



The Legislature
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LAWS 2019

CHAPTER 212

HOUSE BILL 407, as amended

with emergency clause

Introduced by

REPRESENTATIVE LINDA M. TRUJILLO
REPRESENTATIVE ROBERTO J. GONZALES
REPRESENTATIVE PHELPS ANDERSON
SENATOR DANIEL A. IVEY-SOTO



EMERGENCY CLAUSE

CHAPTER 212

AN ACT

1
2 RELATING TO ELECTIONS; AMENDING THE ELECTION CODE; PROVIDING
3 DEFINITIONS OF TERMS FOR THE ELECTION CODE; PROVIDING A
4 STANDARD DEFINITION FOR "QUALIFIED ELECTOR" FOR ALL ELECTIONS
5 HELD PURSUANT TO THE ELECTION CODE; CHANGING THE NAME OF
6 "PRECINCT BOARD" TO "ELECTION BOARD"; PROVIDING FOR ELECTION
7 BOARD APPOINTMENT AND TRAINING; PROVIDING FOR MESSENGER
8 COMPENSATION AND QUALIFICATIONS; CHANGING PROVISIONS
9 GOVERNING CHALLENGERS, WATCHERS AND COUNTY AND STATE CANVASS
10 OBSERVERS; AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT AND
11 PROVISIONS RELATED TO PRECINCTS; PROVIDING FOR VOTER
12 CONVENIENCE CENTERS; PROVIDING FOR REGISTRATION OF QUALIFIED
13 RESIDENTS AND QUALIFIED ELECTORS; PROVIDING PROVISIONS
14 GOVERNING BOARDS OF REGISTRATION; ALLOWING MUNICIPALITIES AND
15 LOCAL GOVERNMENTS TO ENTER INTO AGREEMENTS WITH THE SECRETARY
16 OF STATE FOR ACCESS TO THE VOTER REGISTRATION ELECTRONIC
17 MANAGEMENT SYSTEM; CHANGING PROCEDURES RELATING TO ABSENTEE
18 VOTING AND OVERSEAS MILITARY VOTING; ENACTING THE RECALL ACT
19 TO GOVERN RECALL ELECTIONS; ENACTING THE NONPARTISAN JUDICIAL
20 RETENTION ACT; SYNCHRONIZING POLITICAL SUBDIVISION ELECTION
21 PROCEDURES WITH THE PROVISIONS OF THE LOCAL ELECTION ACT;
22 REQUIRING THE SECRETARY OF STATE TO ISSUE PROCLAMATIONS FOR
23 CERTAIN ELECTIONS; CHANGING PROVISIONS RELATED TO PRIMARY
24 ELECTIONS AND NOMINATING PETITIONS; REMOVING ANNUAL
25 ASSESSMENTS ON LOCAL GOVERNMENTS FOR ADMINISTERING REGULAR

1 LOCAL ELECTIONS; CHANGING THE NAME OF THE LOCAL ELECTION FUND
2 AND PROVIDING FOR BUDGETARY AUTHORITY OVER THE FUND BY THE
3 SECRETARY OF STATE; REVISING WRITE-IN CANDIDATE PROCEDURES;
4 CREATING A MAILED BALLOT AND A PROVISIONAL BALLOT REGISTER;
5 ALLOWING A VOTER TO COMMUNICATE THE VOTER'S BALLOT
6 INFORMATION TO OTHERS; PROHIBITING A PERSON FROM SOLICITING A
7 VOTER TO REVEAL THE VOTER'S BALLOT INFORMATION; PRESCRIBING
8 PROCEDURES FOR THE HANDLING OF NON-TABULATED PAPER BALLOTS
9 AND CERTIFICATES OF RETURN AND THE CANVASSING OF RETURNS;
10 CHANGING AUTOMATIC RECOUNT PROVISIONS; REVISING PROCEDURES
11 FOR FILLING UNITED STATES REPRESENTATIVE VACANCIES; CHANGING
12 PROVISIONS REGARDING ANALYSIS AND PUBLICATION OF PROPOSED
13 CONSTITUTIONAL AMENDMENTS; REVISING DEFINITIONS IN THE LOCAL
14 ELECTION ACT; REVISING MUNICIPAL OFFICER ELECTION PROCEDURES;
15 REVISING SPECIAL ELECTION PROCEDURES; CHANGING USE OF THE
16 TERM "QUALIFIED ELECTOR" IN CERTAIN STATUTES; MAKING
17 LEGISLATIVE FINDINGS CONCERNING THE PROVISIONS OF ARTICLE 9,
18 SECTION 12 OF THE CONSTITUTION OF NEW MEXICO AND ITS EFFECT
19 ON THE VOTING RIGHTS OF CERTAIN PROPERTY OWNERS; REMOVING THE
20 RIGHT OF NONRESIDENT MUNICIPAL ELECTORS TO VOTE IN MUNICIPAL
21 BOND ELECTIONS; CHANGING REQUIREMENTS FOR THE FORMATION OF
22 AND ELECTIONS FOR PUBLIC IMPROVEMENT DISTRICTS AND TAX
23 INCREMENT DEVELOPMENT DISTRICTS; REQUIRING A STANDARD FORM
24 FOR A PUBLIC REGULATION COMMISSION CANDIDATE QUALIFICATIONS
25 AFFIDAVIT; AMENDING CIRCUMSTANCES CAUSING A VACANCY IN LOCAL

1 OFFICE; AWARDING PUBLIC EMPLOYEES RETIREMENT SERVICE CREDIT
2 TO OFFICERS WHOSE TERMS ARE SHORTENED; CHANGING PROVISIONS IN
3 THE FINANCIAL DISCLOSURE ACT; PROVIDING FOR A DELAY IN
4 MAILING OF PROPERTY TAX BILLS FOR CERTAIN COUNTIES; CHANGING
5 PROVISIONS RELATED TO LOWER RIO GRANDE PUBLIC WATER WORKS
6 AUTHORITY ELECTIONS; CHANGING PROVISIONS RELATING TO WATER
7 AND SANITATION DISTRICT BOARD ELECTIONS; MAKING TECHNICAL AND
8 CONFORMING CHANGES TO LAWS RELATED TO ELECTIONS; AMENDING,
9 REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA
10 1978; DECLARING AN EMERGENCY.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 SECTION 1. Section 1-1-3.3 NMSA 1978 (being Laws 2011,
14 Chapter 137, Section 2) is amended to read:

15 "1-1-3.3. ELECTION-RELATED ORGANIZATION.--As used in
16 the Election Code, "election-related organization" means an
17 organization registered with the secretary of state that is
18 involved in election monitoring or voter turnout activities,
19 but does not include a qualified political party in an
20 election in which the political party is represented on
21 the ballot."

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

24 "1-1-4. QUALIFIED ELECTOR.--

25 A. As used in the Election Code and rules

1 promulgated by the secretary of state, "qualified elector"
2 means any resident of this state who is qualified to vote
3 under the provisions of the constitution of New Mexico and
4 the constitution of the United States and includes any
5 qualified resident.

6 B. As used in all other statutes and rules of New
7 Mexico, unless otherwise defined, "qualified elector" means a
8 "voter" as that term is defined in Section 1-1-5 NMSA 1978."

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

11 "1-1-5. VOTER.--As used in the Election Code, "voter"
12 means any qualified elector or federal qualified elector who
13 is registered to vote under the provisions of the Election
14 Code."

15 SECTION 4. Section 1-1-5.2 NMSA 1978 (being Laws 2003,
16 Chapter 356, Section 9, as amended) is amended to read:

17 "1-1-5.2. DEFINITION OF A VOTE--MACHINE-TABULATED--
18 HAND-TALLIED--WRITE-IN.--

19 A. For a paper ballot that is machine-tabulated on
20 a vote tabulation system certified for use in this state, a
21 vote shall be counted if the:

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

25 (2) ballot is marked in accordance with the

1 instructions for that ballot type.

2 B. For a paper ballot that is hand-tallied, a vote
3 shall be counted if:

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

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

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

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

14 C. For a paper ballot that is machine-tabulated or
15 hand-tallied and that contains a write-in vote, the write-in
16 vote shall be counted if the name is:

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

21 (2) written as first and last name; first
22 name, middle name or initial and last name; one or two
23 initials and last name; or last name alone if there is no
24 other declared write-in candidate for the office or position
25 that is the same or so similar as to tend to confuse the

1 candidates' identities; provided that:

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

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

12 SECTION 5. Section 1-1-11 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 10) is amended to read:

14 "1-1-11. PRECINCT.--As used in the Election Code,
15 "precinct" means a designated division of a county for
16 election and redistricting purposes."

17 SECTION 6. Section 1-1-12 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 11, as amended by Laws 2011, Chapter
19 131, Section 1 and by Laws 2011, Chapter 137, Section 7) is
20 amended to read:

21 "1-1-12. CONSOLIDATED PRECINCT.--

22 A. As used in the Election Code, "consolidated
23 precinct" means a single precinct or the combination of two
24 or more precincts into one polling place for the purpose of
25 establishing a voter convenience center pursuant to the

1 provisions of Section 1-3-4 NMSA 1978.

2 B. When consolidated precincts are used to
3 establish a voter convenience center in a statewide election,
4 references to "precincts" in the voting process shall be
5 applicable to consolidated precincts."

6 SECTION 7. Section 1-1-13 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 12, as amended) is amended to read:

8 "1-1-13. ELECTION BOARD.--As used in the Election Code,
9 "election board" means the judges of election in accordance
10 with Article 7, Section 1 of the constitution of New Mexico
11 and the election clerks that are appointed pursuant to
12 Section 1-2-12 NMSA 1978 and serving in a polling place or
13 tallying ballots that have been cast in a statewide or
14 special election."

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

17 "1-1-15. POSTING.--

18 A. As used in the Election Code, "posting" means
19 posting from the date a posting is required until forty-five
20 days after adjournment of the state or county canvassing
21 board or until forty-five days following any recount, contest
22 or other judicial inquiry, whichever is later.

23 B. A posting as described in Subsection A of this
24 section is satisfied by posting on the website and in a
25 public area in the office of:

1 (1) the secretary of state, when the
2 secretary of state has the duty to post; or

3 (2) the county clerk, when the county clerk
4 has the duty to post."

5 SECTION 9. Section 1-8-31 NMSA 1978 (being Laws 1973,
6 Chapter 228, Section 5, as amended) is recompiled in Chapter
7 1, Article 1 NMSA 1978 and is amended to read:

8 "PETITIONS--NOMINATIONS--SIGNATURES TO BE COUNTED.--

9 A. A person who signs a nominating petition shall
10 sign only one petition for the same office unless more than
11 one candidate is to be elected to that office, and in that
12 case, a person may sign not more than the number of
13 nominating petitions equal to the number of candidates to be
14 elected to the office.

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

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

24 (1) is not a voter of the state, district,
25 county or area to be represented by the office for which the

1 person seeking the nomination is a candidate;

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

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

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

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

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

24 **SECTION 10.** A new section of Chapter 1, Article 1 NMSA
25 1978 is enacted to read:

1 "BALLOT QUESTION.--As used in the Election Code, "ballot
2 question" means a question submitted to the voters of the
3 state or a local government on a ballot pursuant to the
4 provisions of the Election Code and does not include a
5 candidate nomination, election contest or nonpartisan
6 judicial retention election."

7 SECTION 11. A new section of Chapter 1, Article 1 NMSA
8 1978 is enacted to read:

9 "COUNTY.--As used in the Election Code, "county" means a
10 county in this state, including a combined city and county
11 corporation, incorporated county, urban county or single
12 urban government."

13 SECTION 12. A new section of Chapter 1, Article 1 NMSA
14 1978 is enacted to read:

15 "MUNICIPALITY.--As used in the Election Code,
16 "municipality" means an incorporated city, town or village,
17 whether incorporated under general act, special act, special
18 charter or territorial charter, but does not mean a combined
19 city and county corporation, an incorporated county or a
20 single urban government."

21 SECTION 13. A new section of Chapter 1, Article 1 NMSA
22 1978 is enacted to read:

23 "PETITIONS--NOMINATIONS--REQUIREMENTS BEFORE SIGNED BY
24 VOTERS--INVALIDATED PETITIONS.--

25 A. The following information shall be listed in

1 the appropriate space at the top of a nominating petition
2 before the petition has been signed by a voter:

3 (1) the candidate's name as it appears on
4 the candidate's certificate of registration;

5 (2) the address where the candidate resides;

6 (3) the office sought by the candidate;

7 (4) if the office sought is a districted
8 office or a division within a judicial district or has been
9 assigned a position number for purposes of the election, the
10 district, division or position number of the office sought;

11 (5) if the office sought will be on the
12 general election ballot, the party affiliation of the
13 candidate or that the candidate is unaffiliated with any
14 qualified political party; and

15 (6) if the office sought will be nominated
16 at a political party primary, the party affiliation of voters
17 permitted to sign the petition.

18 B. With or without a showing of fraud or a
19 reasonable opportunity for fraud, a nominating petition page,
20 including all signatures on the petition page, shall be
21 invalid if any of the information required by Subsection A of
22 this section is not listed on the petition before the
23 petition page is signed by a voter or if any of the required
24 information is subsequently changed in any way."

25 SECTION 14. A new section of Chapter 1, Article 1 NMSA

1 1978 is enacted to read:

2 "PROPER FILING OFFICER.--As used in the Election Code,
3 "proper filing officer" means, for the purposes of filing:

4 A. reports required by the Campaign Reporting Act
5 and the School District Campaign Reporting Act, the secretary
6 of state;

7 B. declarations of candidacy and candidate
8 qualification documents by any candidate for statewide or
9 federal office, the secretary of state; and

10 C. declarations of candidacy and candidate
11 qualification documents by all other candidates, the county
12 clerk of the county in which the candidate resides."

13 SECTION 15. A new section of Chapter 1, Article 1 NMSA
14 1978 is enacted to read:

15 "QUALIFIED RESIDENT.--As used in the Election Code,
16 "qualified resident" means an individual who is under the age
17 of eighteen and, except for the age requirement, otherwise
18 satisfies the state's voter eligibility requirements as a
19 qualified elector or a federal qualified elector."

20 SECTION 16. A new section of Chapter 1, Article 1 NMSA
21 1978 is enacted to read:

22 "SPECIAL ELECTION.--As used in the Election Code,
23 "special election" means an election at which only ballot
24 questions are considered and that is held at a time other
25 than a statewide election."

1 SECTION 17. A new section of Chapter 1, Article 1 NMSA
2 1978 is enacted to read:

3 "STATEWIDE ELECTION.--As used in the Election Code,
4 "statewide election" means:
5 A. a general election;
6 B. a political party primary;
7 C. a regular local election; or
8 D. with respect to the applicable counties and
9 precincts, an election called to fill a vacancy in the office
10 of United States representative."

11 SECTION 18. A new section of Chapter 1, Article 1 NMSA
12 1978 is enacted to read:

13 "UNITED STATES.--As used in the Election Code, "United
14 States" means the several states and the District of
15 Columbia, but does not mean Puerto Rico, the United States
16 Virgin Islands or any territory or insular possession subject
17 to the jurisdiction of the United States."

18 SECTION 19. Section 1-2-6 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 28, as amended) is amended to read:

20 "1-2-6. ELECTION BOARD--APPOINTMENT.--
21 A. The county clerk on or before forty-two days
22 next preceding a statewide election shall appoint the
23 necessary election boards for that election, and before
24 twenty-one days next preceding a special election the county
25 clerk shall appoint the necessary election boards for that

1 election. The appointment of the members of each election
2 board shall be in writing and delivered to the person
3 receiving the appointment.

4 B. The county clerk shall maintain in a public
5 place in the county clerk's office a list of the members of
6 the election board, the positions of the election board
7 members and the assignments of the election board members.
8 The list shall be made available at least forty days before a
9 statewide election and at least twenty days before a special
10 election and shall be updated when changed until forty-five
11 days after adjournment of the state or county canvassing
12 board or until forty-five days following any recount, contest
13 or other judicial inquiry, whichever is later."

14 SECTION 20. Section 1-2-7 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 29, as amended) is amended to read:

16 "1-2-7. ELECTION BOARD--QUALIFICATION OF
17 MEMBERS--QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION
18 OF MINORS.--

19 A. In order to qualify as a member of the election
20 board, a person shall:

- 21 (1) be a voter of the county in which the
22 person is appointed to serve;
23 (2) be able to read and write;
24 (3) have the necessary capacity to carry out
25 an election board member's functions with acceptable skill

1 and dispatch; and

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

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

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

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

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

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

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

20 D. A county clerk may appoint not more than two
21 minors to serve on an election board under the direct
22 supervision of the presiding judge. A minor appointed by the
23 county clerk shall:

24 (1) meet the qualifications set forth in
25 Subsection A of this section, except the minor need not be

1 eligible to vote;

2 (2) be sixteen or seventeen years of age at
3 the time of the election in which the minor is serving as a
4 member of an election board;

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

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

10 (5) attend at least one school of
11 instruction in accordance with the provisions of Section
12 1-2-17 NMSA 1978; and

13 (6) be appointed to an election board in the
14 county in which the minor's parent or legal guardian resides,
15 in accordance with the provisions of Section 1-2-11 NMSA
16 1978.

17 E. A minor appointed to an election board shall
18 not serve as the presiding judge or as an election judge."

19 **SECTION 21.** Section 1-2-9 NMSA 1978 (being Laws 1975,
20 Chapter 255, Section 15, as amended) is amended to read:

21 "1-2-9. ELECTION BOARD--STANDBY LIST.--

22 A. Not less than twenty-one days prior to the date
23 for appointing members of election boards, the county clerk
24 shall publish a notice once in a newspaper of general
25 circulation to the effect that election boards are to be

1 appointed for the specified number of precincts, stating the
2 number of persons composing each board and that applications
3 for the standby list will be accepted at the county clerk's
4 office.

5 B. The county clerk shall then compile from the
6 individual applicants a standby list of election board
7 members. The persons on the standby list shall have the same
8 qualifications and comply with the same requirements as
9 provided for election board members."

10 SECTION 22. Section 1-2-11 NMSA 1978 (being Laws 1977,
11 Chapter 222, Section 5, as amended) is amended to read:

12 "1-2-11. ELECTION BOARD--ASSIGNMENT.--Wherever
13 possible, the county clerk shall assign persons appointed as
14 election board members to serve in precincts wherein they
15 reside or in precincts located in the representative district
16 wherein they reside. In the event of a shortage or absence
17 of election board members in certain precincts, the county
18 clerk may, in the best interest of the election process,
19 assign appointed election board members to serve on any
20 election board in the county; provided that such appointed
21 board members shall not change the proportionate
22 representation of each party on the board."

23 SECTION 23. Section 1-2-12 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 32, as amended) is amended to read:

25 "1-2-12. ELECTION BOARD--POSITIONS ON EACH BOARD.--

1 A. Each election board shall consist of:

2 (1) a presiding judge;

3 (2) two election judges; and

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

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

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

15 (2) a judge of an election board shall not
16 continue to serve on an election board if the judge changes
17 party registration after the date of appointment in such a
18 manner to make the judge ineligible to serve on the assigned
19 election board.

20 C. The county clerk may appoint teams of presiding
21 judges and election judges for alternate voting locations,
22 absent voter precincts, recounts and special elections;
23 provided that each team meets the requirements of Subsection
24 B of this section.

25 D. The county clerk may appoint election clerks to

1 the election board as necessary to assist the presiding judge
2 and election judges if the county clerk determines that
3 additional election board members are needed.

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

7 SECTION 24. Section 1-2-14 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 34, as amended) is amended to read:

9 "1-2-14. ELECTION BOARDS--NOTICE OF APPOINTMENT.--

10 A. Immediately after the appointment of the
11 election boards, the county clerk shall:

12 (1) make and certify a list of the names of
13 the appointees for each polling location and send a copy of
14 the list to the county chair of each political party
15 participating in a partisan election and to the secretary of
16 state; and

17 (2) notify each person appointed, request
18 the person's acceptance and keep a record of all
19 notifications and acceptances.

20 B. If any person appointed to an election board
21 fails to accept the appointment within two weeks after the
22 notice was sent or communicated, the county clerk shall
23 appoint another qualified person for the election board."

24 SECTION 25. Section 1-2-15 NMSA 1978 (being Laws 1991,
25 Chapter 105, Section 6) is amended to read:

1 "1-2-15. ELECTION BOARD--VACANCIES.--

2 A. If for any cause a member of the election board
3 fails to appear for the assigned duty to which the member was
4 appointed, the remaining board members shall immediately
5 notify the county clerk.

6 B. In the event of a vacancy in an election board
7 position by reason of death, removal from the county,
8 disqualification, refusal to serve, failure to appear for an
9 assigned duty or excusal by the county clerk for sufficient
10 cause, the county clerk may appoint a qualified person to
11 fill the vacancy.

12 C. No vacancy shall prevent the remaining board
13 members from proceeding to open the polls or otherwise
14 perform their duties for the election in their assigned
15 location."

