Rights Act; provided that the designation has been communicated in writing to the secretary of state and county clerk by the president, governor or governing body of the Indian nation, tribe or pueblo."

**SECTION 101.** A new Section 1-21A-3 NMSA 1978 is enacted to read:

"1-21A-3. [NEW MATERIAL] PRECINCT BOUNDARIES.--

A. When adjusting precinct boundaries for any group of census blocks that are on Indian nation, tribal or pueblo lands, the board of county commissioners shall inquire of each Indian nation, tribe or pueblo in the county to provide internal and external political boundaries for the Indian nation, tribe or pueblo.

B. The board of county commissioners shall adjust precinct boundaries to correspond to the internal and external political boundaries of each Indian nation, tribe or pueblo in the county.

C. The secretary of state shall reject any precinct boundary maps that do not comply with the provisions of this section."

**SECTION 102.** A new Section 1-21A-4 NMSA 1978 is enacted to read:

"1-21A-4. [NEW MATERIAL] REQUESTS FOR POLLING PLACES AND MONITORED SECURED CONTAINERS.--

A. An Indian nation, tribe or pueblo may submit a written request to a county clerk for locating early voting locations, voter convenience centers or monitored secured containers on or near the Indian nation's, tribe's or pueblo's lands.

B. A written request for voter convenience centers for all statewide elections in the next election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each even-numbered year.

C. A written request for early voting locations for all statewide elections in the current election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each odd-numbered year.

D. A written request for early voting locations for the general election in that year by an Indian nation, tribe or pueblo that has not already done so shall be made between the first business day in January and the day the secretary of state issues the proclamation for the general election.

E. A written request for monitored secured containers for future statewide elections may be made by July 15, 2022 for the 2022 general election and between the second Tuesday in March and the second Tuesday in April of any year for all subsequent elections."

**SECTION 103.** A new Section 1-21A-5 NMSA 1978 is enacted to read:

"1-21A-5. [NEW MATERIAL] VOTER CONVENIENCE CENTERS-- REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more voter convenience centers on or near Indian nation, tribal or pueblo land shall consider the request when submitting recommendations to the board of county commissioners for the biennial election day polling place resolution establishing voter convenience centers for the subsequent election cycle; provided that:

(1) any voter of the county shall have access to and be permitted to vote at the alternate voting or mobile alternate voting location;

(2) the location of the voter convenience center conforms to the requirements for voter convenience centers, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the alternate voting or mobile alternate voting locations; and

(4) if the voter convenience center is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo provides the facility and services for the alternate voting or mobile alternate voting location.

B. In considering the written request, the county clerk shall evaluate the distance voters have to travel to get to the nearest voter convenience center and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo lands.

C. At the time of submitting the election day polling place resolution to the board of county commissioners, the county clerk shall inform the board of county commissioners of any written requests received by an Indian nation, tribe or pueblo for a voter convenience center.

D. Once the election day polling place resolution is adopted, a voter convenience center located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other voter convenience centers in that election cycle without the written agreement of the Indian nation, tribe or pueblo on whose lands the voter convenience center is located."

**SECTION 104.** A new Section 1-21A-6 NMSA 1978 is enacted to read:

"1-21A-6. [NEW MATERIAL] EARLY VOTING LOCATIONS-- REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more early voting locations shall provide at least one alternate voting or mobile alternate voting location on or near Indian nation, tribal or pueblo land; provided that:

(1) any voter of the county shall have access to and be permitted to vote at the alternate voting or mobile alternate voting location;

(2) the location of the alternate voting or mobile alternate voting location on Indian nation, tribal or pueblo land

conforms to the requirements for alternate voting locations, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the alternate voting or mobile alternate voting locations;

(4) the Indian nation, tribe or pueblo provides the facility and services for the alternate voting or mobile alternate voting location; and

(5) the alternate voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the Indian nation, tribe or pueblo and the county clerk.

B. When responding to a written request, the county clerk shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land."

**SECTION 105.** A new Section 1-21A-7 NMSA 1978 is enacted to read:

"1-21A-7. [NEW MATERIAL] MONITORED SECURED CONTAINERS-- REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more monitored secured containers on or near Indian nation, tribal or pueblo land shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land. The county clerk shall respond in writing to the Indian nation, tribe or pueblo regarding the provision of monitored secured containers on or near Indian nation, tribal or pueblo land within thirty days of receiving the written request.

B. An Indian nation, tribe or pueblo whose written request to a county clerk for monitored secured containers is denied may



appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along with any response to the denial letter from the Indian nation, tribe or pueblo. The secretary of state may place a monitored secured container on or near Indian nation, tribal or pueblo land in response to an appeal submitted by an Indian nation, tribe or pueblo.

C. A monitored secured container located on or near Indian nation, tribal or pueblo land shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo shall provide the facility and services necessary for the monitored secured container."

**SECTION 106.** A new Section 1-21A-8 NMSA 1978 is enacted to read:

"1-21A-8. [NEW MATERIAL] USE OF GOVERNMENTAL AND OFFICIAL BUILDINGS AS MAILING ADDRESSES ON VOTER REGISTRATION CERTIFICATES AND MAILED BALLOT APPLICATIONS.--

A. The secretary of state shall maintain a list of government and official buildings on Indian nation, tribal and pueblo land where members of the Indian nation, tribe or pueblo may request delivery of mailed ballots. The list shall include the common name for each building and the mailing address for the building. The list shall be provided by county to each county clerk with an Indian nation, tribe or pueblo in the county.

