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HOUSE BILL 61

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

INTRODUCED BY

James E. Smith

AN ACT

RELATING TO ELECTIONS; CHANGING VOTER IDENTIFICATION
REQUIREMENTS FOR VOTING IN PERSON OR BY MAIL; STANDARDIZING
VOTER IDENTIFICATION REQUIREMENTS STATEWIDE; CHANGING
PROCEDURES FOR THE ISSUANCE OF TEMPORARY LICENSES; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 1-1-24 NMSA 1978 (being Laws 2005,
Chapter 270, Section 6, as amended) is amended to read:

"1-1-24. ~~[REQUIRED]~~ VOTER IDENTIFICATION.--

A. As used in the Election Code, when a person offers to vote in person, "required voter identification" means ~~[any of the following forms of identification as chosen by the voter:~~

~~A. a physical form of identification, which may~~

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1 be]:

2 (1) a physical form of identification that is
3 issued by a government, including a federally recognized Indian
4 nation, tribe or pueblo, or by an educational institution and
5 that:

6 (a) contains the name of the voter,
7 which reasonably matches the name on the voter's certificate of
8 registration and is presumed to match unless a challenge is
9 successfully interposed;

10 (b) contains a photograph of the voter,
11 which resembles the person offering to vote and is presumed to
12 resemble the person unless a challenge is successfully
13 interposed; provided that, in the case of identification or a
14 letter of enrollment issued by a federally recognized Indian
15 nation, tribe or pueblo, a photograph of the voter is not
16 required;

17 (c) may or may not contain an address,
18 and if it does, the address is not required to match the
19 voter's certificate of registration; and

20 (d) may or may not contain an expiration
21 date, and if it does, the expiration date is not required to be
22 a date on or after the election in which the identification is
23 used;

24 (2) a picture of the voter contained in the
25 voter registration database available to the election clerk at

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1 the time the voter offers to vote, along with a written or
2 verbal statement by the voter of the voter's name, registration
3 address and year of birth; provided that:

4 (a) the name reasonably matches the name
5 on the voter's certificate of registration and is presumed to
6 match unless a challenge is interposed; and

7 (b) the picture resembles the person
8 offering to vote and is presumed to resemble the person unless
9 a challenge is interposed; or

10 (3) a form containing the following
11 information filled out and signed by the voter:

12 (a) the voter's month, day and year of
13 birth, which must match the date of birth listed on the voter's
14 certificate of registration; and

15 (b) the voter's full social security
16 number, which must match the social security number listed on
17 the voter's certificate of registration.

18 B. As used in the Election Code, when a person
19 offers to vote by mail, "required voter identification" means a
20 form containing the following information filled out and signed
21 by the voter:

22 (1) the driver's license number or the
23 identification card number on the most recent driver's license
24 or identification card issued to the voter by the motor vehicle
25 division of the taxation and revenue department; provided that:

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1 (a) the address on file with the motor
2 vehicle division is not required to match the address on the
3 voter's certificate of registration; and

4 (b) the expiration date on a driver's
5 license or identification card is not required to be a date on
6 or after the election in which the number is used; or

7 (2) the voter's month, day and year of birth
8 and full social security number; provided that:

9 (a) the voter's month, day and year of
10 birth matches the date of birth listed on the voter's
11 certificate of registration; and

12 (b) the voter's full social security
13 number matches the social security number listed on the voter's
14 certificate of registration.

15 C. As used in the Election Code, "federally
16 required identification" means a form of identification
17 required by Section 303(b)(1) of the federal Help America Vote
18 Act of 2002 that may be:

19 (1) an original or copy of a [~~current and~~
20 ~~valid~~] photo identification with or without an address, which
21 address is not required to match the voter's certificate of
22 registration; or

23 (2) an original or copy of a utility bill,
24 bank statement, government check, paycheck, student
25 identification card or other government document, including

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1 identification issued by an Indian nation, tribe or pueblo,
2 that shows the name and address of the person, the address of
3 which is not required to match the voter's certificate of
4 registration [~~or~~

5 ~~B. a verbal or written statement by the voter of~~
6 ~~the voter's name, registration address and year of birth;~~
7 ~~provided, however, that the statement of the voter's name need~~
8 ~~not contain the voter's middle initial or suffix]."~~

9 SECTION 2. Section 1-4-11 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 67, as amended) is amended to read:

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

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

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1 person.

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

16 C. If the qualified elector does not register in
17 person, indicates that the qualified elector has not previously
18 voted in a [~~general election in~~] New Mexico election and does
19 not provide the registration officer with the federally
20 required identification, the registration officer shall
21 indicate this on the qualified elector's certificate of
22 registration and the county clerk shall note this on the
23 appropriate precinct signature roster."

24 SECTION 3. Section 1-4-12 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 68, as amended) is amended to read:

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

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

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

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

10 B. Except as provided in Section 1-4-8 NMSA 1978,
11 the county clerk shall, on Monday of each week, process all
12 certificates of registration that are in proper form and that
13 were received in [~~his~~] the county clerk's office up to 5:00
14 p.m. on the preceding Friday.

15 C. The contents of certificates of registration,
16 except for the voter's social security number and [~~date~~] month
17 and day of birth, are public records."

18 SECTION 4. Section 1-5-31 NMSA 1978 (being Laws 1989,
19 Chapter 298, Section 2, as amended) is amended to read:

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

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

25 B. provide to each county clerk the computer

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1 software necessary for the use and maintenance of the
2 [~~statewide computerized~~] voter registration electronic
3 management system; [~~and~~]

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

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

16 SECTION 5. Section 1-6-4 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 130, as amended) is amended to read:

18 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
19 ELECTOR--OVERSEAS VOTER.--

20 A. Application by a federal qualified elector or an
21 overseas voter for an absentee ballot shall be made on the
22 official postcard form prescribed or authorized by the federal
23 government to the county clerk of the county of the applicant's
24 residence. The form shall allow the applicant to receive an
25 absentee ballot for all elections within an election cycle.