16 **SECTION 26.** Section 1-2-16 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 36, as amended) is amended to read:

18 "1-2-16. ELECTION BOARD--COMPENSATION.--

19 A. Members of an election board shall be
20 compensated for their services at the rate of not less than
21 the federal minimum hourly wage rate nor more than two
22 hundred dollars (\$200) for an election day.

23 B. Members of an election board assigned to
24 alternate voting or alternate mobile voting locations or
25 absent voter precincts may be compensated at an hourly rate

1 set by the county clerk.

2 C. Compensation shall be paid within thirty days
3 following the date of election.

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

9 SECTION 27. Section 1-2-17 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 37, as amended) is amended to read:

11 "1-2-17. ELECTION BOARD--SCHOOLS OF INSTRUCTION.--

12 A. The county clerk shall cause to be held a
13 public school of instruction for all election board members
14 and others who will be officially concerned with the conduct
15 of an election.

16 B. The schools of instruction provided for in this
17 section shall be held following an election board member's
18 appointment and before the member performs assigned duties in
19 an election.

20 C. All major details of the conduct of elections
21 shall be covered by the county clerk or the clerk's
22 authorized representative at such school, with special
23 emphasis being given to recent changes in the Election Code.

24 D. The school of instruction shall be open to any
25 interested person, and the county clerk shall post notice of

1 the school at least four days before the school is to be
2 held. Each member of an election board shall be notified at
3 least seven days prior to commencement of the school.

4 E. A person shall not serve as a member of an
5 election board in any election unless that person has
6 attended at least one such school of instruction for the
7 election at which the person is appointed to serve and has
8 been certified by the county clerk with respect to the
9 person's completion of the school of instruction. This
10 subsection shall not apply to filling of vacancies on
11 election day as provided in Subsection B of Section 1-2-15
12 NMSA 1978."

13 SECTION 28. Section 1-2-18 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 38) is amended to read:

15 "1-2-18. ELECTION BOARD MEMBERS--IDENTIFICATION
16 BADGES.--At all times on election day while performing their
17 duties, members of the election board shall wear uniform
18 identification badges. Such badges shall be furnished by the
19 county clerk. The secretary of state shall prescribe the
20 form and material of such identification badges, which shall
21 include the identification of the election board member's
22 name, title and political party."

23 SECTION 29. Section 1-2-20 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 39, as amended) is amended to read:

25 "1-2-20. MESSENGERS--COMPENSATION.--

1 A. The county clerk may appoint messengers to
2 deliver ballot boxes, poll books, keys, election supplies and
3 other materials pertaining to the election. Messengers may
4 also be authorized to collect absentee ballots and removable
5 media storage devices from polling places and deliver them to
6 locations designated by the county clerk.

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

14 C. Messengers shall take an oath of office before
15 entering into service as a messenger. Messengers may be
16 appointed to serve solely in that capacity or may be election
17 board members or county employees also appointed to serve as
18 messengers."

19 **SECTION 30.** Section 1-2-21 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 40, as amended) is amended to read:

21 "1-2-21. CHALLENGERS--APPOINTMENT.--

22 A. The county chair of each political party
23 represented on the ballot in a partisan election may appoint
24 in writing challengers for each polling location. If more
25 than one challenger is appointed to a polling location, the

1 challengers shall be listed in ranking order.

2 B. If any county chair fails to make such
3 appointments or if there is no county chair, the state chair
4 of the political party may in a partisan election appoint in
5 writing one challenger for each polling location in the
6 county."

7 SECTION 31. Section 1-2-25 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 44, as amended) is amended to read:

9 "1-2-25. CHALLENGERS, WATCHERS, COUNTY CANVASS
10 OBSERVERS--PERMITTED AND PROHIBITED ACTIVITIES.--

11 A. Challengers, watchers and county canvass
12 observers shall:

13 (1) not be permitted to perform any duty of
14 an election board member;

15 (2) not handle the ballots, signature
16 rosters, checklist of voters or voting machines or take any
17 part in the counting or tallying of the ballots or the county
18 canvass;

19 (3) not be allowed to view a voter's full
20 date of birth or any portion of the voter's social security
21 number;

22 (4) not interfere with the orderly conduct
23 of the election, the counting or tallying of the ballots or
24 the county canvass;

25 (5) be allowed in the room in which the

1 voting is being conducted at a polling location; provided
2 that at any given time, each political party, candidate or
3 election-related organization may have no more than one
4 person present; and

5 (6) be allowed in the room in which the
6 absent voter election board, the recount election board or
7 the election board for a special election conducts its
8 business or, in the case of county canvass observers, in
9 which the county canvass is conducted; provided that each
10 political party, candidate or election-related organization
11 shall have no more than:

12 (a) two persons present at any given
13 time in counties with more than ten thousand registered
14 voters;

15 (b) four persons present at any given
16 time in counties with more than fifty thousand registered
17 voters; or

18 (c) fifteen persons present at any
19 given time in counties with more than one hundred fifty
20 thousand registered voters.

21 B. Subject to permission granted by the county
22 clerk, additional challengers may be present in the room in
23 which the absent voter election board, the recount election
24 board or the election board for a special election conducts
25 its business in a partisan election; provided that the number

1 of additional challengers allowed pursuant to this subsection
2 is identical for each political party participating in the
3 election."

4 SECTION 32. Section 1-2-27 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 46, as amended) is amended to read:

6 "1-2-27. WATCHERS--APPOINTMENT.--

7 A. An election-related organization may in a
8 statewide or special election appoint watchers in a county if
9 the organization provides a written notice to the secretary
10 of state at least seven days prior to serving as a watcher
11 during early voting, the election date or the ballot
12 qualification period for mailed ballots in a statewide or a
13 special election and specifies the names of the qualified
14 appointees. The secretary of state shall notify the county
15 clerk of the qualified appointees at least five days before
16 the election.

17 B. Any group of three candidates for elected
18 office in a statewide election may appoint watchers in a
19 county if the candidates provide a written notice to the
20 secretary of state at least seven days prior to serving as a
21 watcher during early voting, the election date or the ballot
22 qualification period for mailed ballots in a statewide or
23 special election and specify the names of the qualified
24 appointees. The secretary of state shall notify the county
25 clerk of the qualified appointees at least five days before

1 the election."

2 SECTION 33. Section 1-2-31 NMSA 1978 (being Laws 2005,
3 Chapter 270, Section 15, as amended) is amended to read:

4 "1-2-31. COUNTY CANVASS OBSERVERS.--

5 A. The county chair of each political party
6 represented on a partisan ballot may appoint in writing
7 county canvass observers. A candidate for elected office and
8 an election-related organization in a statewide or special
9 election may each appoint county canvass observers in a
10 county if the candidate or organization makes a written
11 request to the secretary of state and specifies the names of
12 the qualified appointees. The secretary of state shall
13 immediately notify the county clerk of the qualified
14 appointees.

15 B. County canvass observers shall be voters of a
16 precinct located in that county to which they are appointed.
17 No person shall be qualified for appointment or service as a
18 county canvass observer who is a sheriff, deputy sheriff,
19 marshal, deputy marshal or state or municipal police officer.

20 C. A county canvass observer or an election
21 observer, upon presentation of the observer's written
22 appointment, shall be permitted to be present at any time
23 from the time the county canvassing begins until the
24 completion of the canvass.

25 D. A county canvass observer or election observer

1 is strictly limited to observing and documenting the
2 canvassing process and shall not interrupt the canvassing
3 process.

4 E. County canvass observers and election observers
5 shall not interfere with the orderly conduct of the canvass
6 and may be removed by the county clerk if the observer does
7 not comply with the law.

8 F. As used in this section, "county canvass" means
9 the process in the office of the county clerk of qualifying
10 and verifying paper ballots and counting and tallying votes
11 for each precinct beginning upon the closing of the polls and
12 ending with the certification and announcement of the results
13 by the county canvassing board."

14 SECTION 34. Section 1-2-32 NMSA 1978 (being Laws 2011,
15 Chapter 137, Section 11) is amended to read:

16 "1-2-32. STATE CANVASS OBSERVERS.--

17 A. The state chair of each political party
18 represented on a partisan ballot may appoint in writing state
19 canvass observers. A candidate for elected office in a
20 statewide election and an election-related organization in a
21 statewide or special election may each appoint state canvass
22 observers if the candidate or organization makes a written
23 request to the secretary of state and specifies the names of
24 the qualified appointees.

25 B. State canvass observers shall be voters of the

1 state. No person shall be qualified for appointment or
2 service as a state canvass observer who is a sheriff, deputy
3 sheriff, marshal, deputy marshal or state or municipal police
4 officer.

5 C. The state canvass observer or election
6 observer, upon presentation of the observer's written
7 appointment, shall be permitted to be present at any time
8 from the time the state canvassing begins until the
9 completion of the canvass.

10 D. A state canvass observer or election observer
11 is strictly limited to observing and documenting the
12 canvassing process and shall not interrupt the canvassing
13 process.

14 E. State canvass observers shall not interfere
15 with the orderly conduct of the canvass and may be removed by
16 the secretary of state if the observer does not comply with
17 the law.

18 F. As used in this section, "state canvass" means
19 the process in the office of the secretary of state or by
20 such person as the state canvassing board may appoint to
21 examine election returns and certificates issued by the
22 county canvassing boards and ending with the certification
23 and announcement of the results by the state canvassing
24 board."

25 SECTION 35. Section 1-3-1 NMSA 1978 (being Laws 1969,

1 Chapter 240, Section 50, as amended) is amended to read:

2 "1-3-1. NATURE OF A PRECINCT--MAPS.--

3 A. Each precinct as nearly as practicable shall be
4 composed of contiguous and compact areas having clearly
5 definable boundaries. All precinct boundaries shall comply
6 with the provisions of the Precinct Boundary Adjustment Act.

7 B. A precinct shall be divided or its boundaries
8 adjusted if the precinct has had more than:

9 (1) seven hundred fifty votes cast by voters
10 of that precinct at a general election, based on the two most
11 recent general elections; or

12 (2) two thousand five hundred persons
13 residing within the boundaries of the precinct, based on the
14 most recent federal decennial census.

15 C. A precinct may be combined with another
16 precinct or its boundaries adjusted if the precinct has had
17 less than:

18 (1) one hundred votes cast by voters of that
19 precinct at a general election, based on the two most recent
20 general elections; or

21 (2) five hundred persons residing within the
22 boundaries of the precinct, based on the most recent federal
23 decennial census.

24 D. A precinct shall not be combined with an
25 adjoining precinct as provided in Subsection C of this

1 section if the combination of the two precincts would:

2 (1) violate the maximum votes cast or
3 population requirements of Subsection B of this section; or

4 (2) cross any local, state or federal
5 district or districted boundary lines.

6 E. The secretary of state shall provide and
7 maintain a suitable map showing the current geographical
8 boundaries with designation of each precinct, local
9 government, representative district and senatorial district
10 in the county. The size and form of such maps shall be
11 prescribed by the secretary of state. A word description of
12 the geographical boundaries shall be attached to each map,
13 along with a description of the changes from the previous map
14 of the area. The map, with attached description, is a public
15 record."

16 SECTION 36. Section 1-3-2 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 51, as amended) is amended to read:

18 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

19 For the conduct of any statewide election during the period
20 beginning January 1 of the next succeeding even-numbered year
21 until December 31 of the odd-numbered year thereafter, in
22 June or July of each odd-numbered year, the board of county
23 commissioners shall by resolution:

24 A. designate the polling place of each precinct
25 that shall provide individuals with physical mobility

1 limitations an unobstructed access to at least one voting
2 machine;

3 B. consolidate any precincts pursuant to Section
4 1-3-4 NMSA 1978;

5 C. designate any mail ballot election precincts
6 pursuant to Section 1-6-22.1 NMSA 1978; and

7 D. create additional polling places in existing
8 precincts pursuant to Section 1-3-7.1 NMSA 1978."

9 SECTION 37. Section 1-3-4 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 30, as amended) is amended to read:

11 "1-3-4. CONSOLIDATION OF PRECINCTS--VOTER CONVENIENCE
12 CENTERS.--

13 A. The board of county commissioners may permit
14 voters in the county to cast ballots in statewide elections
15 at voter convenience centers through the use of consolidated
16 precincts authorized pursuant to this section.

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

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

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

1 in the county;

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

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

6 (5) each voter convenience center shall have
7 a broadband internet connection and real-time access to the
8 voter registration electronic management system;

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

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

1 voter convenience center on election day only by use of a
2 provisional paper ballot, which shall be counted after the
3 county clerk confirms that the voter did not also vote in the
4 same election on any other ballot.

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

9 (1) have ballots available for voters from
10 every precinct authorized to vote at that voter convenience
11 center;

12 (2) have at least one optical scan tabulator
13 programmed to read every ballot style able to be cast at that
14 voter convenience center;

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

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

21 (5) have sufficient check-in stations to
22 accommodate voters throughout the day as provided in Section
23 1-9-5 NMSA 1978;

24 (6) have a secure area for storage of
25 preprinted ballots or for storage of paper ballot stock and a

1 system designed to print ballots at a polling location;

2 (7) issue a ballot to voters who have
3 provided the required voter identification after the voter
4 has signed a signature roster or an electronic equivalent
5 approved by the voting system certification committee or
6 after the voter has subscribed an application to vote on a
7 form approved by the secretary of state; and

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

11 D. As a prerequisite to consolidation, the
12 authorizing resolution must find that consolidation will make
13 voting more convenient and accessible to voters of the
14 consolidated precinct and will not result in delays for
15 voters in the voting process and that the voter convenience
16 center will be centrally located within the consolidated
17 precinct. The board of county commissioners shall give due
18 consideration to input received from any local public body in
19 the county regarding the location of voter convenience
20 centers."

21 SECTION 38. Section 1-3-5 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 55, as amended) is amended to read:

23 "1-3-5. PRECINCTS--POWERS OF COUNTY COMMISSIONERS.--

24 A. The board of county commissioners shall by
25 resolution:

1 (1) create additional precincts to meet the
2 requirements of Section 1-3-1 NMSA 1978; and

3 (2) divide, abolish, combine or adjust the
4 boundaries of any precincts as necessary to meet legal and
5 constitutional requirements for redistricting.

6 B. Any necessary precinct boundary adjustments
7 shall be submitted to the secretary of state no later than
8 the first Monday in December of each odd-numbered year to
9 become effective January 1 next succeeding the approval of
10 the boundary adjustment. No precinct shall be created,
11 divided, abolished or combined or the boundaries adjusted
12 less than four months prior to a statewide election, except
13 by order of the district court.

14 C. The county clerk shall notify the secretary of
15 state in writing of any proposed changes in precincts or the
16 designation of polling places made by the board of county
17 commissioners and shall furnish the current geographical
18 boundaries, designation and word description of each new
19 polling place and each new or changed precinct.

20 D. The secretary of state shall review all new or
21 changed precinct maps submitted pursuant to this section for
22 compliance under the Precinct Boundary Adjustment Act and
23 Section 1-3-1 NMSA 1978.

24 E. Precincts shall be designated solely by whole
25 numbers."

1 SECTION 39. Section 1-3-6 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 56, as amended) is amended to read:

3 "1-3-6. PRECINCTS--BOUNDARIES--PROTEST.--

4 A. Any twenty-five or more voters of a precinct
5 dissatisfied with the boundaries fixed for a precinct or
6 location of the polling place designated by the board of
7 county commissioners for that precinct may, within one
8 hundred eighty days from the date a change to the boundaries
9 of a precinct was approved in the case of a protest to the
10 boundaries of a precinct, or at any time not less than one
11 hundred twenty days prior to any statewide election, petition
12 the district court of that county, setting forth the facts
13 and reasons for their dissatisfaction and requesting that the
14 board of county commissioners be required by mandamus to
15 change the boundaries or polling place as set forth in the
16 petition.

17 B. Upon filing of the petition, the court shall
18 fix a time and place for hearing, which time shall not be
19 more than twenty days from the date the petition was filed.
20 Each member of the board of county commissioners and the
21 person whose name appears first on the petition as a signer
22 shall immediately be given notice by the court of the filing
23 of the petition and the date set for hearing.

24 C. On the date set for the hearing on the
25 petition, the court shall hear the evidence, decide the

1 issues involved and issue its order as the law and facts
2 require."

3 SECTION 40. Section 1-3-7 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 57, as amended) is amended to read:

5 "1-3-7. POLLING PLACES.--

6 A. No less than one polling place shall be
7 provided for each precinct that is not a mail ballot election
8 precinct; provided that in a local election, a precinct that
9 lies partly within and partly without a district may be
10 located in a single polling place and use a single election
11 board.

12 B. The board of county commissioners shall
13 designate as the polling place or places, as the case may be,
14 in each precinct, other than a mail ballot election precinct,
15 the most convenient and suitable public building or public
16 school building in the precinct that can be obtained.

17 C. If no public building or public school building
18 is available, the board of county commissioners shall provide
19 some other suitable place, which shall be the most convenient
20 and appropriate place obtainable in the precinct, considering
21 the purpose for which it is to be used pursuant to the
22 Election Code.

23 D. If, in a precinct that is not a mail ballot
24 election precinct or a consolidated precinct, there is no
25 public building or public school building available in the

1 precinct, and there is no other suitable place obtainable in
2 the precinct, the board of county commissioners may designate
3 as a polling place for the precinct the most convenient and
4 suitable building or public school building nearest to that
5 precinct that can be obtained. No polling place shall be
6 designated outside the boundary of the precinct as provided
7 in this subsection until such designated polling place is
8 approved by written order of the district court of the county
9 in which the precinct is located.

10 E. Upon application of the board of county
11 commissioners, the governing board of any school district
12 shall permit the use of any school building or a part thereof
13 for registration purposes and the conduct of any election;
14 provided that the building or the part used for the election
15 complies with the standards set out in the federal Voting
16 Accessibility for the Elderly and Handicapped Act.
17 Application for use of a school building or any part thereof
18 for the conduct of a statewide election shall be made by
19 delivering to the superintendent of the school district the
20 resolution adopted pursuant to Section 1-3-2 NMSA 1978.

21 F. On the day of any statewide election for which
22 application was made pursuant to Subsection E of this
23 section, the board of education of a school district shall
24 provide exclusive use of any school building or the part
25 thereof to be used in the conduct of the election and shall

1 provide sufficient parking for election officials and to
2 permit voters to exercise the elective franchise."

3 SECTION 41. Section 1-3-12 NMSA 1978 (being Laws 1984
4 (1st S.S.), Chapter 3, Section 4, as amended) is amended to
5 read:

6 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

7 A. Before each federal decennial census, every
8 precinct shall comply with the requirements of Section 1-3-1
9 NMSA 1978, and if necessary its boundary shall be adjusted to
10 coincide with a feature or a boundary that is:

11 (1) shown on the standard base maps
12 developed pursuant to Subsection B of this section;

13 (2) a designated census block boundary on
14 the proposed federal PL 94-171 2020 census block maps; or

15 (3) approved by the secretary of state and
16 the United States bureau of the census.

17 B. Prior to commencement of the federal decennial
18 census, the secretary of state shall have prepared and shall
19 furnish to each county clerk standard base maps of the
20 county. The standard base map for urban and nonurban areas
21 of the county shall, as nearly as practical, show:

22 (1) all state and federal highways;

23 (2) all numbered and named county roads that
24 have been certified to the department of transportation;

25 (3) all military installation boundaries and

1 federal and state prison boundaries;

2 (4) all major railroad lines;

3 (5) federal, state and county political
4 boundaries, municipal boundaries and school district
5 boundaries;

6 (6) all streets within urban areas; and

7 (7) other major terrain features, such as
8 flowing rivers and streams, arroyos, power lines, pipelines,
9 roads, trails and ridgelines and other acceptable census
10 block boundaries.

11 C. The board of county commissioners, upon receipt
12 of the standard base maps from the secretary of state and
13 upon the recommendation of the county clerk, shall:

14 (1) adjust all precinct boundaries to
15 coincide with numbered or named street boundaries or suitable
16 visible terrain features shown on the standard base map;
17 provided that the precincts shall be composed of contiguous
18 and compact areas, and state, county, municipal, school
19 district and other special district or political boundary
20 lines shall serve as precinct boundaries whenever possible;
21 and

22 (2) upon the completion of the precinct
23 boundary adjustments as required in this section, indicate on
24 the standard base maps the boundaries for both urban and
25 nonurban precincts and, together with a written description

1 of the precincts, shall send an electronic copy to the
2 secretary of state for approval.

3 D. The precincts shown upon the standard base maps
4 submitted pursuant to the provisions of this section and as
5 revised and approved by the secretary of state pursuant to
6 the Precinct Boundary Adjustment Act shall become the
7 official precincts of each county for the 2021 redistricting.
8 For the 2022 and subsequent statewide elections, changes in
9 precincts shall be made in accordance with the provisions of
10 Chapter 1, Article 3 NMSA 1978.

11 E. In the same calendar year in which the state
12 receives the results of a federal decennial census, the state
13 legislature shall redistrict federal representative
14 districts, each chamber of the legislature, public regulation
15 commission districts, public education commission districts
16 and any other state districts requiring redistricting.