B. If a county clerk receives a voter registration certificate or an application for a mailed ballot that lists a government or official building on Indian nation, tribal or pueblo land by name only, the county clerk shall not reject the certificate or application for lack of a mailing address and, if the certificate or application is otherwise in the proper form, shall mail the ballot and balloting materials to the voter using the address for the government or official building."

**SECTION 107.** A new Section 1-21A-9 NMSA 1978 is enacted to read:

"1-21A-9. [NEW MATERIAL] EMERGENCY SITUATIONS.--If the president, governor or governing body of an Indian nation, tribal or pueblo has declared a state of emergency or has invoked emergency powers pursuant to other laws:

A. a polling place located on Indian nation, tribal or pueblo land shall not be eliminated or consolidated with other polling places, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo;

B. no later than ninety-eight days before a statewide election by means of a written request or no later than forty-nine days before a statewide election with a court order, the county clerk shall provide to an Indian nation, tribe or pueblo that has not previously made a written request for that election cycle at least one alternate voting or mobile alternate voting location for that election; provided that the alternate voting or mobile alternate voting location shall otherwise comply with the requirements of Section 1-21A-6 NMSA 1978;

C. no later than eighty-four days before a statewide election by means of a written request or no later than thirty-five days before a statewide election with a court order, the county clerk shall provide an election day polling place to an Indian nation, tribe or pueblo that does not already have an election day polling place within its boundaries if voters registered within the Indian nation, tribe or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for a statewide election; and

D. the requirement that a polling place be available to all voters in the county shall be waived if an Indian nation, tribe or pueblo is inaccessible or the borders are closed."

**SECTION 108.** A new Section 1-21A-10 NMSA 1978 is enacted to read:

"1-21A-10. [NEW MATERIAL] EXPENSES.--

A. All necessary and reasonable expenses incurred by a county clerk for compliance with the Native American Voting Rights Act, including the costs of voting equipment and personnel for

polling places and monitored secured containers on Indian nation, tribal or pueblo land, shall be paid for by the secretary of state or shall be reimbursed to the county by the secretary of state.

B. The secretary of state shall deposit from the state election fund sufficient funds to each county election fund for the costs related to compliance with the Native American Voting Rights Act, either as grants or reimbursement."

**SECTION 109.** Section 1-22-4 NMSA 1978 (being Laws 2018, Chapter 79, Section 19, as amended) is amended to read:

"1-22-4. REGULAR LOCAL ELECTION--PROCLAMATION--PUBLICATION.--

~~[A. Between one hundred twenty and one hundred fifty days before the next regular local election, each local government shall notify the county clerk of the county in which the primary administrative office of the local government is situate of all local government positions that are to be filled at the next regular local election. Each county clerk shall inform the secretary of state of all positions to be filled no later than one hundred twelve days before the regular local election.~~

~~B.]~~ A. The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election. The proclamation shall be issued and filed by the secretary of state in the office of the secretary of state [~~ninety~~] twenty-one days preceding the filing date [~~of~~] for the regular local election, and upon filing the proclamation, the secretary of state shall post the proclamation and certify it to each county clerk. The proclamation may be amended no later than eleven days before the filing date for the regular local election.

~~[C.]~~ B. The proclamation shall specify:

- (1) the date when the election will be held;
- (2) each elective office, local governing body and judicial position to be filled;
- (3) the date on which declarations of candidacy are to be filed;

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

(5) the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.

~~[D.]~~ C. After receipt of the proclamation from the secretary of state, the county clerk shall post the entire proclamation on the county clerk's website and, not less than seventy-five days before the date of the election, shall publish portions of the proclamation relevant to the county at least once in a newspaper of general circulation within the county. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended, and shall specify:

(1) the date when the election will be held;

(2) for each local government situated in whole or in part in the county, each elective executive, local governing body and judicial position to be filled by voters of any precinct in the county;

(3) the date on which declarations of candidacy are to be filed and the date on which declarations of intent to be a write-in candidate are to be filed;

(4) the location, days and hours for voting at the office of the county clerk;

(5) the location, days and hours for early voting at each alternate voting location and mobile alternate voting location;

(6) the location, date and hours for voting at each election day polling place; and

(7) the date certificates of registration shall be subscribed and sworn as required by law.

~~[E. Whenever two or more members of a local governing body~~

~~are to be elected at large for terms of the same length of time, the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position. Whenever two or more members of a local governing body are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall list the office with the shorter length of time first and shall designate each position with "for a term expiring \_\_\_\_".]~~

D. To assist the secretary of state with preparation of the proclamation, during the month of June preceding a regular local election, each county clerk shall communicate with each local government whose primary administrative office is located in the county. The county clerk shall inquire as to which local government positions are to be filled at the next regular local election and whether the position is to be filled for a full term or a partial term, as well as the expiration date of each term. Each county clerk shall inform the secretary of state of all known positions to be filled no later than the last business day in June preceding a regular local election."