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1 B. Application by a voter for an absentee ballot
2 shall be made only on a form prescribed by the secretary of
3 state in accordance with federal law. The form shall identify
4 the applicant and contain information to establish the
5 applicant's qualification for issuance of an absentee ballot
6 under the Absent Voter Act; provided that on the application
7 form for a general election ballot there shall be no box, space
8 or place provided for designation of the voter's political
9 party affiliation.

10 C. Each application for an absentee ballot shall be
11 signed by the applicant and shall require the applicant's
12 printed name, registration address and year of birth to be
13 supplied by the applicant [~~which shall constitute the required~~
14 ~~form of identification, except for new registrants who have~~
15 ~~registered by mail and at that time did not provide acceptable~~
16 ~~identification. The secretary of state shall issue rules to~~
17 ~~exempt voters from submitting identification only as required~~
18 ~~by federal law and shall review and, if necessary, update these~~
19 ~~rules no later than March 15 of even-numbered years].~~

20 D. An application for an absentee ballot by a
21 federal qualified elector or an overseas voter shall be
22 accepted at any time preceding the general election.

23 E. A person who willfully and with knowledge and
24 intent to deceive or mislead any voter, precinct board,
25 canvassing board, county clerk or other election official and

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1 who falsifies any information on an absentee ballot request
2 form or who affixes a signature or mark other than the person's
3 own on an absentee ballot request form is guilty of a fourth
4 degree felony."

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

7 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

8 A. The county clerk shall mark each completed
9 absentee ballot application with the date and time of receipt
10 in the clerk's office and enter the required information in the
11 absentee ballot register. The county clerk shall then
12 determine if the applicant is a voter, an absent uniformed
13 services voter or an overseas voter.

14 B. If the applicant does not have a valid
15 certificate of registration on file in the county and is not a
16 federal qualified elector or if the applicant states that the
17 applicant is a federal qualified elector but the application
18 indicates the applicant is not a federal qualified elector, an
19 absentee ballot shall not be issued and the county clerk shall
20 mark the application "rejected" and file the application in a
21 separate file from those accepted.

22 C. The county clerk shall notify in writing each
23 applicant of the fact of acceptance or rejection of the
24 application and, if rejected, shall explain why the application
25 was rejected.

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1 D. If the applicant has on file with the county a
2 valid certificate of registration that indicates that the
3 applicant is a voter who is a new registrant and who registered
4 by mail without submitting the federally required ~~[voter]~~
5 identification, the county clerk shall notify the voter that
6 the voter must submit with the absentee ballot the federally
7 required ~~[physical form of]~~ identification. The county clerk
8 shall note on the absentee ballot register and signature roster
9 that the applicant's absentee ballot must be returned with the
10 federally required identification.

11 E. If the county clerk finds that the applicant is
12 a voter other than a federal qualified elector or overseas
13 voter, the county clerk shall mark the application "accepted"
14 and, beginning twenty-eight days before the election, deliver
15 an absentee ballot to the voter in the county clerk's office or
16 mail to the applicant an absentee ballot and the required
17 envelopes for use in returning the ballot.

18 F. If the county clerk finds that the applicant is
19 a federal qualified elector or overseas voter, the county clerk
20 shall mark the application "accepted" and beginning forty-five
21 days before the election, mail to the applicant an absentee
22 ballot and the required envelopes for use in returning the
23 ballot. Acceptance of an application of a federal qualified
24 elector constitutes registration for the election in which the
25 ballot is to be cast. Acceptance of an application from an

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1 overseas voter who is not an absent uniformed services voter
2 constitutes a request for changing information on the
3 certificate of registration of any such voter. An absent voter
4 shall not be permitted to change party affiliation during those
5 periods when change of party affiliation is prohibited by the
6 Election Code.

7 G. Upon delivery of an absentee ballot to a voter
8 in the county clerk's office or mailing of an absentee ballot
9 to an applicant who is a voter, an appropriate designation
10 shall be made on the signature line of the signature roster
11 next to the name of the voter who has been provided [~~or mailed~~]
12 an absentee ballot.

13 [~~F.~~] H. Absentee ballots may be marked in person at
14 the county clerk's office during the regular hours and days of
15 business beginning on the twenty-eighth day preceding the
16 election and from 10:00 a.m. to 6:00 p.m. on the Saturday
17 immediately prior to the date of the election. The act of
18 marking the absentee ballot in the office of the county clerk
19 shall be a convenience to the voter in the delivery of the
20 absentee ballot and does not make the office of the county
21 clerk a polling place subject to the requirements of a polling
22 place in the Election Code. If the county clerk establishes an
23 additional alternate voting location near the clerk's office,
24 absentee ballots may be marked in person at that location
25 during the regular hours and days of business beginning on the

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1 twenty-eighth day preceding the election and during the hours
2 for voting at alternate voting locations commencing on the
3 third Saturday prior to the election through the Saturday
4 immediately prior to the election. The additional alternate
5 voting location shall be operated by the county clerk and the
6 county clerk's staff.

7 ~~[G.]~~ I. When marking an absentee ballot in person
8 at the county clerk's office, the voter shall provide the
9 required voter identification to the county clerk or the
10 clerk's authorized representative. If the voter does not
11 provide the required voter identification, the voter shall be
12 allowed to vote on a provisional ballot. If the voter provides
13 the required voter identification, the voter, after subscribing
14 an application for an absentee ballot, shall be allowed to vote
15 by inserting the ballot into an optical scan tabulator
16 certified for in-person absentee voting at the county clerk's
17 office. The county clerk or the clerk's authorized
18 representative shall make an appropriate designation indicating
19 that the voter has voted absentee. In marking the absentee
20 ballot, the voter may be assisted pursuant to the provisions of
21 Section 1-12-15 NMSA 1978.