17 F. In the calendar year following the receipt of
18 the results of a federal decennial census, each local public
19 body subject to districting shall create or redraw districts
20 for the local public body. A local public body, when
21 creating or redrawing districts, shall not split a precinct
22 into two or more districts for any elected office unless
23 necessary to comply with federal law or to preserve
24 communities of interest."

25 SECTION 42. Section 1-3-13 NMSA 1978 (being Laws 1983,

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1 Chapter 223, Section 4, as amended) is amended to read:

2 "1-3-13. SECRETARY OF STATE POWERS AND DUTIES.--

3 A. Prior to commencement of the federal decennial
4 census, the secretary of state shall review all county
5 precinct maps submitted pursuant to Section 1-3-12 NMSA 1978
6 for compliance with the provisions of the Precinct Boundary
7 Adjustment Act and Section 1-3-1 NMSA 1978. Those county
8 precinct maps determined not to be in compliance with the
9 precinct boundary criteria set forth in Subsection A of
10 Section 1-13-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be
11 rejected and returned to the appropriate county clerk with a
12 written statement setting forth those instances in which the
13 map does not comply. The county clerk and the board of
14 county commissioners shall make the required adjustments
15 within thirty days after receiving notice of noncompliance.

16 B. Following receipt of the results of a federal
17 decennial census, the secretary of state shall again follow
18 the procedures outlined in Subsection A of this section to
19 allow the counties to make any necessary adjustments. For
20 any county that does not make the required adjustments within
21 thirty days after receiving notice of noncompliance following
22 receipt of the results of a federal decennial census, the
23 secretary of state shall send a second notice of
24 noncompliance, and no later than June 30 of the same year, if
25 any precinct boundary adjustments are necessary to meet the

1 legal requirements of redistricting, pursuant to Sections
2 1-3-1 and 1-3-12 NMSA 1978, the secretary of state shall
3 adjust the boundaries of the precincts only to the extent
4 necessary to achieve compliance with the requirements of
5 those sections and notify the county of those boundary
6 adjustments."

7 SECTION 43. Section 1-3-18 NMSA 1978 (being Laws 1989,
8 Chapter 199, Section 1, as amended) is amended to read:

9 "1-3-18. POLLING PLACES--BUILDING REQUIREMENTS--
10 INSPECTION.--

11 A. The location of each polling place within a
12 building shall be clearly designated by appropriate signs,
13 displayed prominently and clearly. Signs for each polling
14 place shall also be clearly displayed outside the building
15 where polling takes place.

16 B. Not less than thirty days prior to each
17 election at which a building is intended for use as an
18 alternate voting location, a mobile alternate voting location
19 or an election day polling place, the county clerk or the
20 clerk's designated representative shall physically inspect
21 each such facility to determine its suitability for use as a
22 polling place and its capability of handling heavy voter
23 traffic in the most expeditious manner with a maximum
24 efficiency and minimum discomfort of the voter. The county
25 clerk shall maintain a log of the day and time each facility

1 was physically inspected, whether the inspection was
2 performed by the county clerk, and if the inspection was not
3 performed by the county clerk, the name of the person
4 designated by the county clerk to perform the inspection.

5 C. Each polling place shall be furnished and have
6 available equipment necessary to assist voters in reading the
7 ballot."

8 SECTION 44. Section 1-3-19 NMSA 1978 (being Laws 2013,
9 Chapter 189, Section 1 and Laws 2015, Chapter 145, Section
10 12) is amended to read:

11 "1-3-19. ELECTION-DAY POLLING PLACES--ADEQUATE
12 RESOURCES.--

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

21 B. Each election-day polling place shall:

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

25 (2) be in a location that is accessible and

1 compliant with the requirements of the federal Americans with
2 Disabilities Act of 1990.

3 C. Each precinct polling place located within a
4 single polling place shall have:

5 (1) a separate election board and signature
6 roster for the precinct;

7 (2) at least one optical scan tabulator for
8 the precinct; and

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

13 SECTION 45. Section 1-4-1.1 NMSA 1978 (being Laws 2015,
14 Chapter 145, Section 19) is amended to read:

15 "1-4-1.1. AUTHORIZATION TO VERIFY VOTER REGISTRATION
16 INFORMATION--INVESTIGATION AND RECONCILIATION.--

17 A. The secretary of state may:

18 (1) provide to the chief election officer of
19 another state or a consortium of chief election officers of
20 other states information that is requested, including social
21 security numbers, dates of birth, driver's licenses and
22 identification card numbers and other information that the
23 secretary of state deems necessary for the chief election
24 officer of that state or for the consortium to maintain a
25 voter registration list, if the secretary of state is

1 satisfied that the information provided pursuant to this
2 paragraph will be used only for the maintenance of that voter
3 registration list; and

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

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

17 C. The secretary of state shall enter into a
18 written agreement with the secretary of taxation and revenue
19 to match information in the database of the voter
20 registration electronic management system with information in
21 the database of the motor vehicle division of the taxation
22 and revenue department to the extent required to enable each
23 official to verify the accuracy of the information provided
24 on applications for voter registration. Upon the execution
25 of the written agreement, the secretary of taxation and

1 revenue shall enter into an agreement with the federal
2 commissioner of social security pursuant to 42 U.S.C. Section
3 15483 (now 52 U.S.C. Section 21083), for the purpose of
4 verifying applicable information.

5 D. The secretary of state shall provide to the
6 appropriate county clerk in this state and to no other person
7 necessary information or documentation received by the
8 secretary of state from or through an agency or political
9 subdivision of this state, a federal department, the chief
10 election officer of another state or a consortium of chief
11 election officers of other states that calls into question
12 the information provided on a certificate of registration;
13 that raises questions regarding the status of a person
14 registered to vote in this state; or that suggests that a
15 voter may have voted in two states during the same election.
16 The county clerk shall only disclose information received
17 from the secretary of state pursuant to this subsection to
18 complete an investigation pursuant to this section.

19 E. The county clerk shall investigate or reconcile
20 the information received from the secretary of state. The
21 secretary of state shall develop and maintain a manual for
22 county clerks that describes best practices in investigating
23 and reconciling information that is derived from comparisons
24 of different databases, including safeguards to ensure that
25 eligible voters are not removed in error from the official

1 list of voters."

2 SECTION 46. Section 1-4-2 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 60, as amended) is amended to read:

4 "1-4-2. REGISTRATION OF QUALIFIED RESIDENTS--RIGHT TO
5 VOTE IN PRIMARY.--

6 A. Any qualified resident of New Mexico shall be
7 permitted within the provisions of the Election Code to
8 submit a voter registration certificate in paper form,
9 through the online voter registration portal provided by the
10 secretary of state, electronically when conducting an in-
11 person transaction at the motor vehicle division of the
12 taxation and revenue department or as otherwise prescribed by
13 the secretary of state. The certificate shall be processed
14 by the county clerk in the same manner as for a qualified
15 elector, but the qualified resident shall not become a voter
16 nor be considered a voter except as provided by this section.

17 B. If a qualified resident submits a voter
18 registration certificate in accordance with the provisions of
19 Subsection A of this section and pursuant to the requirements
20 of Section 1-4-8 NMSA 1978, the qualified resident shall:

21 (1) become a voter upon the qualified
22 resident's eighteenth birthday;

23 (2) be considered a voter for the purpose of
24 participation in a statewide or special election where the
25 qualified resident will turn eighteen on or before the day of

1 the statewide or special election; or

2 (3) be considered a voter for the purpose of
3 participation in a political party primary election where the
4 qualified resident will turn eighteen on or before the day of
5 the general election immediately succeeding the primary
6 election.

7 C. Any resident of New Mexico who may be a
8 qualified elector upon the resident's eighteenth birthday,
9 who obtains a license, permit or identification card from the
10 motor vehicle division of the taxation and revenue department
11 and who has not submitted a voter registration certificate
12 pursuant to Subsection A of this section shall be sent a
13 notification by the secretary of state advising the resident
14 of the requirements and opportunity to register to vote and a
15 uniform resource locator for a web page where the resident
16 may submit a voter registration certificate online. When
17 applicable, a notification shall be sent to a resident
18 described in this subsection within the sixty days following
19 the resident's seventeenth birthday, when the resident
20 obtained a license, permit or identification card from the
21 motor vehicle division prior to the resident's seventeenth
22 birthday and within thirty days prior to the resident's
23 eighteenth birthday."

24 SECTION 47. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
25 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,

1 as amended) is amended to read:

2 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

3 A. A qualified elector may apply for registration
4 using the paper form by mail, in the office of the secretary
5 of state or county clerk or with a registration agent or
6 officer.

7 B. A person may request certificate of
8 registration forms from the secretary of state or any county
9 clerk in person, by telephone or by mail for that person or
10 for other persons.

11 C. A qualified elector who wishes to register to
12 vote shall fill out completely and sign the certificate of
13 registration. The qualified elector may seek the assistance
14 of any person in completing the certificate of registration.

15 D. A qualified elector who has filed for an order
16 of protection pursuant to the provisions of the Family
17 Violence Protection Act and who presents a copy of that order
18 from a state or tribal court to the registration officer
19 shall be referred to the confidential address program
20 administered by the secretary of state pursuant to the
21 Confidential Substitute Address Act.

22 E. Completed certificates of registration may be
23 mailed or presented in person by the registrant or any other
24 person to the secretary of state, to the county clerk of the
25 county in which the registrant resides or to any other county

1 clerk in this state.

2 F. If the registrant wishes to vote in the next
3 election, the completed and signed certificate of
4 registration shall be delivered or mailed and postmarked
5 within the time frame provided in Subsection A of Section
6 1-4-8 NMSA 1978.

7 G. Within one business day after receipt of a
8 certificate of registration, the secretary of state shall
9 send the certificate to the county clerk in the county where
10 the qualified elector resides. Within one business day after
11 receipt of a certificate of registration of another county, a
12 county clerk shall send the certificate of registration to
13 the county clerk in the county where the qualified elector
14 resides.

15 H. Only when the certificate of registration is
16 properly filled out, signed by the qualified elector and
17 accepted for filing by the county clerk as evidenced by the
18 county clerk's signature or stamp and the date of acceptance
19 thereon shall it constitute an official public record of the
20 registration of the qualified elector. A qualified elector
21 complies with a voter registration deadline established in
22 the Election Code when a properly filled-out voter
23 registration certificate has been received by a county clerk
24 or the secretary of state, regardless of the date the
25 certificate is processed.

1 I. The secretary of state shall prescribe the form
2 of the certificate of registration, which form shall be a
3 postpaid mail-in format and shall be printed in Spanish and
4 English. The certificate of registration form shall be clear
5 and understandable to the average person and shall include
6 brief but sufficient instructions to enable the qualified
7 elector to complete the form without assistance. The form
8 shall also include:

9 (1) the question "Are you a citizen of the
10 United States of America?" and boxes for the applicant to
11 check to indicate whether the applicant is or is not a
12 citizen;

13 (2) the statement "If you checked 'no', do
14 not complete this form.";

15 (3) a statement informing the applicant
16 that:

17 (a) if the form is submitted by mail by
18 the applicant and the applicant is registering for the first
19 time in New Mexico, the applicant must submit with the form a
20 copy of: 1) a photo identification issued by a government or
21 educational institution; or 2) a current utility bill, bank
22 statement, government check, paycheck, student identification
23 card or other government document, including identification
24 issued by an Indian nation, tribe or pueblo, that shows the
25 name and current address of the applicant; and

1 (b) if the applicant does not submit
2 the required documentary identification, the applicant will
3 be required to do so when voting in person or absentee; and

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

7 SECTION 48. Section 1-4-5.4 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 125, as amended) is amended to read:

9 "1-4-5.4. REGISTRATION--FORM.--

10 A. The secretary of state shall prescribe the
11 paper form and ensure that the certificate of registration to
12 be used in any county is compatible with the data processing
13 systems. The secretary of state shall also prescribe the
14 form produced by an online or electronic voter registration
15 transaction.

16 B. The certificate of registration form shall
17 require the following elements of information concerning the
18 applicant for registration: name, gender, residence,
19 municipality, post office, county of former registration,
20 date of birth, political party affiliation, zip code,
21 telephone number at the applicant's option and statement of
22 qualification for voting. The paper form shall contain a
23 space for the qualified elector to provide a driver's license
24 or state identification number issued by the motor vehicle
25 division of the taxation and revenue department or the last

1 four digits of the qualified elector's social security
2 number, while the form resulting from an online or electronic
3 voter registration transaction shall contain the qualified
4 elector's full social security number.

5 C. Provision shall be made for the usual signature
6 or mark of the applicant, for the signature of the county
7 clerk and for the dates of such signatures.

8 D. The certificate form may be multipurpose by
9 providing for an indication of whether the certificate of
10 registration is for a new registration, a change in the
11 existing registration or a cancellation of an existing
12 registration. Provision shall be made on any multipurpose
13 form for entry of any existing registered information for
14 which a change may be requested.

15 E. The certificate of registration forms shall be
16 serially numbered and shall be furnished promptly and in
17 adequate supply by the secretary of state upon application
18 from the county clerk.

19 F. The secretary of state shall maintain on the
20 secretary's website a Privacy Act notice in conformance with
21 the federal Privacy Act of 1974."

22 SECTION 49. Section 1-4-8 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 66, as amended) is amended to read:

24 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
25 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For

1 qualified electors seeking to register to vote or update an
2 existing voter registration in the state, the following
3 provisions shall apply:

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

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

15 (1) statewide election, within the county;

16 or

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

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

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

25 (2) updates to existing voter registrations

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

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

14 D. certificates of registration and cancellations
15 of existing voter registrations not processed pursuant to
16 Subsection B or C of this section shall be processed
17 beginning thirty-five days after an election, at which time a
18 voter information document shall be mailed to the registrant
19 at the address shown on the certificate of registration;
20 provided that if there is a subsequent election scheduled at
21 which a qualified elector or voter would be eligible to vote
22 if the certificate of registration were processed on an
23 earlier date, the certificate of registration for that
24 qualified elector or voter shall be processed by the county
25 clerk on a day and in a manner to ensure the ability of the

1 qualified elector or voter to vote in the subsequent
2 election;

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

9 F. the county clerk shall accept for filing and
10 process any certificate of registration that is subscribed
11 and dated on or before the deadline to register to vote or
12 update an existing voter registration prior to an election
13 and:

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

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

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

25 SECTION 50. Section 1-4-11 NMSA 1978 (being Laws 1969,

1 Chapter 240, Section 67, as amended) is amended to read:

2 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
3 CERTIFICATES.--

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

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

1 or into compliance with the Election Code.

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

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

23 E. If the county clerk rejects a certificate of
24 registration because required information is not provided on
25 the certificate or cannot ascertain the qualified elector's

1 social security number, the county clerk shall indicate this
2 on the qualified elector's certificate of registration and
3 shall make the appropriate notation in the voter file,
4 indicating that the voter may only vote on a provisional
5 ballot. The provisional ballot shall be counted once the
6 required information is provided or the voter's social
7 security number is ascertained.

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

15 SECTION 51. Section 1-4-16 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 72, as amended by Laws 1993, Chapter
17 314, Section 15 and also by Laws 1993, Chapter 316, Section
18 15) is amended to read:

19 "1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT
20 BE MADE.--

21 A. No designation of party affiliation shall be
22 made or changed on an existing certificate of registration at
23 any time during which registration is closed.

24 B. Every person appearing as a candidate on the
25 primary or general election ballot shall be a candidate only

1 under the name and party affiliation designation appearing on
2 the person's existing certificate of registration on file in
3 the county clerk's office on the date of the secretary of
4 state's general election proclamation."

5 SECTION 52. Section 1-4-22 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 78, as amended) is amended to read:

7 "1-4-22. CANCELLATION OF REGISTRATION--PETITION TO
8 DISTRICT COURT.--

9 A. At any time not less than one hundred twenty
10 days prior to and following a statewide election, the
11 secretary of state may file and present to the district court
12 a verified petition alleging, on information and belief, that
13 certain persons registered, named in the petition, are not
14 qualified electors in the precincts named in the petition.
15 The petition shall contain a brief statement of the facts
16 upon which such allegation is made.

17 B. Upon filing and presentation of the petition,
18 the court shall by order fix a day for hearing thereon, which
19 date shall be not less than fourteen days nor more than
20 twenty-one days after such order. The court shall direct the
21 county clerk to use the address on the certificates of
22 registration to forthwith notify the persons named in the
23 petition whose registration is sought to be canceled of the
24 date and purpose of the hearing and that each person should
25 contact the county clerk no later than the close of business

1 the day before the hearing or be present at the hearing if
2 the person desires to oppose the cancellation.

3 C. If, after hearing, the court finds that the
4 registration of any of the persons named in the petition
5 should be canceled, it shall by order direct the county clerk
6 to cancel the registrations.

7 D. Within thirty days following a hearing held
8 pursuant to this section, the secretary of state shall report
9 the results of the hearing to the United States election
10 assistance commission and to the voting section of the civil
11 rights division of the United States department of justice.
12 The report required by this subsection shall be posted on the
13 secretary of state's website for one year following the
14 hearing."

15 SECTION 53. Section 1-4-24 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 80, as amended) is amended to read:

17 "1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--
18 GROUNDS.--The county clerk shall cancel certificates of
19 registration for the following reasons:

- 20 A. death of the voter;
- 21 B. a felony conviction of the voter;
- 22 C. at the request of the voter; or
- 23 D. at the direction of the board of registration."

24 SECTION 54. Section 1-4-28 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 46, as amended) is amended to read:

1 "1-4-28. CANCELLATION OF REGISTRATION--CHANGE OF
2 RESIDENCE--NOTICE.--

3 A. The secretary of state, county clerks and
4 boards of registration, in compliance with the federal
5 National Voter Registration Act of 1993, shall remove from
6 the official list of eligible voters the names of voters who
7 are ineligible to vote due to change of residence.

8 B. The secretary of state shall conduct a general
9 program that identifies voters who may no longer reside at
10 their address of registration. This program shall use
11 information supplied by the United States postal service
12 national change of address service. This program may also
13 include, among other practices, identification of voters
14 whose official election-related mail is returned and periodic
15 mailings to voters to verify continued residency at their
16 address of registration, provided such practices are uniform,
17 nondiscriminatory and in compliance with the federal Voting
18 Rights Act of 1965.

19 C. Between ninety and one hundred twenty days
20 before the next general election, the secretary of state
21 shall send to each voter who it appears has changed address
22 from the voter's precinct of registration a notice, sent by
23 forwardable mail, that shall include a postage prepaid and
24 pre-addressed return card. The notice shall state that:

25 (1) if the voter did not change residency,

1 the voter should return the card no later than twenty-eight
2 days before the next general election;

3 (2) if the voter does not return the card,
4 the voter may be provided an opportunity to update the
5 voter's registration address before the voter casts a ballot
6 in any election during the period beginning on the date of
7 the notice and ending on the day after the second general
8 election that occurs after the date of the notice;

9 (3) if the voter does not vote in any
10 election during the period beginning on the date of that
11 notice and ending on the day after the second general
12 election that occurs after the date of the notice, the
13 voter's registration may be canceled; and

14 (4) if the voter has changed residence
15 within the same county, the voter should complete the place
16 on the return card for the voter to indicate the address of
17 the new residence and a request to have the voter's
18 registration moved to that address in the same county.

19 D. If the voter returned the card indicating a new
20 address and the address is:

21 (1) in the same county, the county clerk
22 shall correct the official list of eligible voters in
23 accordance with the change of residence information obtained
24 on the return card; or

25 (2) in another county, the county clerk

1 shall forward the return card to the appropriate county
2 clerk, who shall process the change of residence as a new
3 registration in the county.

4 E. No later than the fifteenth day of March
5 following a general election, the board of registration shall
6 review the list of eligible voters. The board of
7 registration shall direct the county clerk to cancel the
8 registration of any voter who has been sent notice in
9 conformance with this section and who:

10 (1) has failed to respond to the notice sent
11 in conformance with this section and has not voted or
12 appeared to vote in any election during the period beginning
13 on the date of the notice and ending on the day after the
14 second general election that occurs after the date of the
15 notice; or

16 (2) has confirmed in writing that the voter
17 has changed residence to a place outside the state."

18 SECTION 55. Section 1-4-34 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 90, as amended) is amended to read:

20 "1-4-34. BOARD OF REGISTRATION--BOARD OF COUNTY
21 COMMISSIONERS--APPOINTMENT.--

22 A. The board of county commissioners shall, at its
23 first regular scheduled meeting in June of each odd-numbered
24 year, appoint five voters who shall constitute the board of
25 registration for the county; provided that a class B county

1 as defined in Section 4-44-1 NMSA 1978 shall appoint three
2 voters who shall constitute the board of registration for the
3 county.

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

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

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

20 C. In the event that a position on the board of
21 registration becomes vacant for any of the reasons described
22 in Section 10-3-1 NMSA 1978, the board of county
23 commissioners shall appoint a replacement who shall qualify
24 pursuant to Subsection B of this section and serve until the
25 expiration of the original term."