**SECTION 110.** Section 1-22-7 NMSA 1978 (being Laws 2018, Chapter 79, Section 20, as amended) is amended to read:

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

A. A candidate for a position that will be filled at a regular local election shall file a declaration of candidacy with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the seventieth day before the date of the regular local election.

B. A candidate shall file for only one position in the same local government but may file for a position in more than one local government on the same filing day.

C. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

D. Each declaration of candidacy shall be accompanied by a nominating petition containing at least the number of signatures as required by law for the specific office. If not otherwise required

by law for the specific office, the declaration of candidacy shall be accompanied by a nominating petition containing no fewer than ten signatures or a fifty-dollar (\$50.00) filing fee.

~~[D.]~~ E. Each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy.

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

**SECTION 111.** Section 1-22-8.1 NMSA 1978 (being Laws 2018, Chapter 79, Section 22, as amended) is amended to read:

"1-22-8.1. WRITE-IN CANDIDATES.--

A. Write-in candidates shall be permitted in regular local elections.

B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.

C. A person desiring to be a write-in candidate for an office shall file with the proper filing officer a declaration of ~~[candidacy]~~ intent to be a write-in candidate. The declaration shall be filed between 9:00 a.m. and 5:00 p.m. on the sixty-third day preceding the date of the election. ~~[The county clerk shall ensure that a declaration of candidacy filed pursuant to this section specifies that it is for a write-in candidate.]~~

D. ~~[At the time of filing the declaration of candidacy]~~ The declaration of intent to be a write-in candidate shall be accompanied by a nominating petition containing the same number of signatures or the filing fee required of other candidates for the same office.

E. A write-in candidate shall be considered a candidate

for all purposes and provisions relating to candidates in the Local Election Act, except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place."

**SECTION 112.** Section 1-22-10 NMSA 1978 (being Laws 2018, Chapter 79, Section 24, as amended) is amended to read:

"1-22-10. CANDIDATE QUALIFICATION--CHALLENGES--BALLOTS.--

A. The proper filing officer shall determine whether a candidate filing a declaration of candidacy is registered to vote within the area to be elected to represent and, if required for the office being sought, whether the candidate's nominating petition for that office has been filed with a number of signatures that is equal to or greater than the number required for that office. If the candidate is so qualified and no withdrawal of candidacy has been filed as provided in the Local Election Act, the proper filing officer shall place the candidate's name on the ballot for the position specified in the declaration of candidacy and notify each candidate in writing no later than [~~5:00 p.m. on the sixtieth~~] the sixty-seventh day before the local election.

B. Any voter may challenge the candidacy of any person seeking election at the regular local election for the reason that the person does not meet the requirements for the office sought by filing a petition in the district court within seven days after the day for filing a declaration of candidacy. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith.

C. Ballots for the regular local election shall be prepared by the proper filing officer and printed in accordance with the provisions of Section 1-10-5 NMSA 1978.

D. The printed ballot shall contain the name of each person who is a candidate and the position for which the person is a candidate.

E. The ballot shall also contain all ballot questions that

are to be submitted to the voters as certified by a local governing body to the county clerk in each county in which the local government is situate and shall conform to the requirements for ballot questions on the regular local election ballot as provided in Chapter 1, Article 16 NMSA 1978."

**SECTION 113.** Section 1-22-18 NMSA 1978 (being Laws 2018, Chapter 79, Section 31) is amended to read:

"1-22-18. LOCAL ELECTION--DATE TERM OF OFFICE BEGINS.--

A. A candidate to whom a certificate of election has been issued shall take the oath of office before entering upon the duties of the office to which the person was elected.

B. The term of office of a candidate elected in a regular local election [~~or ensuing top-two runoff election~~] shall begin on January 1 following the candidate's election [~~and the candidate to whom a certificate of election has been issued shall take the oath of office before entering upon the duties of office~~].

C. A candidate elected in a regular local election to serve the remainder of an unexpired term shall enter upon the duties of that office on or after January 1 following the candidate's election."

**SECTION 114.** Section 1-24-3 NMSA 1978 (being Laws 2019, Chapter 212, Section 156) is amended to read:

"1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--

A. All special elections in this state shall be conducted absentee. Mailed ballots shall be used exclusively for voting in special elections. Except as otherwise provided in the Special Election Act, all special elections in this state shall be conducted and canvassed as provided in the Election Code.

B. Without requiring a voter to file an application to receive a ballot, the county clerk shall send a mailed ballot to every voter of the county or local public body, except a voter:

- (1) who was sent a notice pursuant to Subsection C of



Section 1-4-28 NMSA 1978 and who has not returned the prepaid and pre-addressed return card sent pursuant to that section and has not filed a new certificate of registration with a new address; [~~or~~]

(2) whose voter notification pursuant to Section 1-11-4.1 NMSA 1978 was returned to the county clerk as undeliverable and the voter has not communicated with the county that the voter notification was returned as undeliverable in error or filed a certificate of registration with a new address;

[~~(2)~~] (3) whose official election-related mail sent through a uniform, nondiscriminatory process was returned to the county clerk or the secretary of state as undeliverable and the voter has not communicated with the county clerk that the official election-related mail was returned as undeliverable in error or filed a certificate of registration with a new address; or

(4) whose ballot is delivered pursuant to the provisions of the Intimate Partner Violence Survivor Suffrage Act.