22 ~~[H.]~~ J. Absentee ballots shall be sent to
23 applicants not later than on the Friday immediately prior to
24 the date of the election.

25 ~~[I.]~~ K. An absentee ballot shall not be delivered

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1 or mailed by the county clerk to any person other than the
2 applicant for such ballot.

3 ~~[J.]~~ L. The secretary of state and each county
4 clerk shall make reasonable efforts to publicize and inform
5 voters of the times and locations for absentee voting;
6 provided, however, that notice is provided at least ten days
7 before early voting begins.

8 ~~[K. The secretary of state shall establish~~
9 ~~procedures for the submittal, when required by federal law, of~~
10 ~~required voter identification with mailed-in absentee ballots.~~

11 ~~[L.]~~ M. It is unlawful to electioneer in the county
12 clerk's office or in any alternate voting location."

13 SECTION 7. Section 1-6-6 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 132, as amended) is amended to read:

15 "1-6-6. ABSENTEE BALLOT REGISTER.--

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

- 19 (1) the name and address of each absentee
20 ballot applicant;
21 (2) the date and time of receipt of the
22 application;
23 (3) whether the application was accepted or
24 rejected;
25 (4) the date of issue of an absentee ballot in

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1 the county clerk's office or at an alternate location or the
2 mailing of an absentee ballot to the applicant;

3 (5) the applicant's precinct;

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

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

9 (8) the date and time the completed absentee
10 ballot was received from the applicant by the county clerk or
11 the absent voter voted early in person in the county clerk's
12 office or at an alternate location.

13 B. Absentee ballots shall be sent to applicants
14 beginning twenty-eight days before the election. For each
15 application for an absentee ballot received twenty-three or
16 more days before the election, the county clerk shall send
17 either the ballot or a notice of rejection to the applicant as
18 soon as practicable, provided it is sent not later than
19 twenty-two days before the election. Within twenty-two days of
20 election day, the county clerk shall send either the ballot or
21 a notice of rejection to the applicant within twenty-four hours
22 after receipt of the voter's application for an absentee
23 ballot.

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

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1 regular office hours. The county clerk shall have an updated
2 absentee ballot register available for public inspection Monday
3 through Friday during regular office hours.

4 D. The county clerk shall deliver to the absent
5 voter precinct on election day a complete list of all absentee
6 ballot applicants and early voters with applicable information
7 shown in the absentee ballot register for each applicant and
8 early voter up to 6:00 p.m. on the Saturday preceding the
9 election. The county clerk shall deliver a signature roster
10 containing the same information as the lists to the absent
11 voter precinct board.

12 E. Upon request, the county clerk shall transmit to
13 the county chair of each of the major political parties in the
14 county a complete copy of entries made in the absentee ballot
15 register. Such transmissions shall be made once each week
16 beginning four weeks immediately prior to the election. A
17 final copy shall be transmitted on the Saturday immediately
18 following the election.

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

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

3 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

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

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

8 (2) official mailing envelopes for use in
9 returning the official inner envelope to the county clerk;
10 provided the official mailing envelope for absentee ballots in
11 a general election shall contain no designation of party
12 affiliation;

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

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

18 B. Official transmittal envelopes and official
19 mailing envelopes for transmission of absentee ballot materials
20 to and from the county clerk and federal qualified electors
21 shall be printed in the form prescribed by the federal
22 Uniformed and Overseas Citizens Absentee Voting Act. Official
23 transmittal envelopes and official mailing envelopes for
24 transmission of absentee ballot materials to and from the
25 county clerk and voters shall be printed in black in

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1 substantially similar form. All official inner envelopes shall
2 be printed in black.

3 C. The reverse of each official mailing envelope
4 shall contain a form to be executed by the voter completing the
5 absentee ballot. The form shall identify the voter and shall
6 contain ~~[the following statement: "I will not vote in this~~
7 ~~election other than by the enclosed ballot. I will not receive~~
8 ~~or offer any compensation or reward for giving or withholding~~
9 ~~any vote."].~~

10 ~~D. The official mailing envelope shall contain a]~~
11 sufficient space for the ~~[voter to record the voter's name,~~
12 ~~registration address and year of birth]~~ voter's required voter
13 identification. The envelope shall have a security flap to
14 cover this information."

15 SECTION 9. Section 1-6-14 NMSA 1978 (being Laws 1971,
16 Chapter 317, Section 11, as amended) is amended to read:

17 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
18 PRECINCT BOARDS.--

19 A. Before opening an official mailing envelope, the
20 presiding judge and the election judges shall determine that
21 the required information has been completed on the reverse side
22 of the official mailing envelope.

23 B. If the voter's signature is missing, the
24 presiding judge shall write "Rejected" on the front of the
25 official mailing envelope. The judge or election clerk shall

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1 enter the voter's name in the signature rosters or register and
2 shall write the notation "Rejected--Missing Signature" in the
3 "Notations" column of the signature rosters or register. The
4 presiding judge shall place the official mailing envelope
5 unopened in an envelope provided for rejected ballots, seal the
6 envelope and write the voter's name on the front of the
7 envelope and deposit it in the locked ballot box.

8 C. A lawfully appointed challenger may view the
9 official mailing envelope and may challenge the ballot of any
10 absent voter for the following reasons:

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

14 (2) the official mailing envelope does not
15 contain a signature; [ø]

16 (3) the person offering to vote is not a voter
17 as provided in the Election Code;

18 (4) the person offering to vote did not
19 provide the required voter identification; or

20 (5) the person offering to vote was required
21 to provide, but did not provide, the federally required
22 identification.