1 **SECTION 56.** Section 1-4-35 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 91) is amended to read:

3 "1-4-35. BOARD OF REGISTRATION--SECRETARY.--The county
4 clerk or the county clerk's authorized deputy shall be
5 secretary to the board of registration."

6 **SECTION 57.** Section 1-4-37 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 93) is amended to read:

8 "1-4-37. BOARD OF REGISTRATION--TERM--QUALIFICATION.--

9 A. The term of office of members of the board of
10 registration is from July 1 of an odd-numbered year until
11 June 30 of the next succeeding odd-numbered year. Members of
12 the board of registration shall hold office until their
13 successors are appointed and qualified.

14 B. Members of the board of registration shall
15 qualify by taking and filing in the office of the county
16 clerk the oath required of county officials."

17 **SECTION 58.** Section 1-4-38 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 94, as amended) is amended to read:

19 "1-4-38. BOARD OF REGISTRATION--MEETINGS.--

20 A. All meetings of the board of registration shall
21 be open meetings held in accordance with the Open Meetings
22 Act.

23 B. All reports and other records of the board of
24 registration shall be open to public inspection pursuant to
25 the Inspection of Public Records Act.

1 C. A person's month and day of birth, and any part
2 of a person's driver's license number or other identifier
3 assigned by the motor vehicle division of the taxation and
4 revenue department, state or federal tax identification
5 number or social security number shall not be disclosed in
6 any meeting or in any record of the board of registration
7 made available to the public. This subsection does not
8 preclude disclosure of a person's unique identifier as
9 defined in Section 1-1-23 NMSA 1978.

10 D. Members of the board of registration are
11 entitled to receive per diem and mileage as provided in the
12 Per Diem and Mileage Act, to be paid out of the election
13 funds appropriated to the county clerk from the county
14 general fund."

15 SECTION 59. Section 1-5-30 NMSA 1978 (being Laws 1989,
16 Chapter 298, Section 1, as amended) is amended to read:

17 "1-5-30. SECRETARY OF STATE--VOTER REGISTRATION
18 ELECTRONIC MANAGEMENT SYSTEM.--

19 A. The secretary of state shall develop,
20 implement, establish and supervise a voter registration
21 electronic management system that complies with the federal
22 Help America Vote Act of 2002 to facilitate voter
23 registration and to provide a central database containing
24 voter registration information for New Mexico.

25 B. The voter registration electronic management

1 system shall:

2 (1) provide for the establishment and
3 maintenance of a central database for all voter registration
4 information;

5 (2) permit the offices of all county clerks
6 to add, modify and delete county information from the system
7 to provide for accurate and up-to-date records;

8 (3) permit the offices of the county clerks
9 and the bureau of elections to have access to the central
10 database for review and search capabilities;

11 (4) provide security and protection for all
12 information in the central database and monitor the central
13 database to ensure the prevention of unauthorized entry;

14 (5) provide procedures for the electronic
15 receipt of voter registration application and update
16 information, including digitized and electronic signatures,
17 photographs and other data provided by the motor vehicle
18 division of the taxation and revenue department or the
19 federal social security administration;

20 (6) permit a proper filing officer to upload
21 declarations of candidacy and candidate qualification
22 documents, as prescribed by the Election Code, and
23 resolutions approving a ballot question within one day of
24 being filed with the proper filing officer;

25 (7) provide procedures for entering data

1 into the central database; and

2 (8) provide a centralized system for each
3 county to enter the precinct to which a voter should be
4 assigned for voting purposes.

5 C. Based on written agreements with the secretary
6 of state, the secretary of state shall provide access to the
7 voter registration electronic management system to
8 municipalities and other local governments based upon
9 statutory responsibilities for administration of elections or
10 to administer procedures related to elections that do not
11 conflict with the provisions of the Election Code. The
12 agreements shall include the scope of access, required
13 initial and continuing training, job titles for persons with
14 login credentials and security requirements associated with
15 accessing the voter registration electronic management
16 system."

17 SECTION 60. A new Section 1-6-1.1 NMSA 1978 is enacted
18 to read:

19 "1-6-1.1. DEFINITIONS.--As used in the Absent Voter
20 Act:

21 A. "absentee" means the ability of a voter to
22 receive, fill out and return a ballot at a place and time
23 other than a polling location on the day of the election;

24 B. "early voting location" means the office of the
25 county clerk, an alternate voting location or a mobile

1 alternate voting location;

2 C. "mailed ballot" means a ballot that is sent to
3 a voter pursuant to the provisions of the Election Code and
4 does not include a ballot that is provided to a voter in
5 person at an early voting location; and

6 D. "registered ballot" means a ballot that has
7 been filled out by the voter and whose votes have been
8 recorded and retained by an electronic voting system before
9 the day of the election pursuant to the provisions of the
10 Election Code."

11 SECTION 61. Section 1-6-3 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 129, as amended) is amended to read:

13 "1-6-3. RIGHT TO VOTE ABSENTEE.--A voter may vote
14 absentee in all candidate contests and on all ballot
15 questions as if the voter had appeared on the day of the
16 election to vote in person at a polling location."

17 SECTION 62. Section 1-6-4 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 130, as amended) is amended to read:

19 "1-6-4. MAILED BALLOT APPLICATION.--

20 A. In a statewide election, application by a voter
21 for a mailed ballot shall be made only on a paper form or its
22 online equivalent. The form shall identify the applicant and
23 contain information to establish the applicant's
24 qualification for issuance of a mailed ballot under the
25 Absent Voter Act; provided that only on the application form

1 for a primary election ballot there shall be a box, space or
2 place provided for designation of the voter's political party
3 affiliation.

4 B. Each application on a paper form for a mailed
5 ballot shall be signed by the applicant and shall require the
6 applicant's printed name, registration address and year of
7 birth to be supplied by the applicant, which shall constitute
8 the required form of identification. When submitted by the
9 voter, the county clerk shall accept an application for a
10 mailed ballot pursuant to this subsection regardless of
11 whether the application for a mailed ballot is delivered to
12 the county clerk on paper or by electronic means. When
13 submitted by a third party, the county clerk shall not accept
14 an application for a mailed ballot pursuant to this
15 subsection if the application for a mailed ballot is
16 delivered by electronic means.

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

1 license number or state identification card number.

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

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

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

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

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

21 F. New registrants who registered for the first
22 time in this state by mail and at that time did not provide
23 acceptable documentary identification as required by federal
24 law shall be informed of the need to comply with federal
25 identification requirements when returning the requested

1 ballot. The secretary of state shall issue rules to exempt
2 voters from submitting identification only as required by
3 federal law and shall review and, if necessary, update these
4 rules no later than March 15 of even-numbered years.

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

12 SECTION 63. Section 1-6-4.3 NMSA 1978 (being Laws 2005,
13 Chapter 270, Section 41, as amended) is amended to read:

14 "1-6-4.3. THIRD PARTY AGENTS COLLECTING APPLICATIONS
15 FOR MAILED BALLOTS.--

16 A. A person or organization that is not part of a
17 government agency and that collects applications for mailed
18 ballots shall submit the applications to the appropriate
19 office for filing within forty-eight hours of their
20 completion or the next business day if the appropriate office
21 is closed for that forty-eight-hour period.

22 B. A person who collects applications for mailed
23 ballots and fails to submit a voter's completed application
24 is guilty of a petty misdemeanor.

25 C. A person who intentionally alters another

1 voter's completed application for a mailed ballot is guilty
2 of a fourth degree felony."

3 SECTION 64. Section 1-6-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 131, as amended) is amended to read:

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

6 A. The county clerk shall mark each completed
7 application for a mailed ballot with the date and time of
8 receipt in the clerk's office and enter the required
9 information in the ballot register. The county clerk shall
10 then determine if the applicant is a voter and if the voter
11 is a uniformed-service voter or an overseas voter. If the
12 applicant is a uniformed-service voter or overseas voter, the
13 application shall be processed pursuant to the Uniform
14 Military and Overseas Voters Act.

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

21 C. When required by federal law, if the applicant
22 has on file with the county a valid certificate of
23 registration that indicates that the applicant is a voter who
24 is a new registrant in the state and who registered by mail
25 without submitting the required documentary identification,

1 the county clerk shall notify the voter that the voter must
2 submit with the mailed ballot a form of documentary
3 identification from the list in Paragraph (3) of Subsection I
4 of Section 1-4-5.1 NMSA 1978. The county clerk shall note on
5 the ballot register and signature roster that the applicant's
6 mailed ballot must be returned with the required voter
7 identification.

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

13 E. Upon the mailing of a mailed ballot to an
14 applicant who is a voter, an appropriate designation shall be
15 made on the signature line of the signature roster next to
16 the name of the voter.

17 F. A mailed ballot shall not be delivered by the
18 county clerk to any person other than the applicant for the
19 ballot. Mailed ballots shall be sent to applicants beginning
20 twenty-eight days before the election. For each application
21 for a mailed ballot received twenty-three or more days before
22 the election, the county clerk shall send either the ballot
23 or a notice of rejection to the applicant as soon as
24 practicable; provided that the ballot or a notice of
25 rejection is sent not later than twenty-two days before the

1 election. For each application for a mailed ballot received
2 within twenty-two days of election day, the county clerk
3 shall send either the mailed ballot or a notice of rejection
4 to the applicant within twenty-four hours after receipt of
5 the voter's application for a mailed ballot. A mailed ballot
6 shall be requested not later than the Thursday immediately
7 prior to the date of the election and shall be sent to the
8 voter not later than the Friday immediately prior to the date
9 of the election."

10 SECTION 65. Section 1-6-5.6 NMSA 1978 (being Laws 2003,
11 Chapter 357, Section 6, as amended) is amended to read:

12 "1-6-5.6. EARLY VOTING--ALTERNATE VOTING LOCATIONS--
13 PROCEDURES.--The county clerk shall:

14 A. ensure that voters have adequate access to
15 early voting in the county, taking into consideration
16 population density and travel time to the location of voting;

17 B. ensure that early voters are not allowed to
18 vote in person on election day;

19 C. ensure that adequate interpreters are available
20 at alternate voting locations in those precincts having a
21 majority of qualified electors who are part of a recognized
22 language minority; and

23 D. based on rules adopted by the secretary of
24 state, allow for mobile alternate voting locations that may
25 be set up temporarily in specified precincts of the county

1 during the period when early voting is allowed at alternate
2 voting locations."

3 SECTION 66. Section 1-6-5.7 NMSA 1978 (being Laws 2005,
4 Chapter 270, Section 40, as amended) is amended to read:

5 "1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING
6 PROCEDURES--COUNTY CLERK'S OFFICE--ALTERNATE VOTING
7 LOCATIONS.--

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

14 (1) when marking a ballot in person at the
15 county clerk's office, the voter shall provide the required
16 voter identification to the county clerk or the clerk's
17 authorized representative. If the voter does not provide the
18 required voter identification, the voter shall be allowed to
19 vote on a provisional ballot. If the voter provides the
20 required voter identification, the voter, after subscribing
21 an application for an absentee ballot, shall be allowed to
22 vote by inserting the ballot into an optical scan tabulator
23 certified for in-person absentee voting at the county clerk's
24 office. The county clerk or the clerk's authorized
25 representative shall make an appropriate designation

1 indicating that the voter has voted. In marking the ballot,
2 the voter may be assisted pursuant to the provisions of
3 Section 1-12-15 NMSA 1978;

4 (2) the act of marking the ballot in the
5 office of the county clerk shall be a convenience to the
6 voter in the delivery of the ballot and does not make the
7 office of the county clerk a polling place subject to the
8 requirements of a polling place in the Election Code; and

9 (3) if the county clerk establishes an
10 additional alternate voting location near the clerk's office,
11 ballots may be marked in person at that location during the
12 regular hours and days of business beginning on the
13 twenty-eighth day preceding the election and during the hours
14 for voting at alternate voting locations commencing on the
15 third Saturday prior to the election through the Saturday
16 immediately prior to the election. The additional alternate
17 voting location may be operated by the county clerk and the
18 county clerk's staff.

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

24 (1) the county clerk shall establish:

25 (a) in counties with more than ten

1 thousand voters, not fewer than one alternate voting
2 location;

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

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

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

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

25 (1) have ballots available for voters from

1 every precinct in the county;

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

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

7 (4) have a broadband internet connection;

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

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

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

17 D. When voting at an early voting location, the
18 voter shall provide the required voter identification to the
19 election board, county clerk or the clerk's authorized
20 representative. If the voter does not provide the required
21 voter identification, the voter shall be allowed to vote on a
22 provisional ballot. If the voter provides the required voter
23 identification, the voter shall be allowed to vote after
24 subscribing an application to vote on a form approved by the
25 secretary of state or its electronic equivalent approved by

1 the voting system certification committee. The county clerk
2 or the clerk's authorized representative shall make an
3 appropriate designation on the signature roster or register
4 next to the voter's name indicating that the voter has voted
5 early."

6 SECTION 67. Section 1-6-5.8 NMSA 1978 (being Laws 2009,
7 Chapter 251, Section 2) is amended to read:

8 "1-6-5.8. EARLY VOTING--NATIVE AMERICAN EARLY VOTING
9 LOCATIONS.--A county clerk shall provide at least one
10 alternate voting or mobile alternate voting location on
11 Indian nation, tribal or pueblo land when requested by the
12 Indian nation, tribe or pueblo in the county; provided that:

13 A. the Indian nation, tribe or pueblo submits a
14 written request to the county clerk no later than the first
15 Monday in November of each odd-numbered year;

16 B. the alternate voting or mobile alternate voting
17 location may operate for less than the full early voting
18 period, to be decided upon between the Indian nation, tribe
19 or pueblo and the county clerk;

20 C. any voter of the county shall have access to
21 and be permitted to vote at the alternate voting or mobile
22 alternate voting location;

23 D. the location of the alternate voting or mobile
24 alternate voting location on Indian nation, tribal or pueblo
25 land conforms to the requirements for alternate voting

1 locations, except as specified in this section;

2 E. the county clerk provides federally mandated
3 language translators at the alternate voting or mobile
4 alternate voting locations;

5 F. the Indian nation, tribe or pueblo provides the
6 facility and services for the alternate voting or mobile
7 alternate voting location; and

8 G. the costs of voting equipment and personnel for
9 the alternate voting or mobile alternate voting locations on
10 Indian nation, tribal or pueblo land pursuant to this section
11 are reimbursed to the county by the secretary of state."

12 **SECTION 68.** Section 1-6-6 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 132, as amended) is amended to read:

14 "1-6-6. BALLOT REGISTER.--

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

18 (1) the name and address of each absentee
19 ballot applicant;

20 (2) the date and time of receipt of the
21 application;

22 (3) whether the application was accepted or
23 rejected;

24 (4) the date of issue of an absentee ballot
25 at an early voting location or the mailing of an absentee

1 ballot to the applicant;

2 (5) the applicant's precinct;

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

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

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

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

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

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

20 (3) the applicant's precinct;

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

23 (5) whether the voter is required to submit
24 a documentary identification pursuant to Section 1-6-5 NMSA
25 1978; and

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

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

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

16 E. Upon request, the county clerk shall transmit
17 to the county chair of each of the political parties
18 participating in a partisan election in the county a complete
19 copy of entries made in the absentee ballot register. Such
20 transmissions shall be made once each week beginning four
21 weeks immediately prior to the election. A final copy shall
22 be transmitted on the Saturday immediately following the
23 election.

24 F. If the county clerk has available the
25 technology to do so, at the request of a candidate or chair

1 of a political party of the county, the county clerk shall
2 electronically transmit to the candidate or chair via the
3 internet the information, when updated, on the absentee
4 ballot register indicating voters who have requested absentee
5 ballots, returned their absentee ballots or voted early in
6 person."

7 **SECTION 69.** Section 1-6-8 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 134, as amended) is amended to read:

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

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

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

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

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

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

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

1 to and from the county clerk and voters shall be printed in
2 black in substantially similar form. All official inner
3 envelopes shall be printed in black.

4 C. The reverse of each official mailing envelope
5 shall contain a form to be executed by the voter completing
6 the mailed ballot. The form shall identify the voter and
7 shall contain the following statement: "I have not and will
8 not vote any other ballot in this election". The official
9 mailing envelope shall contain a space for the voter to
10 record the voter's name, registration address and year of
11 birth. The envelope shall have a security flap to cover this
12 information."

13 SECTION 70. Section 1-6-9 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 135, as amended) is amended to read:

15 "1-6-9. MAILED BALLOTS--MANNER OF VOTING--DELIVERY
16 METHODS.--

17 A. When voting a mailed ballot, the voter shall
18 secretly mark the mailed ballot in the manner provided in the
19 Election Code for marking paper ballots, place it in the
20 official inner envelope and securely seal the envelope. The
21 voter shall then place the official inner envelope inside the
22 official mailing envelope and securely seal the envelope.
23 The voter shall then complete the form on the reverse of the
24 official mailing envelope, which shall include a statement by
25 the voter under penalty of perjury that the facts stated in

1 the form are true and the voter's name, registration address
2 and year of birth. The voter or another person authorized by
3 law shall then return the official mailing envelope
4 containing the voted ballot to the county clerk of the
5 voter's county of residence. If returned by a person other
6 than the voter, the official mailing envelope shall contain
7 the signature, printed name and relationship to the voter of
8 the person returning the ballot.

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

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

20 D. The official mailing envelope may be returned
21 in person to the office of the county clerk or to an
22 alternate voting location, mobile alternate voting location
23 or election day voting location.

24 E. The official mailing envelope may be returned
25 by depositing the official mailing envelope in a secured

1 container made available by the county clerk to receive voted
2 mailed ballots for that election; provided that:

3 (1) the location of the containers and the
4 days and times the containers will be available to receive
5 ballots are posted by the county clerk at least ninety days
6 before a statewide election or forty-two days before a
7 special election;

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

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

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

20 (a) that it is a violation of law for
21 any person who is not an immediate family member to collect
22 and deliver a ballot for another person;

23 (b) that electioneering is prohibited
24 within one hundred feet of the secured container; and

25 (c) of the dates and approximate time

1 the ballots will be collected; and

2 (5) at least once a day, the county clerk or
3 a full-time deputy county clerk shall collect the ballots
4 from the secured containers, register the date and time stamp
5 on each official mailing envelope and identify the location
6 of the secured container in the ballot register."

7 SECTION 71. Section 1-6-10 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 136, as amended) is amended to read:

9 "1-6-10. RECEIPT OF MAILED BALLOTS BY CLERK.--

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

18 B. In a statewide election, if the unopened
19 official mailing envelope is received by the county clerk
20 from an election board before the absent voter election board
21 has adjourned, the unopened official mailing envelope shall
22 be logged and transmitted to the absent voter election board
23 to be tallied immediately. If the unopened official mailing
24 envelope is received by the county clerk from an election
25 board after the absent voter election board has adjourned,

1 the unopened official mailing envelope shall be logged and
2 transmitted to be tallied and included in the canvass report
3 of that county for the appropriate precinct.

4 C. Completed official mailing envelopes shall be
5 accepted until 7:00 p.m. on election day.

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

17 SECTION 72. Section 1-6-10.1 NMSA 1978 (being Laws
18 2003, Chapter 357, Section 5, as amended) is amended to read:

19 "1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--

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

25 B. As used in this section, "immediate family"

1 means the spouse, children, parents or siblings of a voter."

2 SECTION 73. Section 1-6-14 NMSA 1978 (being Laws 1971,
3 Chapter 317, Section 11, as amended) is amended to read:

4 "1-6-14. HANDLING MAILED BALLOTS.--

5 A. At any time after mailed ballots have been sent
6 to voters and until the fifth day before the election, the
7 county clerk may convene an election board to meet during the
8 normal business hours of the office of the county clerk to
9 qualify the mailed ballots that are returned. Before opening
10 an official mailing envelope, the presiding judge and the
11 election judges shall determine that the required information
12 has been completed on the reverse side of the official
13 mailing envelope.

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

24 C. A lawfully appointed challenger may view the
25 official mailing envelope and may challenge the ballot of any

1 mailed ballot voter for the following reasons:

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

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

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

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

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

18 E. If the official mailing envelope has been
19 properly subscribed and the voter has not been challenged,
20 the judges or election clerks shall enter the voter's name
21 and residence address as shown on the official mailing
22 envelope and shall make the appropriate notation opposite the
23 voter's name in the "Notations" column of the register.

24 F. For any election in which fewer than ten
25 thousand mailed ballots were sent to the voters of a county,

1 only between 8:00 a.m. and 10:00 p.m. on the five days
2 preceding the election, and beginning at 7:00 a.m. on
3 election day, under the personal supervision of the presiding
4 election judge, shall the election judges open the official
5 mailing envelope and the official inner envelope and insert
6 the enclosed ballot into an electronic voting machine to be
7 registered and retained until votes are counted and canvassed
8 following the closing of the polls on election night.