C. Forty-two days before the election or in the case of a voter notification returned to the county clerk, as soon thereafter as practicable, the county clerk shall send to each voter of the county or local public body described in Paragraphs (1) [~~and (2)~~] through (3) of Subsection B of this section notice, sent by forwardable mail, that the voter will not be sent a ballot for the special election unless the voter updates the voter's address as provided by the Election Code or informs the county clerk that the address on the certificate of registration is valid. The notice shall include contact information for the office of the county clerk and an internet address where the voter may update the voter's address or communicate with the county clerk. The mailed ballot register shall note which voters were sent a notice pursuant to this subsection.

D. Between the twenty-seventh and twenty-fifth day before the election, pursuant to Subsection B of this section, the county clerk shall send to each voter a ballot for the special election, along with a postage-paid return envelope, a notice that there will be no traditional polling places for the election, the recommended deadline to deposit the voted mailed ballot with the United States postal service for return by mail, the deadline for the ballot to be

received by the county clerk and a list of the times and locations of monitored secured containers available in [~~addition to the United States postal service for a voter to return the ballot~~] the county.

E. Beginning twenty-two days before the election, the county clerk shall issue replacement and provisional ballots as provided in the Absent Voter Act for the mailed ballot process. In addition, the county clerk shall send a ballot to any voter described in Paragraphs (1) [~~and (2)~~] through (3) of Subsection B of this section who has not previously been sent a ballot if the voter submits an application pursuant to Section 1-6-4 NMSA 1978.

F. When required by federal law, if the voter has on file with the county a valid certificate of registration that indicates that the voter is a new registrant in the state and who registered by mail without submitting the required [~~voter~~] documentary identification, the county clerk shall notify the voter that the voter must submit with the mailed ballot the required documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall note on the mailed ballot register and signature roster that the applicant's mailed ballot must be returned with the required [~~voter~~] documentary identification."

**SECTION 115.** Section 2-11-8.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 23, as amended) is amended to read:

"2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND CONTRIBUTIONS.--

A. [~~No~~] A lobbyist [~~may~~] shall not serve as a campaign chair, treasurer or fundraising chair for a candidate for the legislature or other state office.

B. It is unlawful during the prohibited period, as that term is defined in Section 1-19-34.1 NMSA 1978, for any lobbyist or lobbyist's employer to contribute to or act as an agent or intermediary for political contributions to or arrange for the making of political contributions to the campaign funds of any statewide elected official or legislator or any candidate for those offices.

~~[C. For purposes of this section, "prohibited period" is that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on:~~

~~(1) the day the session ends for:~~

~~(a) any statewide elected official or candidate for statewide office except the governor; and~~

~~(b) a legislator or any candidate for the legislature; and~~

~~(2) the twentieth day following the adjournment of the regular or special session for the governor or candidate for governor.]"~~

SECTION 116. Section 3-11-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-10-5, as amended) is amended to read:

"3-11-5. MAYOR--APPOINTMENT OF OFFICERS AFTER ~~[ELECTION]~~ NEW TERMS BEGIN.--

A. At the organizational meeting of the governing body, the mayor shall submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality ~~[and the names of persons who shall be employed by the municipality]~~. If the governing body fails to confirm any person as an appointive official ~~[or employee]~~ of the municipality, the mayor at the next regular meeting of the governing body shall submit the name of another person to fill the appointed office ~~[or to be employed by the municipality]~~.

B. The organizational meeting shall be held within the first thirty days following the commencement of new terms of office after each regular municipal election. The organizational meeting may be a special meeting or a regular meeting of the governing body.

~~[B.]~~ C. Any person holding an appointed office at the time of the municipal election shall continue in that office until the person's successor has been appointed and is qualified."

SECTION 117. Section 3-12-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-11-2, as amended) is amended to read:

"3-12-2. GOVERNING BODY--CORPORATE AUTHORITY--LEGISLATIVE BODY--MEMBERS OF COUNCIL AND BOARDS OF TRUSTEES--QUORUM.--

A. The corporate authority of a municipality is vested in the governing body that shall constitute the legislative branch of the municipality and shall not perform any executive functions except those functions assigned to it by law.

B. A majority of the members of the governing body is a quorum for the purpose of transacting business.

C. Unless otherwise provided by law, a question before the governing body shall be decided by a majority vote of the members present.

D. The governing body of a municipality having a mayor-council form of government is the council or board of trustees whose members are the mayor and not less than four or more than ten [~~councilmen~~] council members or trustees. Any governing body of more than six [~~councilmen~~] council members or trustees may provide by ordinance for the election of two [~~councilmen~~] council members or trustees for each ward or district or create or abolish wards or districts or alter the boundary of existing wards or districts; provided that only one [~~councilman~~] council member or trustee shall be elected from a ward or district at any one election.

E. In those municipalities with a mayor-council form of government, when there is a requirement that a certain fraction or percentage of the members of the entire governing body or of all the members of the governing body or of the entire membership of the governing body or other similar language other than the requirement of a simple majority vote for the measure, the mayor shall not be counted in determining the actual number of votes needed but [~~he~~] shall vote to break a tie vote as provided in Section 3-11-3 NMSA 1978 unless [~~he~~] the mayor has declared a conflict of interest.