23 D. If a challenge is upheld by unanimous vote of
24 the presiding judge and the election judges, the official
25 mailing envelope shall not be opened but shall be placed in an

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1 envelope provided for challenged ballots. If the reason for
2 the challenge is satisfied by the voter before the conclusion
3 of the county canvass, the official mailing envelope shall be
4 opened and the vote counted. The same procedure shall be
5 followed in canvassing and determining the validity of
6 challenged absentee ballots as with other challenged ballots.

7 E. If the official mailing envelope has been
8 properly [~~subscribed~~] signed and the voter has not been
9 challenged:

10 (1) the judges or election clerks shall enter
11 the absent voter's name and residence address as shown on the
12 official mailing envelope in the signature rosters and shall
13 mark the notation "AB" opposite the voter's name in the
14 "Notations" column of the signature rosters or register; and

15 (2) only between 8:00 a.m. and 10:00 p.m. on
16 the five days preceding election day, including Saturday and
17 Sunday, and beginning at 7:00 a.m. on election day, under the
18 personal supervision of the presiding election judge, shall the
19 election judges open the official mailing envelope and the
20 official inner envelope and insert the enclosed ballot into an
21 electronic voting machine to be registered and retained until
22 votes are counted and canvassed following the closing of the
23 polls on election night.

24 F. It is unlawful for a person to disclose the
25 results of a count and tally or the registration on a voting

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1 machine of absentee ballots prior to the closing of the polls.

2 G. Absentee ballots shall be counted and tallied,
3 where possible, on an electronic voting machine as provided in
4 the Election Code.

5 H. Absent voter precinct polls shall close in
6 accordance with Section 1-6-23 NMSA 1978, and the results of
7 the election shall be certified as prescribed by the secretary
8 of state.

9 I. If an absentee ballot does not contain the
10 required voter identification [~~required pursuant to Subsection~~
11 ~~D of Section 1-6-5 NMSA 1978~~] or, if required, the federally
12 required identification, it shall be considered to be, and be
13 handled as, a provisional paper ballot in accordance with the
14 Election Code."

15 SECTION 10. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
16 Chapter 353, Section 1, as amended) is amended to read:

17 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

18 A. After the close of the period for requesting
19 absentee ballots by mail, any voter who is unable to go to the
20 polls due to unforeseen illness or disability resulting in
21 [~~his~~] the voter's confinement in a hospital, sanatorium,
22 nursing home or residence and who is unable to vote at [~~his~~]
23 the voter's regular polling place or alternate location may
24 request in writing that an alternative ballot be made available
25 to [~~him~~] the voter. The written request shall be signed by the

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1 voter and a health care provider under penalty of perjury.

2 B. The alternative ballot shall be made available
3 by the county clerk of the county in which the voter resides to
4 any authorized representative of the voter who through [~~his~~]
5 the representative has presented the written request to the
6 office of the county clerk.

7 [~~G. Before releasing the alternative ballot, the~~
8 ~~county clerk shall compare the signature on the written request~~
9 ~~with the signature on the voter's affidavit of registration.~~
10 ~~If the county clerk determines that the signature on the~~
11 ~~written request is not the signature of the voter, he shall~~
12 ~~reject the request for an alternative ballot.~~

13 ~~D.]~~ C. The voter shall mark the alternative ballot,
14 place it in an [~~identification~~] envelope similar to that used
15 for absentee ballots, [~~fill out~~] provide the required voter
16 identification and sign the envelope [~~and return~~]. The ballot
17 must be returned to the office of the county clerk of the
18 county in which the voter resides no later than the time of
19 closing of the polls on election day. The voter's name shall
20 be compared to the roster of voters and the ballot shall only
21 be counted if there is no signature for that voter on the
22 roster of the precinct where that voter's name appears.

23 [~~E.]~~ D. Alternative ballots shall be processed and
24 counted in the same manner as absentee ballots.

25 [~~F.]~~ E. The secretary of state shall prescribe the

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1 form of alternative [~~ballots~~] ballot envelopes and shall
2 distribute an appropriate number of alternative [~~ballots~~]
3 ballot envelopes to each county clerk."

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

6 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
7 VOTERS--USE DURING ELECTION.--

8 A. Each precinct board using voter lists shall post
9 securely at or near the entrance of the polling place one copy
10 of an alphabetical list of voters for use of the voters prior
11 to voting. The posted copy shall not contain a listing of
12 voter addresses, years, months or days of birth [~~unique~~
13 ~~identifiers~~] or social security numbers.

14 B. The presiding judge of the precinct board shall
15 assign one judge or election clerk of the board to be in charge
16 of one copy of the checklist of voters, which shall be used to
17 confirm the registration and voting of each person offering to
18 vote.

19 C. The presiding judge of the precinct board shall
20 assign one judge or election clerk to be in charge of the
21 signature roster.

22 D. The judge or election clerk assigned to the
23 checklist of voters used for confirmation of registration and
24 voting shall determine that each person offering to vote is
25 registered and, in the case of a primary election, that the

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

17 E. The judge or election clerk shall locate [~~that~~
18 ~~list number and~~] the name on the signature roster and shall
19 require the voter to sign the voter's usual signature or, if
20 unable to write, to make the voter's mark opposite the voter's
21 printed name. If the voter makes the voter's mark, it shall be
22 witnessed by one of the judges or election clerks of the
23 precinct board.

24 F. If the signature roster indicates that the voter
25 is required to present [~~a physical form of~~] the federally

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1 required identification before voting, the judge or election
2 clerk shall ask the voter for the federally required [~~physical~~
3 ~~form of~~] identification. If the voter does not provide the
4 [~~required~~] identification, the voter shall be allowed to vote
5 on a provisional paper ballot; provided, however, that if the
6 voter brings the federally required [~~physical form of~~]
7 identification to the polling place after casting a provisional
8 paper ballot, that ballot shall be qualified. [~~and the voter~~
9 ~~shall not vote on any other type of ballot.~~

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

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

18 **SECTION 12.** Section 1-12-8 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 247, as amended) is amended to read:

20 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

21 A. A person shall be permitted to vote on a
22 provisional paper ballot even though the person's original
23 certificate of registration cannot be found in the county
24 register or even if the person's name does not appear on the
25 signature roster; provided that:

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1 (1) the person's residence is within the
2 boundaries of the county in which the person offers to vote;

3 (2) the person's name is not on the list of
4 persons submitting absentee ballots; and

5 (3) the person executes a statement swearing
6 or affirming to the best of the person's knowledge that the
7 person is a qualified elector, is currently registered and
8 eligible to vote in that county and has not cast a ballot or
9 voted in that election.