9 G. For any election in which ten thousand or more
10 mailed ballots were sent to the voters of a county, only
11 during the regular business hours of the office of the county
12 clerk during the two weeks preceding the election, between
13 8:00 a.m. and 10:00 p.m. on the four days preceding the
14 election and beginning at 7:00 a.m. on election day, under
15 the personal supervision of the presiding election judge,
16 shall the election judges open the official mailing envelope
17 and the official inner envelope and insert the enclosed
18 ballot into an electronic voting machine to be registered and
19 retained until votes are counted and canvassed following the
20 closing of the polls on election night.

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

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

4 J. If a mailed ballot is rejected for any reason,
5 it shall be handled in the same manner as a disqualified
6 provisional paper ballot in accordance with the Election
7 Code."

8 SECTION 74. Section 1-6-16 (being Laws 1969, Chapter
9 240, Section 141, as amended) is repealed and a new Section
10 1-6-16 NMSA 1978 is enacted to read:

11 "1-6-16. MAILED BALLOTS--REPLACEMENT AND PROVISIONAL
12 PAPER BALLOTS.--

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

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

24 (1) communicates with the office of the
25 county clerk and requests a replacement mailed ballot be

1 delivered to the voter; and

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

5 C. A voter shall be issued a replacement ballot to
6 be filled out and fed by the voter into the electronic vote
7 tabulator if the voter:

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

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

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

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

23 D. If the county clerk does not have real-time
24 synchronization between the early voting locations and the
25 qualification of mailed ballots, a voter shall be issued a

1 provisional paper ballot to be filled out and delivered to
2 the county clerk for tabulation during the county canvass if:

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

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

9 E. A provisional paper ballot issued pursuant to
10 this section shall be qualified and tabulated once the county
11 clerk determines that the voter did not vote any other ballot
12 in the same election and if no challenge is successfully
13 interposed.

14 F. The secretary of state shall prescribe the form
15 of the affidavit and the manner in which the county clerk
16 shall void the previously requested absentee ballot."

17 **SECTION 75.** Section 1-6-16.1 NMSA 1978 (being Laws
18 1989, Chapter 368, Section 1, as amended) is amended to read:

19 "1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
20 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
21 COUNTING.--

22 A. A voter who applies for a mailed ballot but has
23 not received or returned the ballot by mail as of the date of
24 the election may go to the voter's assigned polling place or
25 a voter convenience center and, after executing an affidavit

1 stating that the person did not and will not vote the mailed
2 ballot that was issued, shall be permitted to vote on a
3 provisional paper ballot.

4 B. If the county clerk has real-time
5 synchronization between the election-day polling places and
6 the qualification of ballots received by mail, the voter
7 shall be issued a replacement ballot to be filled out and fed
8 by the voter into the electronic vote tabulator."

9 SECTION 76. Section 1-6-16.2 NMSA 1978 (being Laws
10 1993, Chapter 353, Section 1, as amended) is amended to read:

11 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

12 A. After the close of the period for requesting a
13 mailed ballot, any voter who is unable to go to the polls due
14 to unforeseen illness or disability resulting in the voter's
15 confinement in a hospital, sanatorium, nursing home or
16 residence and who is unable to vote in person may request in
17 writing that a provisional paper ballot be made available to
18 the voter. The written request shall be signed by the voter
19 and a health care provider under penalty of perjury.

20 B. The provisional paper ballot shall be made
21 available by the county clerk of the county in which the
22 voter resides to any authorized representative of the voter
23 who through the representative has presented the written
24 request to the office of the county clerk.

25 C. The voter shall mark the provisional paper

1 ballot, place it in an identification envelope, fill out and
2 sign the envelope and return the ballot to the office of the
3 county clerk of the county in which the voter resides no
4 later than the time of closing of the polls on election day.
5 A provisional paper ballot issued pursuant to this section
6 shall be qualified and tabulated once the county clerk
7 determines that the person did not cast any other ballot and
8 if no challenge is successfully interposed."

9 SECTION 77. Section 1-6B-2 NMSA 1978 (being Laws 2015,
10 Chapter 145, Section 26, as amended) is amended to read:

11 "1-6B-2. DEFINITIONS.--As used in the Uniform Military
12 and Overseas Voters Act:

13 A. "federal postcard application" means the
14 application prescribed under the federal Uniformed and
15 Overseas Citizens Absentee Voting Act;

16 B. "federal write-in absentee ballot" means the
17 ballot approved pursuant to the federal Uniformed and
18 Overseas Citizens Absentee Voting Act; and

19 C. "military-overseas ballot" means a ballot sent
20 to a federal qualified elector by the county clerk or cast in
21 accordance with the provisions of the Uniform Military and
22 Overseas Voters Act."

23 SECTION 78. Section 1-6B-3 NMSA 1978 (being Laws 2015,
24 Chapter 145, Section 27, as amended) is amended to read:

25 "1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT

1 MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS
2 VOTERS ACT.--

3 A. The procedures in the Uniform Military and
4 Overseas Voters Act apply to elections conducted pursuant to
5 the Election Code.

6 B. A federal qualified elector may vote for all
7 candidates and on all ballot questions as if the voter were
8 able to cast a ballot in person.

9 C. The form of the military-overseas ballot shall
10 be the same as the ballot provided to all other voters. The
11 form of the military-overseas ballot materials shall be the
12 same as the ballot materials provided to all other voters,
13 except as required by the Uniform Military and Overseas
14 Voters Act.

15 D. To receive the benefits of the Uniform Military
16 and Overseas Voters Act, a federal qualified elector shall
17 inform the county clerk that the individual is a federal
18 qualified elector. Methods of informing the county clerk
19 include:

20 (1) the use of a federal postcard
21 application or federal write-in absentee ballot;

22 (2) the use of an army post office, fleet
23 post office or diplomatic post office address in the correct
24 format as a mailing address on a certificate of registration
25 or as a delivery address on an absentee ballot application;

1 (3) the use of an overseas address as a
2 mailing address on a certificate of registration or as a
3 delivery address on an absentee ballot application; or

4 (4) the inclusion on a certificate of
5 registration or an absentee ballot application or other
6 information sufficient to identify the voter as a federal
7 qualified elector."

8 SECTION 79. Section 1-6B-4 NMSA 1978 (being Laws 2015,
9 Chapter 145, Section 28, as amended) is amended to read:

10 "1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED
11 AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

12 A. The secretary of state shall make available to
13 federal qualified electors information regarding voter
14 registration procedures for federal qualified electors and
15 procedures for casting military-overseas ballots.

16 B. The secretary of state shall maintain a web
17 page dedicated to federal qualified electors. The dedicated
18 web page shall be accessible from international internet
19 connections and may be segregated from the main website for
20 the office of the secretary of state. The secretary of state
21 shall establish an electronic transmission system through
22 which a federal qualified elector may apply for and receive
23 voter registration materials, military-overseas ballots and
24 other information pursuant to the Uniform Military and
25 Overseas Voters Act. The secretary of state shall ensure

1 that the electronic transmission system is capable of
2 accepting a federal postcard application, any other approved
3 electronic registration application and any other approved
4 electronic military-overseas ballot application sent to a
5 county clerk.

6 C. Official transmittal envelopes and official
7 mailing envelopes for transmission of mailed ballot materials
8 to and from federal qualified electors shall be in the same
9 form as those used in the jurisdiction where the voter is
10 registered except as modified to comply with the Uniform
11 Military and Overseas Voters Act or federal law. The
12 secretary of state may, to the extent reasonably possible,
13 coordinate with other states to develop standardized
14 materials for voting by mail, including privacy and
15 transmission envelopes and their electronic equivalents,
16 authentication materials and voting instructions, to be used
17 with the military-overseas ballot of a voter authorized to
18 vote in any jurisdiction in this state.

19 D. The secretary of state shall prescribe the form
20 and content of a declaration for use by a federal qualified
21 elector to swear or affirm specific representations
22 pertaining to the voter's identity, eligibility to vote,
23 status as a federal qualified elector and timely and proper
24 completion of a military-overseas ballot. The declaration
25 shall be based on the declaration prescribed to accompany a

1 federal write-in absentee ballot, as modified to be
2 consistent with the Uniform Military and Overseas Voters Act.
3 The secretary of state shall ensure that a form for the
4 execution of the declaration, including an indication of the
5 date of execution of the declaration, is a prominent part of
6 all balloting materials for which the declaration is
7 required.

8 E. The secretary of state shall prescribe to the
9 county clerk the form of and distribute to each county clerk
10 a supply of:

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

13 (2) official mailing envelopes for use in
14 returning the official inner envelope to the county clerk,
15 which shall be postage-paid within the United States postal
16 system; provided that only the official mailing envelope for
17 mailed ballots in a political party primary shall contain a
18 designation of party affiliation;

19 (3) mailed ballot instructions describing
20 the proper methods for completion and return of the ballot,
21 including instructions for those federal qualified electors
22 returning a ballot electronically;

23 (4) official transmittal envelopes for use
24 by the county clerk in mailing ballot materials; and

25 (5) official holding envelopes for ballots

1 returned electronically by federal qualified electors."

2 SECTION 80. Section 1-6B-5 NMSA 1978 (being Laws 2015,
3 Chapter 145, Section 29) is amended to read:

4 "1-6B-5. METHODS OF REGISTERING TO VOTE.--

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

9 (1) using the procedures provided in Chapter
10 1, Article 4 NMSA 1978; or

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

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

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

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

22 (2) the last place of residence of the voter
23 in this state, or the last place of residence in this state
24 of the parent or legal guardian of the voter if the voter did
25 not reside in this state; provided that if that address is no

1 longer a recognized residential address, the voter shall be
2 assigned an address or other location within that precinct."

3 SECTION 81. Section 1-6B-6 NMSA 1978 (being Laws 2015,
4 Chapter 145, Section 30, as amended) is amended to read:

5 "1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS
6 BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR
7 MILITARY-OVERSEAS BALLOT.--

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

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

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

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

22 C. An application for a military-overseas ballot
23 for a primary election, whether or not timely, is effective
24 as an automatic application for a military-overseas ballot
25 for the general election.

1 D. An application for a military-overseas ballot
2 is effective as an automatic application for a military-
3 overseas ballot for a top-two runoff election necessary to
4 conclude the election for which the application was
5 submitted."

6 SECTION 82. Section 1-6B-7 NMSA 1978 (being Laws 2015,
7 Chapter 145, Section 31, as amended) is amended to read:

8 "1-6B-7. TRANSMISSION OF UNVOTED MILITARY-OVERSEAS
9 BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

10 A. Not later than forty-five days before an
11 election, even if the forty-fifth day before an election
12 falls on a weekend or a holiday, the county clerk shall
13 transmit a ballot and balloting materials to all federal
14 qualified electors who by that date submit a valid military-
15 overseas ballot application.

16 B. The county clerk shall transmit a ballot and
17 balloting materials as soon as practicable when the ballot
18 application from a federal qualified elector arrives after
19 the forty-fifth day before the election and before absentee
20 ballots are transmitted to other voters pursuant to the
21 Absent Voter Act.

22 C. The county clerk shall transmit a ballot and
23 balloting materials in accordance with the procedures for
24 processing of all other absentee ballot applications for that
25 jurisdiction when the ballot application from a federal

1 qualified elector arrives after the county clerk has begun
2 transmitting ballots and balloting materials to other voters.

3 D. A federal qualified elector may request that
4 the ballot and balloting materials be sent by secured
5 electronic transmission available to the county clerk where
6 the ballot and balloting materials are sent directly by the
7 clerk to the federal qualified elector. The clerk shall
8 determine the most reasonable expedited means of delivery for
9 a ballot and balloting materials for a federal qualified
10 elector who does not request secured electronic
11 transmission."

12 SECTION 83. Section 1-6B-8 NMSA 1978 (being Laws 2015,
13 Chapter 145, Section 32) is amended to read:

14 "1-6B-8. RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS
15 FROM FEDERAL QUALIFIED ELECTORS.--

16 A. A military-overseas ballot shall be considered
17 timely if it is received by the county clerk no later than
18 the deadline for receiving mailed ballots in Section 1-6-10
19 NMSA 1978.

20 B. A federal qualified elector may transmit, and
21 the county clerk shall accept, a military-overseas ballot by
22 secured electronic transmission available to the county clerk
23 when the military-overseas ballot is sent directly by the
24 voter to that clerk; provided that, when sending a military-
25 overseas ballot as described in this subsection:

1 (1) the federal qualified elector signs an
2 affidavit waiving the right of secrecy of the federal
3 qualified elector's ballot;

4 (2) the federal qualified elector transmits
5 the affidavit with the military-overseas ballot; and

6 (3) the county clerk places the received
7 ballot in a holding envelope provided by the secretary of
8 state for this purpose and delivers the ballot to the
9 appropriate election board."

10 SECTION 84. Section 1-6B-9 NMSA 1978 (being Laws 2015,
11 Chapter 145, Section 33) is amended to read:

12 "1-6B-9. EMERGENCY RESPONSE PROVIDERS.--

13 A. An emergency response provider may benefit from
14 the ability to apply for a mailed ballot and to return the
15 marked ballot in the same manner as provided in the Uniform
16 Military and Overseas Voters Act for federal qualified
17 electors; provided that the emergency response provider may
18 not use the federal postcard application or the federal
19 write-in absentee ballot.

20 B. The county clerk shall transmit to, receive
21 from and process a mailed ballot of an emergency response
22 provider in the same manner as provided in the Uniform
23 Military and Overseas Voters Act for a federal qualified
24 elector.

25 C. As used in this section, "emergency response

1 provider" means a resident of this state who otherwise
2 satisfies this state's voter eligibility requirements and
3 who, in response to an emergency, is temporarily assigned by
4 a governmental or nongovernmental relief agency or employer
5 to provide support to the victims of the emergency or to
6 rebuild the infrastructure in the affected area and:

7 (1) the assignment is for a period beginning
8 on or after the thirty-five days immediately prior to an
9 election;

10 (2) the affected area is outside the
11 individual's county of residence; and

12 (3) the president of the United States or
13 the governor of a state has declared an emergency in the
14 affected area."

15 SECTION 85. Section 1-6B-10 NMSA 1978 (being Laws 2015,
16 Chapter 145, Section 34) is amended to read:

17 "1-6B-10. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
18 QUALIFICATION.--

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

22 B. In completing the federal write-in absentee
23 ballot, the federal qualified elector may designate a
24 candidate by writing in the name of the candidate. In a
25 general election when voting for a specified office, a

1 federal qualified elector may in the alternate complete the
2 federal write-in absentee ballot by writing in the name of a
3 political party, in which case the ballot shall be counted
4 for the candidate of that political party.

5 C. A qualified federal write-in absentee ballot
6 shall be processed by the canvassing board in the same manner
7 as a provisional ballot. A federal write-in absentee ballot
8 from a federal qualified elector shall not be qualified if
9 the federal qualified elector voted on any other type of
10 ballot. A federal write-in absentee ballot of an overseas
11 voter shall not be qualified if the ballot is submitted from
12 any location in the United States."

13 SECTION 86. Section 1-6B-12 NMSA 1978 (being Laws 2015,
14 Chapter 145, Section 36) is amended to read:

15 "1-6B-12. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

16 A. The county clerk shall request an electronic-
17 mail address from each federal qualified elector who
18 registers to vote. An electronic-mail address provided by a
19 federal qualified elector shall not be made available to the
20 public and is exempt from disclosure pursuant to the
21 Inspection of Public Records Act. The electronic-mail
22 address may be used only for official communication with the
23 voter about the voting process, including the secured
24 transmission of military-overseas ballots and ballot
25 materials if the voter has requested secured transmission,

1 and verifying the voter's mailing address and physical
2 location. The request for an electronic-mail address shall
3 describe the purposes for which the electronic-mail address
4 may be used and include a statement that any other use or
5 disclosure of the electronic-mail address is prohibited.

6 B. If a mailed ballot is transmitted to a federal
7 qualified elector via secured transmission, the county clerk
8 shall note in the ballot register the voter's registration
9 address, that the ballot was delivered to the voter
10 electronically and the date on which it was sent, but shall
11 not disclose the voter's electronic-mail address.

12 C. A federal qualified elector who provides an
13 electronic-mail address may request that the voter's
14 application for a military-overseas ballot be considered a
15 standing request for secured electronic delivery of a ballot
16 for all elections in the election cycle. The county clerk
17 shall provide a military-overseas ballot to a voter who makes
18 a standing request for each election to which the request is
19 applicable as an automatic application for a military-
20 overseas ballot."

21 SECTION 87. Section 1-8-2 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 152, as amended by Laws 2014, Chapter
23 40, Section 3 and by Laws 2014, Chapter 81, Section 3) is
24 amended to read:

25 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--

1 CONVENTION--DESIGNATED NOMINEES.--

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

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

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

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

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

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

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

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

14 (1) in the county for countywide offices;
15 and

16 (2) in the district for offices other than
17 countywide offices.

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

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

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

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

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

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

22 **SECTION 88.** Section 1-8-7 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 157, as amended) is amended to read:

24 "1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF
25 CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE

1 PRIMARY.--

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

7 (1) the death of a candidate after filing of
8 the declaration of candidacy or after certification as a
9 convention-designated nominee and before the primary
10 election;

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

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

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

25 C. The name of the person to fill the vacancy on

1 the general election ballot shall be filed with the proper
2 filing officer on a form approved by the secretary of state
3 on the twenty-third day after the primary election, along
4 with a declaration of candidacy subscribed and sworn by the
5 selected nominee and the required form for candidates
6 pursuant to the Campaign Reporting Act.

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

10 SECTION 89. Section 1-8-8 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 158, as amended) is amended to read:

12 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
13 AFTER PRIMARY.--

14 A. If after a primary election, but seventy or
15 more days before the general election, a vacancy occurs, for
16 any cause, in the list of the nominees of a qualified
17 political party for any public office to be filled in the
18 general election, or a vacancy occurs because of the
19 resignation or death of a person holding a public office not
20 included in the secretary of state's general election
21 proclamation and which office is required by law to be filled
22 at the next succeeding general election, or a vacancy occurs
23 because a new public office is created and was not included
24 in the secretary of state's general election proclamation but
25 is capable by law of being filled at the next succeeding

1 general election, the vacancy on the general election ballot
2 may be filled by:

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

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

14 B. Appointments made pursuant to Subsection A of
15 this section shall qualify pursuant to Section 1-8-18 NMSA
16 1978.

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

23 D. Appointments to fill vacancies in the list of a
24 party's nominees shall be made and filed with the proper
25 filing officer using a form approved by the secretary of

1 state at least sixty-three days prior to the general
2 election, along with a declaration of candidacy subscribed
3 and sworn by the selected nominee and the required form for
4 candidates pursuant to the Campaign Reporting Act.

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

8 **SECTION 90.** Section 1-8-12 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 161, as amended) is amended to read:

10 "1-8-12. PRIMARY ELECTION LAW--PROCLAMATION CALLING
11 PRIMARY AND GENERAL ELECTIONS.--

12 A. The secretary of state shall issue a public
13 proclamation calling a general election to be held in each
14 county and precinct of the state on the date prescribed by
15 Article 20, Section 6 of the constitution of New Mexico.

16 B. The general election proclamation shall also
17 call a primary election for the nomination of general
18 election candidates by each major political party to be held
19 in each county and precinct of the state on the date
20 prescribed by the Primary Election Law.

21 C. The proclamation shall be filed by the
22 secretary of state in the office of the secretary of state on
23 the last Monday in January of each even-numbered year."

24 **SECTION 91.** Section 1-8-13 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 162, as amended) is amended to read:

1 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
2 PROCLAMATION.--The general election proclamation calling a
3 primary and general election shall contain:

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

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

16 C. the date on which declarations of candidacy and
17 nominating petitions for United States representative, any
18 office voted upon by all the voters of the state, a
19 legislative office, the office of district judge, district
20 attorney, public education commission, public regulation
21 commission or magistrate shall be filed and the places where
22 they shall be filed in order to have the candidates' names
23 printed on the official ballot of their party at the primary
24 election or in order to have the candidates' names printed on
25 the official ballot at the general election, as applicable;

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

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

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

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

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

22 I. the date on which declarations of candidacy for
23 unaffiliated candidates shall be filed and the places where
24 the declarations of candidacy shall be filed in order to have
25 the unaffiliated candidate names printed on the official

1 ballot of the general election;

2 J. the date on which declarations of candidacy for
3 nonpartisan judicial retention shall be filed and the places
4 where the declarations of candidacy shall be filed in order
5 to have the judicial retention names printed on the official
6 ballot of the general election; and

7 K. the date on which declarations to be a write-in
8 candidate are to be filed and the places where the
9 declarations of candidacy shall be filed in order to have
10 write-in votes counted and canvassed at the political party
11 primary or general election."

12 SECTION 92. Section 1-8-18 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 167, as amended) is amended to read:

14 "1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A
15 CANDIDATE.--

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

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

23 (2) residence in the district of the office
24 for which the person is a candidate on the date of the
25 secretary of state's general election proclamation or in the

1 case of a person seeking the office of United States senator
2 or United States representative, residence within New Mexico
3 on the date of the secretary of state's general election
4 proclamation.