~~[F. The governing body of a municipality may redistrict the municipality whenever redistricting is warranted. Upon petition signed by qualified electors equal in number to the votes cast for~~

~~the councilman or trustee receiving the greatest number of votes at the last regular municipal election, the governing body of the municipality shall redistrict the municipality.]"~~

**SECTION 118.** Section 3-14-10 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-10) is amended to read:

"3-14-10. COMMISSION-MANAGER--SELECTION OF MAYOR--DUTIES.--

A. At the [~~first~~] organizational meeting of the new commission [~~after each election or as soon thereafter as practical~~] held within the first thirty days following the commencement of new terms of office after each regular municipal election, the commissioners shall select one of their number as mayor to act for two years or until a successor is selected and qualified unless sooner removed by death, resignation or removal from office.

B. The mayor shall preside at all meetings of the commission and perform other duties consistent with [~~his~~] the office as imposed by the commission. The mayor has all powers and duties of a commissioner, including the right to vote upon all questions considered by the commission. [~~He~~] The mayor is the official head of the municipality for all ceremonial purposes, for the purpose of civil process and for military purposes. During [~~his~~] the mayor's absence or disability, [~~his~~] the mayor's duties shall be performed by another member of the commission appointed by a majority of the commission and designated as mayor pro tem.

C. The commission shall meet at least twice each month."

**SECTION 119.** A new Section 4-38-17.2 NMSA 1978 is enacted to read:

"4-38-17.2. [NEW MATERIAL] APPROPRIATIONS FOR ELECTIONS.--The board of county commissioners shall appropriate from the county general fund all funds necessary for the administration of elections. Such funds shall be deposited into the county election fund for election-related expenses as provided by law."

**SECTION 120.** A new Section 4-40-11 NMSA 1978 is enacted to read:

"4-40-11. [NEW MATERIAL] QUALIFICATIONS FOR CLERK'S CERTIFICATES.--The secretary of state, in cooperation and in keeping with the standards of accredited educational programs, shall establish by rule the qualifications that are prerequisite to the issuance of each grade of clerk's certificate."

**SECTION 121.** A new Section 4-40-12 NMSA 1978 is enacted to read:

"4-40-12. [NEW MATERIAL] ADDITIONAL COMPENSATION TO CLERKS.-- In addition to the salaries provided for county clerks in Chapter 4, Article 44 NMSA 1978, county clerks may receive:

- A. an additional five hundred dollars (\$500) a year for holding a "clerk 1" certificate;
- B. an additional one thousand dollars (\$1,000) a year for holding a "clerk 2" certificate;
- C. an additional one thousand dollars (\$1,000) a year for holding a "clerk 3" certificate; and
- D. an additional one thousand dollars (\$1,000) a year for holding a "clerk 4" certificate."

**SECTION 122.** A new Section 4-40-13 NMSA 1978 is enacted to read:

"4-40-13. [NEW MATERIAL] ADDITIONAL COMPENSATION TO DEPUTY CLERKS.--A board of county commissioners may provide additional cumulative increments to the salary of any chief deputy or deputy clerk employed in the office of the clerk as an incentive for obtaining greater qualification levels up to the following amounts:

- A. an additional five hundred dollars (\$500) a year for holding a "clerk 1" certificate;
- B. an additional one thousand five hundred dollars (\$1,500) a year for holding a "clerk 2" certificate;
- C. an additional two thousand five hundred dollars (\$2,500) a year for holding a "clerk 3" certificate; and

D. an additional three thousand dollars (\$3,000) a year for holding a "clerk 4" certificate."

**SECTION 123.** Section 7-1-8.8 NMSA 1978 (being Laws 2019, Chapter 87, Section 2, as amended) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

C. the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

D. the secretary of human services or the secretary's delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

G. the director of the New Mexico department of agriculture or the director's authorized representative, upon request of the director or representative, the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers;

H. the public regulation commission, return information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

I. the state racing commission, return information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

K. the director of the workers' compensation administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

M. the New Mexico finance authority, information with respect to the amount of municipal and county gross receipts taxes collected by municipalities and counties pursuant to any local option municipal or county gross receipts taxes imposed, and information with respect to the amount of governmental gross receipts taxes paid by every agency, institution, instrumentality or political subdivision of the state pursuant to Section 7-9-4.3 NMSA 1978;

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential return information on behalf of the human services department shall



not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families;

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed; and

(3) return information required to administer the Health Care Quality Surcharge Act;

O. the superintendent of insurance, return information with respect to the premium tax and the health insurance premium surtax;

P. the secretary of finance and administration or the secretary's designee, return information concerning a credit pursuant to the Film Production Tax Credit Act;

Q. the secretary of economic development or the secretary's designee, return information concerning a credit pursuant to the Film Production Tax Credit Act;

R. the secretary of public safety or the secretary's designee, return information concerning the Weight Distance Tax Act;

S. the secretary of transportation or the secretary's designee, return information concerning the Weight Distance Tax Act;

T. the secretary of energy, minerals and natural resources or the secretary's designee, return information concerning tax credits or deductions for which eligibility is certified or otherwise determined by the secretary or the secretary's designee;  
[and]

U. the secretary of environment or the secretary's designee, return information concerning tax credits for which eligibility is certified or otherwise determined by the secretary or the secretary's designee; and

V. the secretary of state or the secretary's designee, taxpayer information required to maintain voter registration records and as otherwise provided in the Election Code."