10 B. A voter shall vote on a provisional paper ballot
11 if the voter:

12 (1) has not previously voted in a general
13 election in New Mexico or has been purged from the voter list;

14 (2) registered to vote by mail;

15 (3) did not ~~[submit]~~ provide the ~~[physical~~
16 ~~form of the required voter]~~ federally required identification
17 with the certificate of registration form; and

18 (4) does not present to the election judge [~~a~~
19 ~~physical form of the required voter]~~ the federally required
20 identification.

21 C. A voter shall vote on a provisional paper ballot
22 [~~in accordance with the provisions of Section 1-12-7.1 NMSA~~
23 ~~1978]~~ if the voter does not provide the required voter
24 identification to the election judge.

25 D. A judge or election clerk shall have the voter

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1 sign the signature roster and issue the voter a provisional
2 paper ballot, an outer envelope and an official inner envelope.
3 The voter shall vote on the provisional paper ballot in secrecy
4 and, when done, place the ballot in the official inner envelope
5 and place the official inner envelope in the outer envelope and
6 return it to the judge or election clerk. The judge or
7 election clerk shall ensure that the required information is
8 completed on the outer envelope, have the voter sign it in the
9 appropriate place and place it in an envelope designated for
10 provisional paper ballots.

11 E. Knowingly executing a false statement
12 constitutes perjury as provided in the Criminal Code, and
13 voting on the basis of such falsely executed statement
14 constitutes fraudulent voting."

15 SECTION 13. Section 1-12-10.1 NMSA 1978 (being Laws 2003,
16 Chapter 356, Section 2, as amended) is amended to read:

17 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING
18 INFORMATION.--

19 A. The secretary of state shall ~~[issue rules~~
20 ~~describing the voter information]~~ provide voter information,
21 including voter identification requirements for voters as well
22 as provisional paper ballot rights for persons offering to
23 vote, which the county clerks shall display, in accordance with
24 the federal Help America Vote Act of 2002, in each polling
25 place ~~[on election day and]~~ in each county clerk's office and

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1 [alternate] at any location where [absentee or early] voting is
2 taking place.

3 B. The county clerk shall ensure that in each
4 polling place [~~shall post~~] there is posted the phone numbers of
5 the county clerk and the secretary of state and a map of the
6 precincts represented in that polling place and an alphabetical
7 list of the voters in each precinct represented in that polling
8 place."

9 SECTION 14. Section 1-12-13 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 266, as amended) is amended to read:

11 "1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER
12 IN MARKING BALLOT.--

13 A. When a voter who is eligible for assistance
14 pursuant to Section 1-12-12 NMSA 1978 requires assistance in
15 marking a ballot or using the voting system, the voter shall
16 announce this fact before receiving the ballot or using the
17 voting system.

18 B. The voter's request for assistance shall be
19 noted by the voter's name in the signature roster and initialed
20 by the presiding judge.

21 C. After noting the request for assistance in the
22 signature roster, the voter shall be permitted assistance in
23 filling out forms necessary to vote, in marking the ballot or
24 in using the voting system as provided in Section 1-12-15 NMSA
25 1978.

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1 D. Any person who swears falsely in order to secure
2 assistance is guilty of perjury."

3 SECTION 15. Section 1-12-20 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 273, as amended) is amended to read:

5 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
6 challenge may be interposed by a member of the precinct board
7 or by a party challenger for the following reasons:

8 A. the person offering to vote is not registered to
9 vote;

10 B. the person offering to vote is listed among
11 those persons to whom an absentee ballot was mailed;

12 C. the person offering to vote has already cast a
13 ballot in that election;

14 D. the person offering to vote is improperly
15 registered because the person is not a qualified elector; [~~or~~]

16 E. the person offering to vote did not provide the
17 required voter identification;

18 F. the person offering to vote was required to
19 provide, but did not provide, the federally required
20 identification; or

21 [~~E.~~] G. in the case of a primary election, the
22 person [~~desiring~~] offering to vote is not affiliated with a
23 political party represented on the ballot."

24 SECTION 16. Section 1-12-25.2 NMSA 1978 (being Laws 2003,
25 Chapter 356, Section 3, as amended) is amended to read:

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

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

8 B. The county clerk shall provide a free access
9 system, such as a toll-free telephone number or internet web
10 site, that a voter who casts a provisional paper ballot may
11 access to ascertain whether the voter's ballot was counted and,
12 if the vote was not counted, the reason it was not counted and
13 how to appeal the decision pursuant to rules issued by the
14 secretary of state. Access to information about an individual
15 voter's provisional paper ballot is restricted to the voter who
16 cast the ballot.

17 C. Beginning with the closing of the polls on
18 election day through the tenth day following the election, the
19 county clerk shall notify by mail each person whose provisional
20 paper ballot was not counted of the reason the ballot was not
21 counted. The voter shall have until the Friday prior to the
22 meeting of the state canvassing board to appeal to the county
23 clerk a decision to reject the voter's ballot.

24 D. A provisional paper ballot that was rejected for
25 failure of the voter to provide the required voter

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1 identification shall be qualified if the voter provides the
2 required voter identification at the time of the hearing.

3 E. A provisional paper ballot that was rejected for
4 failure of the voter to provide the federally required
5 identification shall be qualified if the voter provides the
6 federally required identification at the time of the hearing."