5 B. A voter may challenge the candidacy of a person
6 seeking nomination by a political party for the reason that
7 the person does not meet the requirements of Subsection A of
8 this section by filing a petition in the district court
9 within ten days after the last day for filing a declaration
10 of candidacy or a statement of candidacy for convention
11 designation. The district court shall hear and render a
12 decision on the matter within ten days after the filing of
13 the petition. The decision of the district court may be
14 appealed to the supreme court within five days after the
15 decision is rendered. The supreme court shall hear and
16 render a decision on the appeal forthwith."

17 SECTION 93. Section 1-8-26 NMSA 1978 (being Laws 1975,
18 Chapter 295, Section 12, as amended) is amended to read:

19 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--
20 DOCUMENTS NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

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

1 5:00 p.m.

2 B. Declarations of candidacy for any other office
3 to be nominated in the primary election shall be filed with
4 the proper filing officer on the second Tuesday of March of
5 each even-numbered year between the hours of 9:00 a.m. and
6 5:00 p.m.

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

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

19 E. If a person is notified by the proper filing
20 officer that the person is not qualified to be a candidate,
21 the person may challenge that decision by filing a petition
22 with the district court within ten days of the notification.
23 The district court shall hear and render a decision on the
24 matter within ten days after the petition is filed. The
25 decision of the district court may be appealed to the supreme

1 court within five days after the decision is rendered. The
2 supreme court shall hear and render a decision on the appeal
3 forthwith."

4 SECTION 94. Section 1-8-29 NMSA 1978 (being Laws 1973,
5 Chapter 228, Section 3, as amended by Laws 1993, Chapter 55,
6 Section 5 and by Laws 1993, Chapter 314, Section 46 and also
7 by Laws 1993, Chapter 316, Section 46) is amended to read:

8 "1-8-29. PRIMARY ELECTION LAW--DECLARATION OF
9 CANDIDACY--FORM.--In making a declaration of candidacy by
10 nominating petition or by pre-primary convention designation,
11 the candidate shall submit substantially the following form:

12 "DECLARATION OF CANDIDACY

13 BY PRE-PRIMARY CONVENTION DESIGNATION

14 (OR BY NOMINATING PETITION)

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

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

25 I desire to become a candidate for the office of

1 _____ at the primary election to be held on
2 the date set by law for this year, and if the office be that
3 of a member of the legislature or that of a member of the
4 public education commission, that I actually reside at the
5 address designated on my certificate of voter registration;

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

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

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

15 _____
16 (Declarant)

17 _____
18 (Mailing Address)

19 _____
20 (Residence Address)

21 Subscribed and sworn to before me this ____ day of
22 _____, 20 ____.

23 _____
24 (Notary Public)

25 My commission expires:

"."

SECTION 95. 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 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. 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 write-in candidate shall be considered a candidate for all purposes and provisions

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

5 SECTION 96. Section 1-8-45 NMSA 1978 (being Laws 1977,
6 Chapter 322, Section 1, as amended) is amended to read:

7 "1-8-45. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
8 STATES REPRESENTATIVE ELECTIONS--DEFINITION.--

9 A. As used in the Election Code, an independent
10 candidate means a person who:

11 (1) is a candidate for any state or county
12 office to be voted on at a general election:

13 (a) whose certificate of voter
14 registration shows affiliation with no qualified political
15 party on the date of the secretary of state's general
16 election proclamation and, if applicable, shows residence on
17 the date of the secretary of state's proclamation in the
18 district or county of the office for which the person is a
19 candidate; and

20 (b) who has complied with the
21 nomination procedures set forth in the Election Code for
22 independent candidates;

23 (2) is a candidate for United States senator
24 or United States representative:

25 (a) whose certificate of voter

1 registration, if any, shows affiliation with no qualified
2 political party on the date of the secretary of state's
3 general election proclamation;

4 (b) who will be a resident of New
5 Mexico when elected; and

6 (c) who has complied with the
7 nomination procedures set forth in the Election Code for
8 independent candidates; or

9 (3) is a candidate for the office of
10 president or vice president who:

11 (a) has complied with the nomination
12 procedures set forth in the Election Code for independent
13 candidates; and

14 (b) was not a major party candidate for
15 the same office on the primary election ballot.

16 B. No person shall become an independent candidate
17 for any office, and the person's name shall not be printed on
18 the general election ballot, unless the person complies with
19 the requirements of this section.

20 C. Any voter may challenge the candidacy of any
21 person seeking to become an independent candidate for any
22 office for the reason that the person does not meet the
23 requirements of this section or because the nominating
24 petitions, if required, do not meet the requirements of
25 Section 1-8-31 NMSA 1978 by filing a petition in the district

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

8 SECTION 97. Section 1-8-48 NMSA 1978 (being Laws 1977,
9 Chapter 322, Section 4, as amended) is amended to read:

10 "1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
11 STATES REPRESENTATIVE ELECTIONS--DECLARATION OF INDEPENDENT
12 CANDIDACY AND NOMINATING PETITION.--

13 A. Nomination as an independent candidate shall be
14 made by filing a declaration of independent candidacy and a
15 nominating petition with the proper filing officer.

16 B. In making a declaration of independent
17 candidacy, the candidate for an office other than that of
18 president or vice president shall submit a sworn statement in
19 the following form:

20 "DECLARATION OF INDEPENDENT CANDIDACY

21 I, _____ (candidate's
22 name), being first duly sworn, say that:

23 I reside at _____;

24 I did not designate any current affiliation
25 with a qualified political party on my certificate

1 of registration on or before the date of issuance
2 of the secretary of state's general election
3 proclamation in the year of the general election at
4 which I seek to be a candidate;

5 I meet the qualifications listed in Section
6 1-8-45 NMSA 1978 for the office that I seek;

7 I desire to become a candidate for the office
8 of _____, District _____
9 at the general election to be held on the date set
10 by law for this year;

11 if the office I seek be a state or county
12 district office, I actually reside within the
13 district of the office for which I declare my
14 candidacy, and if the office I seek be a countywide
15 office, I actually reside in the county of the
16 office for which I declare my candidacy;

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

19 if a candidate for any office for which a
20 nominating petition is required, I am submitting
21 with this statement a nominating petition in the
22 form and manner as prescribed by the Election Code;
23 and

24 I make the foregoing affidavit under oath or
25 affirmation knowing that any false statement herein

1 constitutes a felony punishable under the criminal
2 laws of New Mexico.

3 _____
4 (Declarant)

5 _____
6 (Residence Address)

7 _____
8 (Mailing Address, if different)

9 Subscribed and sworn to or affirmed before me
10 this ____ day of _____, ____.
11 (month) (year)

12 _____
13 (Notary Public)

14 My commission expires:
15 _____".

16 C. The secretary of state shall prescribe and
17 furnish the form for the declaration of independent candidacy
18 for the office of president and vice president."

19 SECTION 98. Section 1-8-51 NMSA 1978 (being Laws 1977,
20 Chapter 322, Section 7, as amended) is amended to read:

21 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
22 STATES REPRESENTATIVE ELECTIONS--NOMINATING
23 PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

24 A. The basis of percentage for the total number of
25 votes cast in each instance referred to in this section shall

1 be the total vote cast for governor at the last preceding
2 general election at which a governor was elected.

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

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

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

16 E. Nominating petitions for an independent
17 candidate for a member of the legislature, public regulation
18 commission, district judge, district attorney, member of the
19 public education commission, magistrate or county office
20 shall be signed by a number of voters equal to at least two
21 percent of the total number of votes cast in the district,
22 division or county, as the case may be.

23 F. When a vacancy for any office occurs on the
24 general election ballot pursuant to Section 1-8-7 or 1-8-8
25 NMSA 1978 in which all political parties may name a general

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

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

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

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

25 **SECTION 99.** Section 1-10-4 NMSA 1978 (being Laws 1977,

1 Chapter 222, Section 27, as amended) is amended to read:

2 "1-10-4. BALLOTS--PREPARATION.--

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

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

20 C. In a regular local election, not less than
21 sixty days before the election, each county clerk shall
22 certify in writing the ballot for each precinct in the county
23 containing the name of each candidate who has been qualified
24 by a proper filing officer, a space for any offices with a
25 declared write-in candidate and any ballot questions to be

1 voted on at the regular local election.

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

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

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

21 G. In an election to fill a vacancy in the office
22 of United States representative in extraordinary
23 circumstances pursuant to 2 U.S.C. Section 8(b), not more
24 than seventeen days after the announcement of a vacancy in
25 the office of United States representative, the secretary of

1 state shall certify in writing the ballot containing the name
2 of each candidate that has been certified as the nominee of a
3 qualified political party, each unaffiliated candidate who
4 has been qualified and a space for any declared write-in
5 candidate to be voted on at the election to fill a vacancy in
6 the office of United States representative.

7 H. On the date specified for each election in this
8 section, each ballot certified pursuant to this section shall
9 be sent to the ballot printer or other person preparing the
10 ballot for use by voters and sent to the secretary of state
11 to keep on file for twelve months, after which the certified
12 ballot shall be transferred to be a permanent record at the
13 state records center. Upon request of the county chair of a
14 political party participating in a partisan election, the
15 county clerk shall furnish proof sheets or a copy of the
16 proof sheets of the certified ballot as soon as they become
17 available."

18 SECTION 100. Section 1-10-5 NMSA 1978 (being Laws 1977,
19 Chapter 222, Section 28, as amended) is amended to read:

20 "1-10-5. BALLOTS--PRINTING.--The county clerk shall
21 have access to sufficient ballots to send to federal
22 qualified electors no later than the last business day before
23 the forty-fifth day prior to an election. All other pre-
24 printed ballots shall be in the possession of the county
25 clerk at least forty days before the election. When a county

1 is using a system that is designed to print ballots at a
2 polling location, the system shall be programmed and capable
3 of operation at least forty days before the election."

4 SECTION 101. Section 1-10-6 NMSA 1978 (being Laws 1977,
5 Chapter 222, Section 29, as amended by Laws 1993, Chapter
6 314, Section 52 and also by Laws 1993, Chapter 316, Section
7 52) is amended to read:

8 "1-10-6. BALLOTS--NAME TO BE PRINTED--SIMILAR NAMES--
9 NAMES NOT TO BE PRINTED.--

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

16 (1) the last name printed on the ballot
17 shall match the candidate's legal last name;

18 (2) academic, honorific and elected titles
19 shall not be printed;

20 (3) periods after initials shall not be
21 printed;

22 (4) punctuation common to names, other than
23 a period, shall be printed as it appears on the candidate's
24 certificate of registration; and

25 (5) only letters and punctuation used in

1 roman typefaces shall be printed.

2 B. If it appears that the names of two or more
3 candidates for any office to be voted on at the election are
4 the same or are so similar as to tend to confuse the voter as
5 to the candidates' identities, the occupation and, if further
6 differentiation is necessary, the year of birth, of each such
7 candidate shall be printed immediately under the candidate's
8 name on the ballot.

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

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

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

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

23 (4) the voter registration of the candidate
24 is canceled for any reason provided in Chapter 1, Article 4

25 NMSA 1978."

1 SECTION 102. Section 1-10-7 NMSA 1978 (being Laws 1977,
2 Chapter 222, Section 30, as amended) is amended to read:

3 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
4 EXCEPTIONS.--

5 A. In a primary or general election, no
6 candidate's name shall appear more than once on the ballot,
7 except in the case of a candidate who is also a candidate for
8 president or vice president of the United States.

9 B. In a regular local election, a candidate's
10 name:

11 (1) shall not appear more than once to be
12 elected to any position with the same local government; and

13 (2) may appear more than once to be elected
14 to any position with different local governments."

15 SECTION 103. Section 1-10-8 NMSA 1978 (being Laws 1977,
16 Chapter 222, Section 31, as amended) is repealed and a new
17 Section 1-10-8 NMSA 1978 is enacted to read:

18 "1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT
19 QUESTIONS.--

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

24 (1) in a presidential primary, president;

25 (2) in a general election, president and

1 vice president as a ticket;

2 (3) United States senator;

3 (4) United States representative;

4 (5) state senator;

5 (6) state representative;

6 (7) supreme court;

7 (8) court of appeals;

8 (9) public regulation commission districts
9 with odd-numbered designations;

10 (10) public education commission districts
11 with odd-numbered designations;

12 (11) district court;

13 (12) metropolitan court;

14 (13) county clerk;

15 (14) county treasurer; and

16 (15) county commission districts and
17 positions with odd-numbered designations.

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

22 (1) United States senator;

23 (2) United States representative;

24 (3) in a major political party primary,
25 governor;

- 1 (4) in a major political party primary,
2 lieutenant governor;
- 3 (5) in a general election, governor and
4 lieutenant governor as a ticket;
- 5 (6) secretary of state;
- 6 (7) attorney general;
- 7 (8) state auditor;
- 8 (9) state treasurer;
- 9 (10) commissioner of public lands;
- 10 (11) state representative;
- 11 (12) supreme court;
- 12 (13) court of appeals;
- 13 (14) public regulation commission districts
14 with even-numbered designations;
- 15 (15) public education commission districts
16 with even-numbered designations;
- 17 (16) district court;
- 18 (17) district attorney;
- 19 (18) metropolitan court;
- 20 (19) magistrate court;
- 21 (20) county sheriff;
- 22 (21) county assessor;
- 23 (22) county commission districts and
24 positions with even-numbered designations; and
- 25 (23) probate judge.

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

4 (1) municipal, with elective executive
5 officers listed first, governing board members listed second
6 and judicial officers listed third;

7 (2) board of education of a school district;

8 (3) community college, branch community
9 college, technical and vocational institute district or
10 learning center district; and

11 (4) special districts listed in order by
12 voting population of each special district, with the most
13 populous listed first and the least populous listed last.

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

19 (1) judicial retention;

20 (2) proposed state constitutional
21 amendments;

22 (3) other state ballot questions;

23 (4) county ballot questions; and

24 (5) local government ballot questions listed
25 in the same order as the list of local governments in

1 Subsection C of this section.

2 E. When multiple positions for the same
3 nonjudicial office are listed on the same ballot and each
4 position is to be elected individually:

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

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

15 (3) whenever two or more positions for the
16 same office are to be elected to represent the same area with
17 terms of different lengths of time, the secretary of state
18 shall first group the offices with the shorter length of time
19 and shall designate each position with "for a term expiring
20 ___", specifying the date the term expires.

21 F. When multiple positions for the same judicial
22 office are listed on the same ballot and each position is to
23 be elected or voted on individually:

24 (1) district, metropolitan and magistrate
25 court positions, either for partisan election or for

1 nonpartisan judicial retention, shall appear on the ballot in
2 ascending numerical order of the division number assigned to
3 each position;

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

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

19 SECTION 104. Section 1-10-8.1 NMSA 1978 (being Laws
20 1981, Chapter 166, Section 1, as amended) is amended to read:

21 "1-10-8.1. BALLOTS--ORDER OF CANDIDATE NAMES--PARTY
22 POSITION ON BALLOT.--

23 A. Except as provided in this section, the order
24 of candidates for the same office in a statewide election
25 shall be determined using a randomization method provided by

1 rule based on candidate name or determined by lot.

2 B. In a general election, the order of candidates
3 for the same office shall be determined using a randomization
4 method provided by rule based on political party or candidate
5 name or determined by lot.

6 C. Candidates designated and certified by state
7 convention pursuant to Section 1-8-21.1 NMSA 1978 shall be
8 placed on the respective political party primary ballot
9 before other candidates for the same office in descending
10 order of the vote received at the applicable state
11 convention; provided that the order of names on the
12 respective political party primary ballot of two or more
13 candidates receiving an equal number of votes for designation
14 by convention for the same office shall be determined using a
15 randomization method provided by rule based on candidate name
16 or determined by lot."

17 **SECTION 105.** Section 1-10-13 NMSA 1978 (being Laws
18 1977, Chapter 222, Section 50, as amended) is amended to
19 read:

20 "1-10-13. BALLOTS--WRITE-IN CANDIDATES.--When a write-
21 in candidate has been qualified by the proper filing officer
22 pursuant to the Election Code:

23 A. a space for entering the name of the write-in
24 candidate shall be clearly designated by the use of the
25 heading "Declared Write-in Candidate" after the listing of

1 other candidates for that office; and

2 B. the write-in candidate's name shall not be pre-
3 printed on the ballot, nor displayed or otherwise provided in
4 any polling place by any election official or member of an
5 election board."

6 SECTION 106. Section 1-11-1 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 211) is amended to read:

8 "1-11-1. NOTICE OF ELECTION.--The county clerk shall,
9 at least twenty-one days prior to a statewide election, give
10 notice of the election."

11 SECTION 107. Section 1-11-2 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 212, as amended) is amended to read:

13 "1-11-2. NOTICE OF ELECTION--CONTENTS.--The notice of
14 election shall, as applicable:

15 A. give notice of the election;

16 B. set forth the purpose of the election;

17 C. list the ballot question or questions to be
18 voted on by voters of any precinct of the county other than
19 those questions that have been published by the secretary of
20 state;

21 D. list the final day and time when absentee or
22 mailed ballots will be accepted by the county clerk; and

23 E. for a statewide election:

24 (1) list the offices to be filled by voters
25 of any precinct of the county;

1 (2) list all qualified candidates for those
2 offices whose names shall appear on the ballot and, except in
3 the case of a regular local election, list their party
4 affiliation;

5 (3) list all qualified candidates for
6 nonpartisan judicial retention;

7 (4) list all qualified declared write-in
8 candidates for each of the offices to be filled; and

9 (5) give the address or location and the
10 hours of operation where the election is to be held at:

11 (a) the office of the county clerk;

12 (b) each alternate voting location and
13 mobile alternate voting location; and

14 (c) each election day polling place."

15 **SECTION 108.** Section 1-11-3 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 213, as amended) is amended to read:

17 "1-11-3. NOTICE OF ELECTION--PUBLICATION--POSTING.--

18 A. The notice of election shall be published at
19 least once, not more than twenty-one nor less than seven days
20 before election day.

21 B. The notice of election shall be published in a
22 legal newspaper as provided in Section 14-11-2 NMSA 1978.

23 C. If no legal newspaper is published in the
24 county, the notice of election shall be published in a legal
25 newspaper of general circulation in the county.

1 D. The county clerk shall post the notice of
2 election beginning no later than twenty days before the
3 election. The county clerk shall also place on the county
4 website the proclamation for the election or provide a link
5 to the proclamation posted on the secretary of state's
6 website.

7 E. The notice of election shall be printed in
8 English and Spanish.

9 F. The notice of election shall be broadcast on a
10 radio station in the appropriate Native American languages in
11 those counties affected by the federal Voting Rights Act of
12 1965, as amended."

13 **SECTION 109.** Section 1-11-4 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 214) is amended to read:

15 "1-11-4. NOTICE OF ELECTION--ERRORS AND OMISSIONS.--

16 A. The county clerk may amend the notice of
17 election between the time of its issuance and the day of
18 election to provide for any corrections or to supply any
19 omissions.

20 B. Upon petition of any voter that an error or
21 omission has occurred in the notice of election, the district
22 court may forthwith order the county clerk to correct the
23 error or to supply the omission or immediately show cause why
24 the error should not be corrected or the omission should not
25 be supplied."

1 SECTION 110. Section 1-22-20 NMSA 1978 (being Laws
2 2018, Chapter 79, Section 33) is recompiled in Chapter 1,
3 Article 11 NMSA 1978 and is amended to read:

4 "COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--
5 ELECTION FUND ESTABLISHED.--

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

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

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

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

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

21 B. The state treasurer shall invest the election
22 fund as other state funds are invested, and all income
23 derived from the fund shall be credited directly to the fund.
24 Remaining balances at the end of a fiscal year shall remain
25 in the fund and not revert to the general fund. Money in the

1 fund is appropriated to the office of the secretary of state
2 for the purposes authorized in Subsection A of this section.
3 Money in the fund shall only be expended on warrants of the
4 department of finance and administration pursuant to vouchers
5 signed by the secretary of state or the secretary's designee.

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

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

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

12 (3) grants received by the secretary of
13 state.

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

19 SECTION 111. Section 1-12-12 NMSA 1978 (being Laws
20 1969, Chapter 240, Section 265, as amended) is amended to
21 read:

22 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
23 ASSISTANCE.--A voter may request assistance in voting only if
24 the voter:

25 A. is blind;

- 1 B. is physically disabled;
- 2 C. is unable to read or write;
- 3 D. is a member of a language minority who has an
- 4 inability to read well enough to exercise the elective
- 5 franchise; or
- 6 E. requires assistance in operating the voting
- 7 system provided for voting access for people with
- 8 disabilities."