SECTION 124. Section 8-4-4 NMSA 1978 (being Laws 1969, Chapter 272, Section 1, as amended) is amended to read:

"8-4-4. FEES OF SECRETARY OF STATE.--

A. The secretary of state shall collect the following fees to be deposited with the state treasurer for credit to the general fund:

~~[A.]~~ (1) photocopies of records, per page -----  
----- twenty-five cents (\$.25);

~~[B.]~~ (2) each certification -----  
-----three dollars (\$3.00);

~~[C. filing each official oath -----  
----- three dollars (\$3.00);]~~

~~[D.]~~ (3) search of records where another fee is not prescribed, per hour of search -----  
----- ten dollars (\$10.00);

~~[E.]~~ (4) duplicate commission of office or certificate----- three dollars (\$3.00);

~~[F.]~~ (5) service of process where another fee is not prescribed -----  
--- twenty-five dollars (\$25.00);

~~[G.]~~ (6) computer printout of Uniform Commercial Code records, per page -----  
one dollar (\$1.00); and

[H.] (7) computer generated records other than voter registration records, per record -----  
----- ten cents (\$.10).

B. The secretary of state shall not collect a fee for the following documents when filed in the office of the secretary of state:

(1) oath of office; and

(2) notice of appointment to a vacancy in office."

SECTION 125. Section 14-8-12.2 NMSA 1978 (being Laws 1985, Chapter 122, Section 2, as amended) is amended to read:

"14-8-12.2. COUNTY CLERK RECORDING AND FILING FUND--USES.--

A. A "county clerk recording and filing fund" is established in each county.

B. Expenditures from the county clerk recording and filing fund shall be determined [~~annually~~] by the county clerk [~~and approved by the board of county commissioners~~].

C. Expenditures from the county clerk recording and filing fund may be expended only:

(1) to rent, purchase, lease or lease-purchase recording, redaction and archiving equipment and services and for supplies, training and maintenance for such equipment; provided that equipment acquired pursuant to this paragraph may be used for other regular duties in the county clerk's office as long as the primary purpose of the equipment is recordation, redaction and archiving;

(2) to rent, purchase, lease or lease-purchase vehicles associated with all regular duties in the county clerk's office and for supplies, training and maintenance for such vehicles; provided that the county clerk shall report annually to the board of county commissioners the usage, mileage and necessity of any vehicle acquired pursuant to this paragraph;

(3) for technical assistance or for training

associated with all regular duties of the county clerk's office; or

(4) for staff travel associated with all regular duties of the county clerk's office pursuant to the Per Diem and Mileage Act.

D. The county clerk recording and filing fund is subject to being audited in the same manner as other funds in the county. The county clerk shall prepare a report detailing the source of funds deposited into the county clerk recording and filing fund, the use of funds and remaining balances within the county clerk recording and filing fund during the annual county budgeting process."

**SECTION 126.** Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended by Laws 2011, Chapter 35, Section 1 and by Laws 2011, Chapter 154, Section 1) is amended to read:

"22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--MINIMUM.--

A. Except as otherwise provided in this section, regular students shall be in school-directed programs, exclusive of lunch, for a minimum of the following:

(1) kindergarten, for half-day programs, two and one-half hours per day or four hundred fifty hours per year or, for full-day programs, five and one-half hours per day or nine hundred ninety hours per year;

(2) grades one through six, five and one-half hours per day or nine hundred ninety hours per year; and

(3) grades seven through twelve, six hours per day or one thousand eighty hours per year.

B. Up to thirty-three hours of the full-day kindergarten program may be used for home visits by the teacher or for parent-teacher conferences. Up to twenty-two hours of grades one through six programs may be used for home visits by the teacher or for parent-teacher conferences. Up to twelve hours of grades seven through twelve programs may be used to consult with parents to develop next step plans for students and for parent-teacher

conferences.

C. Nothing in this section precludes a local school board from setting a school year or the length of school days in excess of the minimum requirements established by Subsection A of this section.

D. The secretary may waive the minimum length of school days in those school districts where such minimums would create undue hardships as defined by the department as long as the school year is adjusted to ensure that students in those school districts receive the same total instructional time as other students in the state.

E. Notwithstanding any other provision of this section, provided that instruction occurs simultaneously, time when breakfast is served or consumed pursuant to a state or federal program shall be deemed to be time in a school-directed program and is part of the instructional day.

F. Every general election and regular local election shall be a school holiday for students and staff at each public school in this state."