7 SECTION 17. Section 1-12-25.3 NMSA 1978 (being Laws 2003,
8 Chapter 356, Section 6, as amended) is amended to read:

9 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
10 INFORMATION.--

11 A. At a minimum, the following information shall be
12 printed on the outer envelope for a provisional paper ballot:

- 13 (1) the name and signature of the voter;
- 14 (2) the voter's registered address [~~both~~
15 ~~present and former if applicable~~];
- 16 (3) the voter's date of birth;
- 17 (4) the voter's social security number;
- 18 [~~(4)~~] (5) the reason for using the provisional
19 paper ballot;
- 20 [~~(5)~~] (6) the [~~precinct and the~~] polling place
21 at which the voter has voted; and
- 22 [~~(6)~~] (7) sufficient space to list the
23 disposition of the ballot after review by the county clerk.

24 B. [A] In the case of a provisional paper ballot
25 issued for failure of the voter to provide the required voter

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1 identification, the provisional paper ballot shall be
2 qualified as long as the voter provides a signature and at
3 least the following information:

4 (1) the voter's day, month and year of
5 birth, which must match the date of birth listed on the
6 voter's certificate of registration; and

7 (2) the voter's full social security number,
8 which must match the social security number listed on the
9 voter's certificate of registration.

10 C. In the case of a provisional paper ballot cast
11 for any other reason, the provisional paper ballot shall not
12 be rejected for lack of the information required by this
13 section and shall be qualified as long as the voter provides
14 a [valid] signature and sufficient information for the clerk
15 to determine the voter is a qualified elector."

16 **SECTION 18.** Section 1-12-25.4 NMSA 1978 (being Laws
17 2003, Chapter 356, Section 7, as amended) is amended to read:

18 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

19 A. Upon closing of the polls, provisional paper
20 ballots shall be delivered to the county clerk, who shall
21 determine if the ballots will be counted prior to
22 certification of the election.

23 B. A provisional paper ballot shall not be
24 counted if the [registered] voter did not sign either the
25 signature roster or the ballot's envelope.

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1 C. If there is no record of the ~~[voter]~~ person
2 who voted ever having been registered in the county, the
3 ~~[voter]~~ person shall be offered the opportunity to register
4 and the provisional paper ballot shall not be counted.

5 D. If the voter was registered in the county, the
6 registration was later canceled and the county clerk
7 determines that the cancellation was in error, the voter's
8 registration shall be immediately restored and the
9 provisional paper ballot counted.

10 E. If the county clerk determines that the
11 cancellation was not in error, the ~~[voter]~~ person who voted
12 shall be offered the opportunity to register at the ~~[voter's]~~
13 person's correct address, and the provisional paper ballot
14 shall not be counted.

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

21 G. If the person is registered to vote in the
22 county, but has voted on a provisional paper ballot for
23 failure to provide the required voter identification, the
24 provisional paper ballot shall be counted if the voter
25 provides the information required pursuant to Subsection B of

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1 Section 1-12-25.3 NMSA 1978.

2 H. If the person is registered to vote in the
3 county, but has voted on a provisional paper ballot for
4 failure to provide the federally required identification, the
5 provisional paper ballot shall be counted if the voter
6 provided the federally required identification to the
7 precinct board before the polls close or if the voter
8 provided the federally required identification to the county
9 clerk no later than 5:00 p.m. on the day following the
10 election.

11 [~~G.~~] I. If the county clerk finds that the voter
12 who voted on a provisional paper ballot at the polls has also
13 voted an absentee ballot in that election, the provisional
14 paper ballot shall not be counted.

15 [~~H.~~] J. The county canvassing board shall prepare
16 a tally displaying the number of provisional paper ballots
17 received, the number found valid and counted, the number
18 rejected and not counted and the reason for not counting the
19 ballots as part of the canvassing process and forward it to
20 the secretary of state immediately upon certification of the
21 election.

22 [~~I.~~] K. The secretary of state shall issue rules
23 to ensure securing the secrecy of the provisional paper
24 ballots, especially during canvassing, reviewing or
25 recounting, and protecting against fraud in the voting

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1 process."

2 SECTION 19. A new section of the Election Code is
3 enacted to read:

4 "[NEW MATERIAL] VOTER IDENTIFICATION--PREEMPTION OF
5 LOCAL REQUIREMENTS.--

6 A. Municipalities, counties, school districts,
7 community colleges, branch community colleges, urban counties
8 and home rule municipalities and any other political
9 subdivisions conducting elections pursuant to the Election
10 Code or the Municipal Election Code shall not adopt or
11 continue in effect any ordinance, rule, regulation or
12 resolution regarding voter identification.

13 B. Municipalities, counties, school districts,
14 community colleges, branch community colleges, urban counties
15 and home rule municipalities and any other political
16 subdivisions conducting elections pursuant to the Election
17 Code or the Municipal Election Code are prohibited from
18 enforcing any ordinance, rule, regulation, resolution or
19 statute regarding voter identification except as provided in
20 the Election Code and the Municipal Election Code.

21 C. All other political subdivisions of the state
22 shall not adopt, continue in effect or enforce any ordinance,
23 rule, regulation, resolution or statute regarding voter
24 identification except one that uses only the definition and
25 procedures for required voter identification in the Election

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1 Code.

2 D. No provision of state law enacted after July 1,
3 2015 shall be deemed to modify this section except by amendment
4 of this section."

5 SECTION 20. Section 3-8-2 NMSA 1978 (being Laws 1985,
6 Chapter 208, Section 10, as amended) is amended to read:

7 "3-8-2. DEFINITIONS.--

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

11 B. The definition of "required voter
12 identification" in the Election Code shall apply to the
13 Municipal Election Code in addition to those definitions set
14 forth in the Municipal Election Code.