9 **SECTION 112.** Section 1-12-19.1 NMSA 1978 (being Laws

10 1981, Chapter 156, Section 2, as amended by Laws 2014,

11 Chapter 40, Section 9 and by Laws 2014, Chapter 81, Section

12 9) is recompiled as Section 1-8-66 NMSA 1978 and amended to

13 read:

14 "1-8-66. GENERAL ELECTIONS--WRITE-IN CANDIDATES.--

15 A. A person desiring to be a write-in candidate in

16 a general election shall file with the proper filing officer

17 between 9:00 a.m. and 5:00 p.m. on the twenty-third day after

18 the primary election a declaration of intent to be a write-in

19 candidate.

20 B. The form of the declaration of intent shall be

21 prescribed by the secretary of state and shall contain a

22 sworn statement by the person that the person is qualified to

23 be a candidate for and to hold the office for which the

24 person is filing.

25 C. At the time of filing the declaration of intent

1 to be a write-in candidate, the write-in candidate shall be
2 considered a candidate for all purposes and provisions
3 relating to candidates in the Election Code, including the
4 obligation to report under the Campaign Reporting Act, except
5 that the candidate shall not be entitled to have the
6 candidate's name printed on the ballot.

7 D. The secretary of state shall, not more than ten
8 days after the filing date, certify the names of the declared
9 write-in candidates to the county clerks of every county
10 affected by such candidacy.

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

19 SECTION 113. Section 1-12-25.4 NMSA 1978 (being Laws
20 2003, Chapter 356, Section 7, as amended) is amended to read:

21 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

1 B. A provisional paper ballot shall not be counted
2 if the registered voter did not sign either the signature
3 roster or the ballot's envelope.

4 C. If there is no record of the voter ever having
5 been registered in the county, the voter shall be offered the
6 opportunity to register, the provisional paper ballot shall
7 not be counted and the voter registration certificate shall
8 be processed following the canvass of the election.

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

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

21 F. If the voter is a registered voter in the
22 county but has voted on a provisional paper ballot other than
23 the ballot of the voter's correct precinct, the county
24 canvassing board shall ensure that only those votes for the
25 positions or measures for which the voter was eligible to

1 vote are counted.

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

6 H. The county clerk shall maintain a provisional
7 ballot register that shall be in the same form and made
8 available in the same manner as the absentee ballot register
9 and the mailed ballot register. The county clerk shall
10 prepare a tally displaying the number of provisional paper
11 ballots received, the number found valid and counted, the
12 number rejected and not counted and the reason for not
13 counting the ballots as part of the canvassing process and
14 forward it to the secretary of state immediately upon
15 certification of the election.

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

20 SECTION 114. Section 1-12-31 NMSA 1978 (being Laws
21 1969, Chapter 240, Section 291, as amended) is amended to
22 read:

23 "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT
24 BOXES AND OTHER ELECTION MATERIALS.--

25 A. The following election returns and materials

1 shall not be placed in the ballot box and shall be returned
2 immediately to the county clerk along with the locked ballot
3 box:

4 (1) the number on the numbered seal affixed
5 to secure the ballot box or one ballot box key in an envelope
6 addressed to the county clerk;

7 (2) one signature roster;

8 (3) one certificate of returns for the
9 polling place;

10 (4) the envelope containing any provisional
11 paper ballots cast at the polling place;

12 (5) the envelope containing any absentee or
13 mailed ballots delivered to the polling place by the voter or
14 an immediate family member of the voter;

15 (6) the envelope containing paper ballots
16 that were not tabulated by the electronic vote tabulator;

17 (7) the envelope containing machine-
18 tabulated paper ballots with write-in votes; and

19 (8) all unused election supplies not
20 destroyed pursuant to the Election Code.

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

25 C. The election judge of the party different from

1 that of the presiding judge shall place the number on the
2 numbered seal affixed to secure the ballot box or the other
3 ballot box key in the envelope addressed to the district
4 court and immediately mail it to the district court."

5 SECTION 115. Section 1-12-57 NMSA 1978 (being Laws
6 1977, Chapter 222, Section 60, as amended) is amended to
7 read:

8 "1-12-57. PAPER BALLOTS--PROCEDURE AFTER MARKING.--
9 After marking and preparing a paper ballot in a polling
10 place, the voter:

11 A. shall not show it to any person in the polling
12 place in such a way as to reveal its contents; and

13 B. shall feed the paper ballot into the electronic
14 vote tabulator."

15 SECTION 116. Section 1-12-59 NMSA 1978 (being Laws
16 1977, Chapter 222, Section 62, as amended) is amended to
17 read:

18 "1-12-59. VIEWING MARKED PAPER BALLOT.--

19 A. A voter may, on the voter's own initiative and
20 using whatever form of communication or media chosen by the
21 voter, voluntarily communicate any information regarding:

22 (1) the name of any candidate in a candidate
23 contest for whom the voter voted or for whom the voter
24 abstained from voting;

25 (2) the affirmative or negative vote cast by

1 the voter on a ballot question or nonpartisan judicial
2 retention election; or

3 (3) any other information regarding the
4 manner in which a voter marked a paper ballot in an election.

5 B. No person shall solicit a voter to show the
6 voter's marked paper ballot or coerce a voter to reveal any
7 of the information listed in Subsection A of this section.

8 C. No person shall disclose without the consent of
9 the voter any of the information listed in Subsection A of
10 this section.

11 D. A violation of Subsection B or C of this
12 section may constitute the crime of offering a bribe,
13 coercion of employees, coercion of voters, intimidation or
14 conspiracy to violate the Election Code."

15 SECTION 117. Section 1-12-65 NMSA 1978 (being Laws
16 1977, Chapter 222, Section 68, as amended) is amended to
17 read:

18 "1-12-65. EMERGENCY SITUATIONS--PAPER BALLOTS--COUNTING
19 AND TALLYING PROCEDURES.--

20 A. The presiding judge and the election judges,
21 assisted by the election clerks, shall count the number of
22 paper ballots that were not tabulated by the electronic vote
23 tabulator, write the number of such ballots on each copy of
24 the certificate of returns for that polling place and place
25 the paper ballots that were not tabulated by the electronic

1 vote tabulator in an envelope provided for that purpose. The
2 envelope shall not be locked in the ballot box but shall
3 instead be transmitted directly to the county clerk for
4 machine-tabulation or hand-tallying of the ballots.

5 B. The presiding judge and the election judges,
6 assisted by the election clerks, shall count the number of
7 machine-tabulated paper ballots with write-in votes, write
8 the number of such ballots on each copy of the certificate of
9 returns for that polling place and place those paper ballots
10 with write-in votes in an envelope provided for that purpose.
11 The envelope shall not be locked in the ballot box but shall
12 instead be transmitted directly to the county clerk for
13 manual counting of the write-in votes.

14 C. The tallying of paper ballots that were not
15 tabulated by the electronic vote tabulator at the polling
16 place and the counting of ballots with write-in votes shall
17 be in accordance with procedures prescribed by the secretary
18 of state."

19 SECTION 118. Section 1-12-66 NMSA 1978 (being Laws
20 1977, Chapter 222, Section 69, as amended) is amended to
21 read:

22 "1-12-66. PAPER BALLOTS--SIGNATURE ROSTERS, CHECKLIST
23 OF VOTERS AND TALLY SHEETS--DISPOSITION.--

24 A. After all certificates have been executed, the
25 presiding judge and the two election judges shall place the

1 checklist of voters and one copy of the certificate of
2 returns in that polling place in the stamped, addressed
3 envelope provided for that purpose and an election judge
4 shall immediately mail it to the secretary of state.

5 B. The signature roster and the original
6 certificate of returns in that polling place shall be
7 returned to the county clerk. The signature roster and the
8 certificate of returns shall not be placed in the ballot box.

9 C. Signature rosters, checklists of registered
10 voters, certificates of returns and tally sheets in the
11 custody of the county clerk and the secretary of state may be
12 destroyed only pursuant to Section 1-12-69 NMSA 1978."

13 SECTION 119. Section 1-12-67 NMSA 1978 (being Laws
14 1977, Chapter 222, Section 70, as amended) is amended to
15 read:

16 "1-12-67. PAPER BALLOTS TO BE PLACED IN BALLOT
17 BOX.--After all certificates have been executed, the election
18 board shall place the bundles of tabulated paper ballots in
19 the ballot box and the ballot box shall be closed and
20 locked."

21 SECTION 120. Section 1-13-1 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 303) is amended to read:

23 "1-13-1. POST-ELECTION DUTIES--COUNTY CANVASSING
24 BOARD.--

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

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

9 SECTION 121. Section 1-13-4 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 306, as amended) is amended to read:

11 "1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--
12 METHOD.--The county clerk shall:

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

19 B. present the report of the canvass to the county
20 canvassing board for the board's consideration and approval."

21 SECTION 122. Section 1-13-12 NMSA 1978 (being Laws
22 1969, Chapter 240, Section 315) is amended to read:

23 "1-13-12. POST-ELECTION DUTIES--MANDAMUS TO COMPEL
24 CANVASS.--

25 The district court, upon petition of any voter, may HB 407/a
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1 issue a writ of mandamus to the county canvassing board to
2 compel it to approve the report of the county canvass and
3 certify the election returns."

4 SECTION 123. Section 1-13-13 NMSA 1978 (being Laws
5 1969, Chapter 240, Section 316, as amended) is amended to
6 read:

7 "1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING
8 BOARD--CERTIFYING RESULTS.--

9 A. The county canvassing board shall meet to
10 approve the report of the canvass of the returns and declare
11 the results no sooner than six days and no later than ten
12 days from the date of the election. A county canvassing
13 board in a county with more than one hundred fifty thousand
14 voters shall meet to approve the report of the canvass of the
15 returns and declare the results no sooner than six days and
16 no later than thirteen days from the date of the election.

17 B. The county canvassing board, immediately upon
18 approval of the report of the canvass of the returns of an
19 election, shall issue a certificate of canvass of the results
20 of the election and send one copy of the certified results
21 to:

- 22 (1) the county clerk;
23 (2) each local governing body with a
24 candidate or ballot question receiving votes from any
25 precinct in the county;

1 (3) the secretary of state;
2 (4) the state records center;
3 (5) the state canvassing board, in the case
4 of a statewide election or a special state election and the
5 results are for candidates or ballot questions voted on by
6 the voters of more than one county; and

7 (6) in the case of a municipality whose laws
8 provide for a top-two runoff, the municipality and the county
9 clerk, if the results indicate the need for a top-two runoff
10 election.

11 C. On the thirty-first day after any primary or
12 general election, the secretary of state shall issue to those
13 candidates entitled by law election certificates, or
14 certificate of nomination in the case of the primary
15 election, to all county officers, magistrates and to members
16 of the legislature elected from districts wholly within the
17 county. In addition, the county canvassing board,
18 immediately after completion of the canvass, shall declare
19 the results of the election and of all ballot questions
20 affecting only precincts within the county."

21 **SECTION 124.** Section 1-13-15 NMSA 1978 (being Laws
22 1969, Chapter 240, Section 318, as amended) is amended to
23 read:

24 "1-13-15. POST-ELECTION DUTIES--STATEWIDE ELECTION--
25 STATE CANVASS.--

1 A. The state canvassing board shall meet in the
2 state capitol on the third Tuesday after each statewide
3 election and proceed to approve the report of the canvass and
4 declare the results of the election or nomination of each
5 candidate voted upon by the entire state and by the voters of
6 more than one county.

7 B. The state canvassing board shall also meet in
8 the state capitol on the third Tuesday after each statewide
9 election or special state election to approve the report of
10 the canvass and declare the result of the vote on any
11 constitutional amendment or any ballot question voted upon by
12 the voters of more than one county.

13 C. Upon the completion of the state canvass, the
14 secretary of state shall notify each county clerk of that
15 fact."

16 **SECTION 125.** Section 1-13-16 NMSA 1978 (being Laws
17 1969, Chapter 240, Section 319, as amended) is amended to
18 read:

19 "1-13-16. POST-ELECTION DUTIES--SECRETARY OF STATE
20 DUTIES.--

21 A. The report of the state canvass shall be made
22 from the election returns transmitted directly to the
23 secretary of state from each of the election boards and, in
24 the case of candidates voted upon by a district composed of
25 two or more counties, from the certificates transmitted by

1 the county canvassing boards. The secretary of state shall
2 prepare the report of the state canvass; provided that the
3 state canvassing board may designate a person or persons to
4 compare the totals appearing on the election returns,
5 statements of canvass and certificates and to certify the
6 results of their findings to the state canvassing board.

7 B. Upon approval of the report of the state
8 canvass, but not sooner than the thirty-first day after any
9 primary or general election, the secretary of state shall
10 issue to those candidates entitled by law the appropriate
11 certificate of election or, in the case of a primary
12 election, a certificate of nomination.

13 C. Upon receipt of the reports of the county
14 canvass of a local election from each county, the secretary
15 of state shall:

16 (1) not sooner than the twenty-fourth day
17 after a regular local election, issue to those candidates
18 entitled by law the appropriate certificate of election;

19 (2) not sooner than the seventh day
20 following a top-two runoff election and no later than the
21 last business day before the first day of the new term of
22 office, issue to those candidates entitled by law the
23 appropriate certificate of election; and

24 (3) no later than the seventeenth day
25 following a special local election in which votes were cast

1 by the voters of more than one county, declare the result of
2 the vote on any ballot question and issue a certificate of
3 canvass of the results of the special election."

4 **SECTION 126.** Section 1-13-21 NMSA 1978 (being Laws
5 1971, Chapter 317, Section 21, as amended) is amended to
6 read:

7 "1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING
8 BALLOTS.--

9 A. The county clerk shall not clear the votes
10 recorded on the removable storage media devices until at
11 least forty-five days after adjournment of the county or
12 state canvassing board, whichever is later.

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

19 C. Beginning forty-five days after the adjournment
20 of the state or county canvassing board, whichever is later,
21 or forty-five days after completion of a recount or judicial
22 inquiry, the county clerk may transfer ballots from the
23 locked ballot boxes for disposition pursuant to Section
24 1-12-69 NMSA 1978."

25 **SECTION 127.** Section 1-22-17 NMSA 1978 (being Laws

1 2018, Chapter 79, Section 30) is recompiled in Chapter 1,
2 Article 13 NMSA 1978 and is amended to read:

3 "POST-ELECTION DUTIES--RECORDS.--

4 A. The returns and certificates of the result of
5 the county canvass are public documents, subject to
6 inspection and retention as provided by Section 1-12-69 NMSA
7 1978. The certificate of results of the canvass of the
8 election shall, forty-five days after the election or recount
9 after any contest has been settled by the court, be preserved
10 as a permanent record in the state records center. A copy of
11 the certificate of results of the canvass of the election
12 shall be preserved as a permanent record in the office of the
13 county clerk in a separate book maintained for recording the
14 results of elections.

15 B. The returns and certificates of the result of
16 the state canvass are public documents, subject to inspection
17 and retention as provided by Section 1-12-69 NMSA 1978. The
18 certificate of results of the canvass of the election shall,
19 forty-five days after the election or recount after any
20 contest has been settled by the court, be preserved as a
21 permanent record in the state records center. A copy of the
22 certificate of results of the canvass of the election shall
23 be preserved as a permanent record in the office of the
24 secretary of state in a separate book maintained for
25 recording the results of elections."

1 SECTION 128. A new section of Chapter 1, Article 13
2 NMSA 1978 is enacted to read:

3 "POST-ELECTION DUTIES--UNOPPOSED WRITE-IN CANDIDATES.--

4 A. In a general election, the proper canvassing
5 board shall not certify the election of an unopposed write-in
6 candidate unless the candidate receives at least the number
7 of write-in votes equal to two percent of the total vote in
8 the state, district or county in which the candidate seeks
9 election that were cast for governor in the last preceding
10 general election in which a governor was elected.

11 B. In a regular local election, the secretary of
12 state shall not issue a certificate of election to an
13 unopposed write-in candidate unless the candidate receives
14 either one hundred votes or the number of write-in votes
15 equal to at least ten percent of the total number of ballots
16 on which the office appears that are cast in the regular
17 local election.

18 C. In a primary election, the proper canvassing
19 board shall not certify the nomination of an unopposed
20 write-in candidate unless the candidate receives at least the
21 number of write-in votes in the primary election as the
22 write-in candidate would need for signatures on a nominating
23 petition pursuant to the requirements set out in Section
24 1-8-33 NMSA 1978.

25 D. In an election to fill a vacancy in the office

1 of United States representative, the state canvassing board
2 shall not certify the election of an unopposed write-in
3 candidate unless the candidate receives at least the number
4 of write-in votes equal to two percent of the total vote in
5 the congressional district in which the candidate seeks
6 election that were cast for governor in the last preceding
7 general election in which a governor was elected."

8 SECTION 129. Section 1-14-22 NMSA 1978 (being Laws
9 2005, Chapter 270, Section 76, as amended) is amended to
10 read:

11 "1-14-22. CONTESTS AND RECOUNTS--PROVISIONAL, ABSENTEE
12 AND OTHER PAPER BALLOTS--USE OF BALLOT IMAGES.--

13 A. The secretary of state shall issue rules
14 governing and allowing procedures for reviewing the
15 qualification of provisional ballot envelopes, absentee and
16 other paper ballots in the case of a contest or recount of
17 election results. All rejected provisional paper ballot
18 envelopes shall be included in any contest or recount of
19 election results, and a review of the qualification of
20 provisional ballot envelopes shall occur in a recount.

21 B. Upon petition by the secretary of state or a
22 county clerk, the district court may permit a review of
23 ballot images in place of paper ballots whenever there are
24 defective or missing returns in an election and when the
25 voting system technology captures an image of each ballot in

1 an election."

2 SECTION 130. Section 1-14-24 NMSA 1978 (being Laws
3 2008, Chapter 41, Section 1, as amended) is amended to read:

4 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND
5 FEDERAL OFFICES--PROCEDURES.--

6 A. An automatic recount of the vote is required
7 when the canvass of returns indicates that the margin between
8 the two candidates receiving the greatest number of votes for
9 an office, the margin between those supporting and those
10 opposing a ballot question or the margin affecting the
11 outcome of a nonpartisan judicial retention election is less
12 than:

13 (1) one-fourth percent of the total votes
14 cast in that election:

15 (a) for that office in the case of a
16 federal or statewide office;

17 (b) on a ballot question in the case of
18 a state ballot question; or

19 (c) on a nonpartisan judicial retention
20 election in the case of the supreme court or the court of
21 appeals;

22 (2) one-half percent of the total votes cast
23 in that election:

24 (a) for that office in the case of a
25 public regulation commissioner, public education

1 commissioner, district attorney or any office elected
2 countywide in a county with more than one hundred fifty
3 thousand registered voters;

4 (b) on a ballot question in the case of
5 a local ballot question; or

6 (c) on a nonpartisan judicial retention
7 election in the case of a district court or the metropolitan
8 court; or

9 (3) one percent of the total votes cast in
10 that election for that office in the case of any other
11 office.

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

25 C. Automatic recounts shall be conducted pursuant

1 to the recount procedures established in Sections 1-14-16 and
2 1-14-18 through 1-14-23 NMSA 1978."

3 SECTION 131. Section 1-15-18.1 NMSA 1978 (being Laws
4 1983, Chapter 232, Section 16, as amended) is amended to
5 read:

6 "1-15-18.1. UNITED STATES REPRESENTATIVE--VACANCY.--

7 A. Within ten days after a vacancy occurs in the
8 office of United States representative, the secretary of
9 state shall, by proclamation, call an election to be held not
10 less than seventy-seven nor more than ninety-one days after
11 the date of the vacancy for the purpose of filling the
12 vacancy, except as provided in Subsections H and I of this
13 section.

14 B. The proclamation shall forthwith be filed by
15 the secretary of state in the office of the secretary of
16 state. The proclamation shall specify the:

17 (1) date on which the election will be held;
18 (2) purpose for which the election is
19 called;

20 (3) date on which declarations of candidacy
21 are to be filed;

22 (4) date on which declarations of intent to
23 be a write-in candidate are to be filed; and

24 (5) date certificates of registration are to
25 be subscribed and sworn to participate in the election as

1 required by law.

2 C. After the proclamation is issued pursuant to
3 Subsection B of this section, the secretary of state shall
4 within five days certify the proclamation to each county
5 clerk with precincts located in the United States
6 representative district in which the vacancy exists.
7 Beginning not less than sixty-three days before the date of
8 the election, the secretary of state shall publish the
9 proclamation once each week for two consecutive weeks in a
10 newspaper of general circulation.

11 D. Upon the issuance of the proclamation, each
12 qualified political party may nominate in the manner provided
13 by the rules of that party a candidate to fill the vacancy in
14 the office of United States representative; provided that
15 such nomination is certified to the secretary of state by the
16 state chair of that party no later than 5:00 p.m. on the
17 fifty-sixth day preceding the date of the election.

18 E. Declarations of unaffiliated candidacy to fill
19 the vacancy in the office of United States representative and
20 nominating petitions pertaining thereto shall be filed with
21 the secretary of state no later than 5:00 p.m. on the fifty-
22 sixth day preceding the date of the election.

23 F. Declarations of intent to be a write-in
24 candidate to fill a vacancy in the office of United States
25 representative shall be filed with the secretary of state no

1 later than 5:00 p.m. on the fifty-sixth day preceding the
2 date of the election.