SECTION 127. Section 31-13-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-14, as amended) is amended to read:

"31-13-1. FELONY CONVICTION--RESTORATION OF [CITIZENSHIP] RIGHT TO HOLD OFFICE OF PUBLIC TRUST.--

~~[A. A person who has been convicted of a felony shall not be permitted to vote in any statewide, county, municipal or district election held pursuant to the provisions of the Election Code, unless the person:~~

~~(1) has completed the terms of a suspended or deferred sentence imposed by a court;~~

~~(2) was unconditionally discharged from a correctional facility under the jurisdiction of the corrections department or was conditionally discharged from a correctional facility under the jurisdiction of the corrections department and~~

~~has completed all conditions of probation or parole;~~

~~(3) was unconditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency or was conditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency and has completed all conditions of probation or parole; or~~

~~(4) has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person's full rights of citizenship.~~

~~B. When a person has completed the terms of a suspended or deferred sentence imposed by a court for a felony conviction, the clerk of the district court shall notify the secretary of state. The secretary of state shall notify all county clerks that the person is eligible for registration.~~

~~C. A person who has served the entirety of a sentence imposed for a felony conviction, including a term of probation or parole shall be issued a certificate of completion by the corrections department. Upon issuance, the corrections department shall inform the person that the person is entitled to register to vote. The certificate of completion shall state that the person's voting rights are restored.~~

~~D. When the corrections department issues a person a certificate of completion, the corrections department shall notify the secretary of state that the person is entitled to register to vote. The secretary of state shall notify all county clerks that the person is eligible for registration. Additionally, a county clerk shall accept the following documents as proof that a person has served the entirety of the sentence for a felony conviction and is eligible for registration:~~

~~(1) a judgment and sentence from a court of this state, another state or the federal government, which shows on its face that the person has completed the entirety of the sentence;~~

~~(2) a certificate of completion from the~~

~~corrections department; or~~

~~(3) a certificate of completion from another state or the federal government.~~

E.] A person who has been convicted of a felony shall not be permitted to hold an office of public trust for the state, a county, a municipality or a district, unless the person has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person's full rights of citizenship."

**SECTION 128.** Section 40-13B-1 NMSA 1978 (being Laws 2018, Chapter 40, Section 1) is amended to read:

"40-13B-1. SHORT TITLE.--~~[This act]~~ Chapter 40, Article 13B NMSA 1978 may be cited as the "Confidential Substitute Address Act"."

**SECTION 129.** Section 40-13B-3 NMSA 1978 (being Laws 2018, Chapter 40, Section 3) is amended to read:

"40-13B-3. CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM-- APPLICATION.--

A. The "confidential substitute address program" is created in the office of the secretary of state to provide a process by which a victim of domestic violence may protect the confidentiality of the victim's residential and delivery addresses in public records.

B. An applicant, with the assistance of an application assistant, shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application assistant's signature shall serve as recommendation that the applicant participate in the confidential substitute address program.

C. An application shall be signed and dated by the applicant and the application assistant and shall include:

- (1) the applicant's name;

(2) the applicant's statement that the applicant fears for the safety of the applicant, the applicant's child or another person in the applicant's household because of a threat of immediate or future harm;

(3) the applicant's statement that the disclosure of the applicant's residential or delivery address would endanger the applicant, the applicant's child or another person in the applicant's household;

(4) the applicant's statement that the applicant has confidentially relocated in the past ninety days or will relocate within the state in the next ninety days;

(5) a designation of the secretary of state as the applicant's agent for the purpose of receiving mail, deliveries and service of process, notice or demand;

(6) the names and ages of those persons in the applicant's household who will also be participants in the program if the applicant is admitted into the program. Each person in an applicant's household listed in the application shall be considered a separate participant in the program;

~~[(6)]~~ (7) the applicant's residential and delivery addresses, if different, the confidentiality of which the applicant seeks to protect;

~~[(7)]~~ (8) the applicant's telephone number and email address; and

~~[(8)]~~ (9) the applicant's statement under penalty of perjury that the information contained in the application is true."

**SECTION 130.** Section 40-13B-6 NMSA 1978 (being Laws 2018, Chapter 40, Section 6) is amended to read:

"40-13B-6. CHANGE OF PARTICIPANT NAME, ADDRESS OR TELEPHONE NUMBER--REQUIREMENTS.--

A. A participant shall notify the secretary of state



within ten days of legally changing the participant's name and shall provide the secretary of state with a certified copy of documentation of the legal name change.

B. A participant shall notify the secretary of state within ten days of a change to the participant's residential address, delivery address, telephone number or email address.

C. A participant shall notify the secretary of state within ten days if a new person in the participant's household needs to become a participant in the program."

**SECTION 131.** Section 40-13B-7 NMSA 1978 (being Laws 2018, Chapter 40, Section 7) is amended to read:

"40-13B-7. PARTICIPANT DECERTIFICATION.--

A. A participant shall be decertified from the confidential substitute address program if:

(1) the participant submits a request to withdraw from the confidential substitute address program to the secretary of state;

(2) the participant fails to notify the secretary of state of a legal name change or a change to the participant's residential address, delivery address, telephone number or email address; ~~or~~

(3) mail that is forwarded by the secretary of state to the participant's delivery address is returned as undeliverable; or

(4) the participant does not comply with the provisions of the Intimate Partner Violence Survivor Suffrage Act.

B. If the secretary of state determines that one or more of the causes for decertification provided in Subsection A of this section exist, the secretary of state shall send notice of the participant's decertification to the participant's delivery and residential addresses and shall attempt to notify the participant by telephone and email. The participant shall be given ten days

from the date of decertification to appeal the decertification.