15 [~~B-~~] C. As used in the Municipal Election Code:

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

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

25 (3) "ballot sheet" means the material placed

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1 on the front of the voting machine containing the names of the
2 candidates, the offices the candidates are seeking and a
3 statement of the proposed questions to be voted upon;

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

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

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

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

20 (8) "municipal clerk's office" means the
21 office of the municipal clerk or any other room used in the
22 process of absentee voting, counting and tallying of absentee
23 ballots or canvassing the election results within the confines
24 of the building where the municipal clerk's office is located;

25 (9) "paper ballot" means a ballot manually

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1 marked by the voter and counted by hand without the assistance
2 of a machine or optical-scan vote tabulating device;

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

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

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

21 (a) upon the effective date of the
22 municipal ordinance effectuating the terms of the annexation as
23 certified by the board of arbitration pursuant to Section
24 3-7-10 NMSA 1978;

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

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

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

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

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

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

22 SECTION 21. Section 3-8-41 NMSA 1978 (being Laws 1985,
23 Chapter 208, Section 49, as amended) is amended to read:

24 "3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
25 SIGNATURE--ENTRIES BY PRECINCT BOARD.--

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1 A. When a person goes to the polls to vote, the
2 person shall announce the person's name and address in an
3 audible tone of voice [~~and locate the person's name and number~~
4 ~~in the registered voter list posted for such purpose]~~ and
5 provide the required voter identification. An election clerk
6 shall locate the person's name and number in the signature
7 roster. The person shall then sign the person's name in the
8 signature roster or, if the person is unable to write, the
9 election clerk shall sign the person's name in the signature
10 roster, which shall be initialed by an election judge in the
11 signature roster. Thereupon, a challenge may be interposed as
12 provided in the Municipal Election Code.

13 B. If no challenge is interposed, an election clerk
14 shall issue a voting machine permit to the person, upon which
15 shall be written the person's voter registration list number.
16 The person shall present the voting machine permit to the
17 precinct board member monitoring the machine or issuing
18 ballots, and the person shall be allowed to vote. The precinct
19 board member shall enter the public counter number onto the
20 voting machine permit as shown on the voting machine after the
21 person has voted. All voting machine permits shall be retained
22 in consecutive order and made part of the election returns."

23 **SECTION 22.** Section 3-8-43 NMSA 1978 (being Laws 1985,
24 Chapter 208, Section 51, as amended) is amended to read:

25 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED

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1 CHALLENGES--ENTRIES--DISPOSITION.--

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

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

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

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

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

15 (5) the person offering to vote did not
16 provide the required voter identification;

17 [~~5~~] (6) in the case of an absentee ballot,
18 the official mailing envelope containing an absentee ballot has
19 been opened prior to delivery of absentee ballots to the absent
20 voter precinct board; or

21 [~~6~~] (7) the person offering to vote is a
22 qualified elector of the municipality but does not reside in
23 the district where the person is offering to vote.

24 B. When a person has offered to vote and a
25 challenge is interposed and the person's name appears in the

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1 signature roster or the person's name has been entered in the
2 signature roster pursuant to Subsection C of Section 3-8-40
3 NMSA 1978, the election clerk shall write the word "challenged"
4 above the person's signature in the signature roster and:

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

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

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

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

22 (d) if the ballot was rejected for any
23 reason other than failure to provide the required voter
24 identification, the envelope containing the rejected ballot
25 shall then be deposited in the ballot box and shall not be

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1 counted; ~~[or]~~ and

2 (e) if the ballot was rejected for
3 failure to provide the required voter identification, the
4 envelope containing the rejected ballot shall then be deposited
5 in the ballot box and shall not be counted unless the voter
6 provides the required voter identification to the precinct
7 board before the polls close or to the municipal clerk's office
8 before 5:00 p.m. on the day following the election; or

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

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

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

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

23 (1) the election judge shall cause the
24 election clerks to enter the person's name and address under
25 the heading "name and address" in the signature roster in the

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1 first blank space immediately below the last name and address
2 that appears in the signature roster;

3 (2) the election clerk shall immediately write
4 the words "required challenge" above the space provided for the
5 person's signature in the signature roster;

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

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

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

22 SECTION 23. Section 3-9-6 NMSA 1978 (being Laws 1973,
23 Chapter 375, Section 7, as amended) is amended to read:

24 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE BALLOT
25 ENVELOPES.--

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

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

11 C. The municipal clerk shall prescribe the form of:

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

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

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

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

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

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

6 E. The reverse of each official mailing envelope
7 shall contain ~~[a form to be signed by the person completing the~~
8 ~~absentee ballot. The form shall identify the person and shall~~
9 ~~contain the following statement: "I will not vote in this~~
10 ~~election other than by the enclosed ballot. I will not receive~~
11 ~~or offer any compensation or reward for giving or withholding~~
12 ~~any vote."]~~ sufficient space for the voter's required voter
13 identification. The envelope shall have a security flap to
14 cover this information."

15 SECTION 24. Section 3-9-11 NMSA 1978 (being Laws 1985,
16 Chapter 208, Section 99, as amended) is amended to read:

17 "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
18 PRECINCT BOARDS.--

19 A. Before opening any official mailing envelope, an
20 election judge shall determine that the required voter
21 identification is included and the signature has been executed
22 on the reverse side of the official mailing envelope.

23 B. If the required voter identification or
24 signature is missing, an election judge shall write "rejected"
25 on the front of the official mailing envelope. The election

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

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

11 (1) the required voter identification or
12 signature is missing;

13 [~~(1)~~] (2) the official mailing envelope has
14 been opened by someone other than the voter prior to being
15 received by the absent voter precinct board; or

16 [~~(2)~~] (3) the person offering to vote is not
17 an overseas voter, federal qualified elector or voter as
18 provided in the Municipal Election Code.

19 D. Upon the rejection or challenge of an absentee
20 ballot, an election judge shall generally follow the same
21 procedure as when ballots are challenged when a person offers
22 to vote in person. If a challenged ballot is not to be
23 counted, it shall not be opened and shall be placed in an
24 envelope provided for challenged ballots. If the ballot was
25 rejected or challenged for failure to provide the required

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1 voter identification, the envelope shall not be counted or
2 opened unless the voter provides the required voter
3 identification to the absent voter precinct board before the
4 polls close or to the municipal clerk's office before 5:00 p.m.
5 on the day following the election.

6 ~~[D-]~~ E. If the official mailing envelopes contain
7 the required voter identification and have properly executed
8 signatures and the voters have not been challenged:

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

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

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

24 ~~[F-]~~ G. The municipal clerk shall, prior to the
25 opening of the polls on election day, notify the absent voter

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1 precinct board in writing whether absentee ballots are to be
2 counted and tallied or registered on a voting machine. The
3 procedures shall be such as to ensure the secrecy of the
4 ballot.

5 ~~[G.]~~ H. Absent voter precinct polls shall be closed
6 at 7:00 p.m. on the day of the election by the absent voter
7 precinct board."

8 **SECTION 25.** Section 3-9-13.1 NMSA 1978 (being Laws 2003,
9 Chapter 244, Section 19, as amended) is amended to read:

10 "3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT
11 TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

12 A. A voter who has submitted an application for an
13 absentee ballot that was accepted by the municipal clerk but
14 who has not received the absentee ballot by mail as of the date
15 of the election may go to the assigned polling place and, after
16 executing an affidavit of nonreceipt of absentee ballot, shall
17 be issued a ballot in lieu of an absentee ballot by the
18 presiding judge, and shall be allowed to mark the ballot.

19 B. The voter shall place the completed ballot
20 issued in lieu of an absentee ballot in an official inner
21 envelope, substantially in the form prescribed pursuant to
22 Section 3-9-6 NMSA 1978, which shall be sealed by the voter.
23 The official inner envelope shall then be placed by the voter,
24 in the presence of the presiding judge, in an official outer
25 envelope substantially as prescribed for a transmittal envelope

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1 or mailing envelope pursuant to Section 3-9-6 NMSA 1978. The
2 presiding judge shall fill in the information on the back of
3 the envelope that identifies the voter by name and signature
4 roster number and contains the printed affidavit that the voter
5 made application for an absentee ballot, which the voter
6 believes to have been accepted by the municipal clerk, that the
7 voter swears an absentee ballot had not been received as of the
8 date of the election and that the voter was issued a ballot in
9 lieu of an absentee ballot, that the voter provided the
10 required voter identification and that the ballot was marked by
11 the voter and submitted to the presiding judge.

12 C. The presiding judge shall place all ballots
13 issued in lieu of absentee ballots in a special envelope
14 provided for that purpose by the municipal clerk, seal the
15 envelope and return it to the municipal clerk along with the
16 machine tally sheets after the closing of the polls. The
17 sealed envelope shall not be placed in the locked ballot box.

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

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

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

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

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

16 F. If the municipal clerk determines that the
17 ballot in lieu of absentee ballot is not valid because the
18 application for absentee ballot was rejected and no ballot was
19 mailed to the voter, or that a ballot was received from the
20 voter by the municipal clerk not later than 7:00 p.m. on
21 election day, the municipal clerk shall write "rejected --
22 invalid ballot" on the front of the transmittal envelope and
23 the transmittal envelope shall not be sent to the canvassing
24 board for counting and tallying. The municipal clerk shall
25 retain the unopened transmittal envelope in a safe and secure

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1 manner and shall notify the district attorney in writing of the
2 alleged violation of the Municipal Election Code. A copy of
3 the notification to the district attorney shall be sent by
4 first class mail to the voter and to the secretary of state.

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

10 SECTION 26. Section 66-8-111.1 NMSA 1978 (being Laws
11 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter
12 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is
13 amended to read:

14 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
15 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND OF RIGHT TO A
16 HEARING.--

17 A. On behalf of the department, a law enforcement
18 officer requesting a chemical test or directing the
19 administration of a chemical test pursuant to Section 66-8-107
20 NMSA 1978 shall serve immediate written notice of revocation
21 and of right to a hearing on a person who:

22 (1) refuses to permit chemical testing; or [~~on~~
23 ~~a person who~~]

24 (2) submits to a chemical test the results of
25 which indicate an alcohol concentration in the person's blood

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1 or breath of:

2 (a) eight one hundredths or more if the
3 person is twenty-one years of age or older;

4 (b) four one hundredths or more if the
5 person is driving a commercial motor vehicle; or

6 (c) two one hundredths or more if the
7 person is less than twenty-one years of age. [~~Upon serving~~]

8 B. The written notice of revocation [~~the law~~
9 ~~enforcement officer shall take the license or permit of the~~
10 ~~driver, if any, and issue~~] and of a right to a hearing served
11 on the driver shall be a temporary license valid for twenty
12 days or, if the driver requests a hearing pursuant to Section
13 66-8-112 NMSA 1978, valid until the date the department issues
14 the order following that hearing; provided that a written
15 notice of revocation and right to a hearing shall not be a
16 temporary license [~~shall not be issued to~~] for a driver without
17 [~~a valid license or permit~~] any otherwise valid driving
18 privileges in this state.

19 C. The law enforcement officer shall send [~~the~~
20 ~~person's driver's license~~] to the department [~~along with~~] the
21 signed statement required pursuant to Section 66-8-111 NMSA
22 1978."

23 SECTION 27. REPEAL.--Section 1-12-4.1 NMSA 1978 (being
24 Laws 2005, Chapter 270, Section 59) is repealed.

25 SECTION 28. EFFECTIVE DATE.--The effective date of the
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provisions of this act is July 15, 2015.

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