C. A person who is decertified from the confidential substitute address program shall not continue to use the person's confidential substitute address.

D. For six months after a participant has been decertified, the secretary of state shall forward mail and deliveries to an address provided by the former participant. Upon receipt of mail and deliveries pursuant to this subsection, a former participant shall provide an updated address to the sender."

**SECTION 132.** Section 40-13B-8 NMSA 1978 (being Laws 2018, Chapter 40, Section 8, as amended) is amended to read:

"40-13B-8. PARTICIPANT RECORDS--CONFIDENTIALITY--DISCLOSURE PROHIBITED.--

A. The secretary of state and an agency shall not disclose the residential address, delivery address, telephone number or email address of a participant unless the information is required to be disclosed pursuant to a court order. A person or agency that receives a participant's residential address, delivery address, telephone number or email address pursuant to a court order shall not in turn disclose that information unless pursuant to a court order or unless the person who was a participant has been decertified.

B. The secretary of state shall maintain the confidentiality of all records relating to an applicant for or participant in the confidential substitute address program while the person is a participant and shall:

(1) store all tangible copies of program records in locked equipment;

(2) store all electronic copies of program records in a password-protected system;

(3) restrict access to all program records to secretary of state staff members who are approved to access the

records as provided in this section; and

(4) release program records only on a court's order.

C. The secretary of state shall establish a system for restricting access to program records to approved staff members. Before being approved and granted access to program records, the staff member shall:

(1) submit to a criminal background check performed by the department of public safety;

(2) not have a record of a sex offense, felony or a misdemeanor violation related to domestic violence or sexual assault on the results of the person's criminal background check; and

(3) complete forty hours of training, including a domestic violence training course provided by the children, youth and families department and sexual assault training provided by the department of health or the crime victims reparation commission or its successor.

D. The secretary of state shall appoint a person to be the administrator of the election component of the confidential substitute address program in accordance with the Intimate Partner Violence Survivor Suffrage Act. The administrator shall meet the requirements of Subsection C of this section, and administration of the Intimate Partner Violence Survivor Suffrage Act shall conform to the requirements of Subsections A and B of this section and Subsection E of Section 40-13B-5 NMSA 1978."

**SECTION 133. TEMPORARY PROVISION--2021 POLLING PLACE RESOLUTION--VOTER CONVENIENCE CENTER FOR ALL STATEWIDE ELECTIONS IN CALENDAR YEARS 2022 AND 2023.--**Each election day polling place established in the 2021 polling place resolution for each county or any election day polling place established by any subsequent amendment to such a resolution shall operate as a voter convenience center for all statewide elections in calendar years 2022 and 2023.

**SECTION 134. TEMPORARY PROVISION--RECOMPILATION.--**Section

2-21-1 NMSA 1978 (being Laws 2019, Chapter 262, Section 15) is recompiled as a section of the Campaign Reporting Act.

**SECTION 135. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--**

A. The compiler shall rename in tables of contents and headings Chapter 2, Article 21 NMSA 1978 as "Recompiled".

B. The compiler shall change the title of Chapter 12, Article 4 NMSA 1978 to "Repealed".

**SECTION 136. REPEAL.--**

A. Sections 1-6-9.2, 1-8-41, 1-10-8.1, 1-15A-8, 1-15A-10, 1-15A-11, 3-12-1.1, 3-14-11, 4-38-3 and 22-5-1.1 NMSA 1978 (being Laws 1999, Chapter 267, Section 1; Laws 1973, Chapter 228, Section 11; Laws 1981, Chapter 166, Section 1; Laws 1977, Chapter 230, Section 7; Laws 1977, Chapter 230, Section 9; Laws 1977, Chapter 230, Section 11; Laws 1985, Chapter 203, Section 1; Laws 1965, Chapter 300, Section 14-13-11; Laws 1876, Chapter 1, Section 10; and Laws 1985, Chapter 202, Section 1, as amended) are repealed.

B. Laws 2020, Chapter 9, Sections 1 through 9 and Laws 2018, Chapter 79, Sections 139, 140, 142, 144, 145, 147, 149, 154, 155, 156 and 158 are repealed.

**SECTION 137. DELAYED REPEAL.--**Sections 1-3-7.2, 1-6-5.8, 1-8-21.1 and 1-8-39.1 NMSA 1978 (being Laws 2021, Chapter 107, Section 1; Laws 2009, Chapter 251, Section 2; and Laws 1993, Chapter 55, Sections 11 and 10, as amended) are repealed effective July 1, 2022.

**SECTION 138. APPLICABILITY.--**

A. The provisions of this act relating to the procedures for conducting elections shall not apply to the 2022 municipal officer election.

B. The provisions of this act that remove references to a pre-primary convention shall not apply to the 2022 primary election.

**SECTION 139. EFFECTIVE DATE.--**

A. The effective date of the provisions of Sections 4, 17 through 20, 23, 24, 36, 74, 92, 99 through 108, 115, 127 and 137 of this act is July 1, 2022.

B. The effective date of the provisions of Sections 28 and 126 of this act is January 1, 2023.

C. The effective date of the provisions of Sections 26 and 61 of this act is July 1, 2023."

Respectfully submitted,

---