3 G. Elections called for the purpose of filling a
4 vacancy in the office of United States representative shall
5 be conducted in accordance with the provisions of the
6 Election Code for general elections; provided, however, if
7 there is a conflict between this section and other provisions
8 of the Election Code, the provisions of this section shall
9 control. The secretary of state shall, only when necessary,
10 adjust the day provided in the Uniform Military and Overseas
11 Voters Act to send ballots to federal qualified electors in
12 an election to fill a vacancy in the office of United States
13 representative. The adjusted day shall be immediately posted
14 on the website of the secretary of state and reported to the
15 federal voting assistance program.

16 H. If a vacancy occurs in the office of United
17 States representative beginning one hundred sixty days and no
18 less than sixty-three days before a statewide election, the
19 vacancy shall be filled at the next statewide election;
20 provided that when filling a vacancy:

21 (1) at a general election, candidates
22 seeking the office of United States representative in that
23 general election for the next succeeding term shall be deemed
24 to be candidates for the unexpired term as well, and the
25 candidate elected shall take office upon the certification of

1 the election results; or

2 (2) at a political party primary or a
3 regular local election, each ballot shall contain the
4 election to fill the vacancy in the office of United States
5 representative listed before the contests in the political
6 party primary or regular local election, and ballots
7 containing only the election of the vacancy in the office of
8 United States representative shall be available to voters who
9 do not otherwise qualify to vote in the political party
10 primary or that regular local election.

11 I. If a vacancy occurs in the office of United
12 States representative in extraordinary circumstances when
13 there are more than one hundred vacancies in the United
14 States house of representatives and there are more than
15 seventy-five days before a regularly scheduled election, then
16 pursuant to 2 U.S.C. Section 8(b):

17 (1) the governor shall immediately issue a
18 writ of election, upon which the secretary of state shall, by
19 proclamation, call an election to be held not more than
20 forty-nine days after the vacancy is announced and file the
21 proclamation along with the writ in the office of the
22 secretary of state;

23 (2) the secretary of state shall immediately
24 certify the proclamation to each county clerk with precincts
25 located in the United States representative district in which

1 the vacancy exists, and beginning not less than thirty-five
2 days before the date of the election, the secretary of state
3 shall publish the proclamation once each week for two
4 consecutive weeks in a newspaper of general circulation;

5 (3) each qualified political party may
6 nominate in the manner provided by the rules of that party a
7 candidate to fill the vacancy in the office of United States
8 representative; provided that such nomination is certified to
9 the secretary of state by the state chair of that party no
10 later than 5:00 p.m. on the tenth business day following
11 announcement of the vacancy;

12 (4) declarations of independent candidacy to
13 fill the vacancy in the office of United States
14 representative and nominating petitions pertaining thereto
15 shall be filed with the secretary of state no later than 5:00
16 p.m. on the tenth business day following announcement of the
17 vacancy; and

18 (5) declarations of intent to be a write-in
19 candidate to fill the vacancy in the office of United States
20 representative shall be filed with the secretary of state no
21 later than 5:00 p.m. on the tenth business day following
22 announcement of the vacancy.

23 J. The state shall pay all costs of an election to
24 fill a vacancy in the office of United States representative
25 when the election is not held on the same ballot as a

1 statewide election."

2 SECTION 132. Section 1-15-20 NMSA 1978 (being Laws
3 1969, Chapter 240, Section 370) is amended to read:

4 "1-15-20. EXPIRING TERM AND NEXT SUCCEEDING TERM IN
5 SAME ELECTION.--

6 A. In all instances where the expiring term of the
7 office of United States senator or representative and the
8 term next succeeding the expiring term are to be voted upon
9 at the same general election, the same individual may be a
10 candidate for both the expiring term and next succeeding
11 term, whether at a primary election, nominating convention or
12 general election.

13 B. In those instances where a person is initially
14 elected for a next succeeding term of the office of United
15 States senator or representative at a general election and
16 there becomes a vacancy in the expiring term of that office
17 at any time beginning seventy days before the general
18 election through the first day of the next succeeding term,
19 the person initially elected for the next succeeding term and
20 in possession of the certificate of election from the general
21 election shall be declared elected for the remainder of the
22 expiring term."

23 SECTION 133. Section 1-16-1 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 374) is amended to read:

25 "1-16-1. BALLOT QUESTIONS--APPLICATION OF ELECTION

1 CODE.--At all elections at which any ballot question is
2 submitted to the voters, the election shall be called,
3 conducted and canvassed in accordance with the Election
4 Code."

5 SECTION 134. Section 1-16-2 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 375) is amended to read:

7 "1-16-2. BALLOT QUESTIONS--STATE BALLOT QUESTIONS--
8 LOCAL GOVERNMENT BALLOT QUESTIONS.--

9 A. A state ballot question includes any:

10 (1) proposed amendment to the constitution
11 of New Mexico, as provided in a joint resolution passed by
12 the legislature;

13 (2) tax authorization for general obligation
14 bonds or mill levy, as provided by law;

15 (3) referendum, as provided in Article 4,
16 Section 1 of the constitution of New Mexico; and

17 (4) other questions, as provided by statute
18 or the constitution of New Mexico.

19 B. A local government ballot question includes
20 any:

21 (1) tax authorization for bond sales, mill
22 levy or gross receipts tax, as required by law;

23 (2) recall of county, school board or
24 certain municipal officers, as provided by law or by
25 municipal home rule charter;

1 (3) petition for the creation of a special
2 district or consideration of a statutory local option, as
3 provided by law;

4 (4) referendum on local governing body
5 taxation authority, as provided by law;

6 (5) referendum on local government
7 ordinances, as provided by the charter of a home rule
8 municipality, by an incorporated or urban county or by law;

9 (6) change in the laws of a home rule
10 municipality, as provided by the municipal charter or by law;

11 (7) changes in the charter of an
12 incorporated or urban county, as provided by the charter of
13 the incorporated or urban county or by law; and

14 (8) other questions, as provided by state
15 statute or the constitution of New Mexico."

16 **SECTION 135.** Section 1-16-3 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 376, as amended) is amended to read:

18 "1-16-3. BALLOT QUESTIONS--CERTIFICATION.--

19 A. Whenever a state ballot question is to be
20 submitted to the voters of the entire state on a general
21 election or regular local election ballot, not less than
22 seventy days before the election, the secretary of state
23 shall certify the state ballot question to the county clerk
24 of each county.

25 B. Whenever a local government ballot question is

1 to be submitted to the voters of a local government on a
2 general election or regular local election ballot, not less
3 than seventy days before the election at which the ballot
4 question is proposed to be submitted to the voters, the local
5 government shall file a resolution proposing the ballot
6 question with the county clerk of each county containing any
7 precinct in which votes may be cast for or against the local
8 government ballot question. Not less than sixty-seven days
9 before the election, each county clerk shall certify the
10 local government ballot question to the secretary of state.

11 C. Whenever a state or local government ballot
12 question is to be submitted to the voters in a special
13 election, the proclamation calling the election shall be
14 filed with or certified to the county clerk of each county
15 containing any precinct in which votes may be cast pursuant
16 to the provisions of the Special Election Act."

17 SECTION 136. Section 1-16-4 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 377) is amended to read:

19 "1-16-4. BALLOT QUESTIONS--STATE CONSTITUTIONAL
20 AMENDMENTS--PUBLICATION.--

21 A. The secretary of state shall cause a proposed
22 constitutional amendment to be published as provided in
23 Article 19, Section 1 of the constitution of New Mexico.

24 B. The secretary of state shall post a proposed
25 constitutional amendment beginning no later than seventy days

1 prior to the election at which the amendment is to be
2 submitted to the voters of the state for their approval or
3 rejection.

4 C. Each county clerk shall post a proposed
5 constitutional amendment beginning no later than sixty-seven
6 days prior to the election at which the amendment is to be
7 submitted to the voters of the state for their approval or
8 rejection."

9 SECTION 137. Section 1-16-7 NMSA 1978 (being Laws 1977,
10 Chapter 222, Section 96, as amended) is amended to read:

11 "1-16-7. BALLOT QUESTIONS--FORM.--

12 A. The secretary of state shall by rule prescribe
13 uniform guidelines for a state or local ballot question to
14 appear on the ballot.

15 B. For a proposed constitutional amendment, the
16 form of the ballot question shall include the full title of
17 the joint resolution proposing the constitutional amendment
18 and the constitutional amendment number assigned to the joint
19 resolution by the secretary of state."

20 SECTION 138. Section 1-16-8 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 380, as amended) is amended to read:

22 "1-16-8. BALLOT QUESTIONS--PROHIBITION ON NONBINDING OR
23 ADVISORY QUESTIONS.--In no case shall a nonbinding or merely
24 advisory question be placed on the ballot for any election
25 held pursuant to the Election Code."

1 SECTION 139. Section 1-16-9 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 381, as amended) is amended to read:

3 "1-16-9. BALLOT QUESTIONS--SINGLE BALLOT--SPACE ON
4 BALLOT.--

5 A. Ballot questions submitted to the voters at any
6 election shall be printed on one ballot only.

7 B. State ballot questions certified by the
8 secretary of state shall be printed on the ballot as provided
9 in the Election Code.

10 C. Local government ballot questions authorized by
11 law shall be printed on the ballot of each county containing
12 any precinct in which votes may be cast for or against the
13 local government ballot question.

14 D. If, after printing any offices required to be
15 elected and the state ballot questions certified by the
16 secretary of state, there is insufficient space on a single-
17 page ballot using both sides of the page to accommodate the
18 various ballot questions submitted by local governments:

19 (1) priority for printing local government
20 ballot questions shall be in the order the approved ballot
21 questions were filed with the county clerk; provided that for
22 multicounty jurisdictions, exclusion from one county's ballot
23 excludes that local government ballot question from the
24 ballot in all applicable counties;

25 (2) a local government ballot question that,

1 based on the order received by the county clerk, would
2 require the ballot to be on more than one page shall be
3 included on the ballot only if the local government
4 submitting the ballot question pays the additional costs of
5 any subsequent ballot page; provided that if more than one
6 local government submits ballot questions that would require
7 the ballot to be on more than one page, those local
8 governments shall share the additional costs of any
9 subsequent ballot page;

10 (3) a single ballot that is printed on more
11 than one page may permit voters to cast on the first page a
12 vote for or against any local government ballot question
13 printed on a subsequent ballot page; and

14 (4) regardless of the order in which local
15 government ballot questions are filed with the county clerk,
16 the ballot questions shall be printed on the ballot in the
17 order provided in Section 1-10-8 NMSA 1978."

18 **SECTION 140.** Section 1-22-2 NMSA 1978 (being Laws 2018,
19 Chapter 79, Section 17) is amended to read:

20 "1-22-2. DEFINITIONS.--As used in the Local Election
21 Act:

22 A. "local election" means a local government
23 election;

24 B. "local governing body" means a board, council
25 or commission, as appropriate for a given local government;

1 C. "local government" means a:

2 (1) political subdivision of the state with
3 authority to levy taxes pursuant to Article 8, Section 9 of
4 the constitution of New Mexico and its enabling legislation,
5 but does not include a conservancy district governed pursuant
6 to Chapter 73, Article 14 or 18 NMSA 1978 or a county; and

7 (2) political subdivision of the state
8 without authority to levy taxes pursuant to Article 8,
9 Section 9 of the constitution of New Mexico or its enabling
10 legislation, but whose statutory provisions provide for
11 election of officers or ballot questions to be decided
12 pursuant to the Local Election Act;

13 D. "municipal officers" means the local governing
14 body and any executive and judicial officers of a
15 municipality;

16 E. "regular local election" means the biennial
17 local election at which local governing body members are
18 elected pursuant to the provisions of the Local Election Act;
19 and

20 F. "special local election" means a local election
21 conducted at a time other than a statewide election at which
22 only ballot questions are considered pursuant to the
23 provisions of the Special Election Act."

24 **SECTION 141.** Section 1-22-2 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 17, as amended by Section 140 of this

1 act) is repealed and a new Section 1-22-2 NMSA 1978 is
2 enacted to read:

3 "1-22-2. DEFINITIONS.--As used in the Local Election
4 Act:

5 A. "local election" means a local government
6 election;

7 B. "local governing body" means a board, council
8 or commission, as appropriate for a given local government;

9 C. "local government" means a:

10 (1) political subdivision of the state with
11 authority to levy taxes pursuant to Article 8, Section 9 of
12 the constitution of New Mexico and its enabling legislation,
13 but does not include a county; and

14 (2) political subdivision of the state
15 without authority to levy taxes pursuant to Article 8,
16 Section 9 of the constitution of New Mexico or its enabling
17 legislation, but whose statutory provisions provide for
18 election of officers or ballot questions to be decided
19 pursuant to the Local Election Act;

20 D. "municipal officers" means the local governing
21 body and any elective executive and judicial officers of a
22 municipality;

23 E. "regular local election" means the biennial
24 local election at which local governing body members are
25 elected pursuant to the provisions of the Local Election Act;

1 and

2 F. "special local election" means a local election
3 conducted at a time other than a statewide election at which
4 only ballot questions are considered pursuant to the
5 provisions of the Special Election Act."

6 SECTION 142. Section 1-22-3 NMSA 1978 (being Laws 2018,
7 Chapter 79, Section 18) is amended to read:

8 "1-22-3. REGULAR LOCAL ELECTIONS--SPECIAL LOCAL
9 ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

10 A. A regular local election shall be held on the
11 first Tuesday after the first Monday in November of each odd-
12 numbered year. A regular local election shall be held to
13 elect qualified persons to membership on a local governing
14 body and, where applicable, to elective municipal executive
15 office and to municipal judicial office.

16 B. A regular local election shall be a nonpartisan
17 election, and the names of all candidates shall be listed on
18 the ballot with no party or slate designation. No person
19 shall become a candidate in a regular local election unless
20 the person physically resides within the boundaries of the
21 district or districted area in which the person desires to be
22 elected or to represent and the person's record of voter
23 registration shows that the person is both a qualified
24 elector of the state and was registered to vote in the area
25 to be elected to represent on the date the proclamation

1 calling a local election is filed in the office of the
2 secretary of state.

3 C. A local government may propose a ballot
4 question to be considered by the voters of the local
5 government:

6 (1) at a regular local election or a general
7 election as provided by Subsection B of Section 1-16-3 NMSA
8 1978; or

9 (2) at a special local election called,
10 conducted and canvassed as provided in the Special Election
11 Act.

12 D. Except as otherwise provided in the Local
13 Election Act, local elections shall be called, conducted and
14 canvassed as provided in the Election Code."

15 **SECTION 143.** Section 1-22-3.1 NMSA 1978 (being Laws
16 2018, Chapter 79, Section 34) is amended to read:

17 "1-22-3.1. MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--
18 EXCEPTIONS.--

19 A. All municipalities shall elect their municipal
20 officers pursuant to this section on the municipal officer
21 election day, which is the first Tuesday in March of even-
22 numbered years, unless the municipality has opted in to the
23 election of its municipal officers at the regular local
24 election.

25 B. Except as provided in Subsection C of this

1 section, any municipality may by ordinance opt in to the
2 election of its municipal officers in the regular local
3 election if the municipality passes an ordinance and files
4 the ordinance with the secretary of state no later than June
5 30 of the year in which the next regular local election is
6 scheduled. The ordinance shall also determine if the terms
7 of office for current office holders will be lengthened or
8 shortened to correspond with the new election date.

9 Following the second regular local election at which its
10 municipal officers are elected at the regular local election,
11 a municipality that has passed an ordinance pursuant to this
12 subsection may rescind the ordinance opting in to the
13 election of its municipal officers in the regular local
14 election and file the rescission with the secretary of state
15 no later than June 30 of the year in which the next regular
16 local election is scheduled.

17 C. A home rule municipality that pursuant to its
18 charter is implementing a form of required voter
19 identification that supersedes the provisions of Section
20 1-1-24 NMSA 1978 shall not elect its municipal officers at
21 the regular local election.

22 D. For municipalities that elect their officers on
23 municipal officer election day:

24 (1) all provisions of the Local Election Act
25 as supplemented by the Election Code apply, except as

1 provided in this section;

2 (2) for a municipal officer election, when
3 the Local Election Act or the Election Code references a
4 process or procedure to be conducted by the county clerk in
5 the administration of a regular local election, the process
6 or procedure shall instead be fulfilled and administered by
7 the municipal clerk;

8 (3) for a special local election, the
9 municipal clerk shall fulfill the duties of the county clerk
10 pursuant to the Special Election Act in the conduct of
11 administering a special local election by the municipality,
12 unless the municipal clerk has entered into a memorandum of
13 understanding with the county clerk to administer the special
14 local election on behalf of the municipality;

15 (4) for a recall election, notwithstanding
16 the laws of any municipality to the contrary, the county
17 clerk shall at all times conduct a municipal recall election
18 pursuant to the provisions of the Recall Act;

19 (5) in an election administered by the
20 municipal clerk, the secretary of state shall provide to the
21 municipal clerk access to the list of voters of the
22 municipality through the voter registration electronic
23 management system;

24 (6) the provisions of the Uniform Military
25 and Overseas Voters Act apply to an election administered by

1 the municipal clerk; provided that for the municipal officer
2 election, military-overseas ballots shall be sent to federal
3 qualified electors beginning thirty-five days before the
4 election;

5 (7) upon the approval of the governing body
6 of a municipality, a local government ballot question may
7 appear on the ballot for an election conducted pursuant to
8 this section at the request of a county, school or special
9 district;

10 (8) the governing body of a municipality may
11 act in relation to the duties of the board of county
12 commissioners set forth in Section 1-3-2 NMSA 1978 in setting
13 polling places and consolidating precincts for the municipal
14 officer election; provided that if the governing body of a
15 municipality does not pass a resolution as provided by
16 Section 1-3-2 NMSA 1978, the polling places set by the board
17 of county commissioners within the boundaries of the
18 municipality shall be used for municipal officer elections;

19 (9) the provisions of Section 1-22-3.2 NMSA
20 1978 apply to a municipality conducting elections pursuant to
21 this section; provided that the adjustment of dates in the
22 laws of the municipality shall accord with the schedule
23 imposed by the Election Code for the conduct of the municipal
24 officer election; and

25 (10) a municipality that elects its

1 municipal officers pursuant to this section shall bear the
2 costs of administering the municipal officer election.

3 E. Candidate procedures for municipalities that
4 elect their officers on municipal officer election day are as
5 follows:

6 (1) the secretary of state shall, in
7 accordance with the provisions of Section 1-22-4 NMSA 1978,
8 issue the proclamation calling for the municipal officer
9 election for all municipalities conducting the election of
10 their officers pursuant to this section. The municipal clerk
11 shall post those portions of the proclamation relevant to the
12 municipality and publish what is posted in accordance with
13 the schedule and procedures provided in Subsection D of
14 Section 1-22-4 NMSA 1978, and each county clerk shall post
15 the entire proclamation on the county clerk's website along
16 with a notice of which municipalities in the county are
17 conducting elections pursuant to this section;

18 (2) each declaration of candidacy shall be
19 delivered for filing in person by the eligible candidate or
20 by a person acting by virtue of written authorization. The
21 proper filing officer shall not accept for filing from any
22 one individual more than one declaration of candidacy;

23 (3) declarations of candidacy for municipal
24 officer elections shall be filed between 9:00 a.m. and 5:00
25 p.m. on the fifty-sixth day before the election. No name

1 shall be placed on the ballot until the person has been
2 notified in writing by the municipal clerk that the
3 certificate of registration of the candidate on file with the
4 county clerk, the declaration of candidacy and the petition,
5 if required, are in proper order and that the person, based
6 on those documents, is qualified to be a candidate. The
7 municipal clerk shall deliver the notice to the person no
8 later than 5:00 p.m. on the Friday following the filing date;

9 (4) write-in candidates for municipal
10 officer elections shall file declarations of candidacy
11 between 9:00 a.m. and 5:00 p.m. on the forty-ninth day before
12 the election. No space shall appear on the ballot for a
13 write-in candidate until the person has been notified in
14 writing by the municipal clerk that the certificate of
15 registration of the candidate on file with the county clerk
16 and the declaration of candidacy are in proper order and that
17 the person, based on those documents, is qualified to be a
18 declared write-in candidate. The municipal clerk shall
19 deliver the notice to the person no later than 5:00 p.m. on
20 the Friday following the filing date;

21 (5) any voter may challenge the candidacy of
22 any person seeking election to municipal office for the
23 reason that the person does not meet the requirements for the
24 office sought by filing a petition in the district court
25 within seven days after the deadline for filing a declaration

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

7 (6) the municipal clerk shall certify in
8 writing the ballot for each precinct in the municipality
9 containing the name of each candidate who has been qualified,
10 a space for any offices with a declared write-in candidate
11 and any ballot questions to be voted on at the municipal
12 officer election. The order of candidates for the same
13 office in a municipal officer election shall follow the
14 randomization method established by rule by the secretary of
15 state for the regular local election. Each ballot certified
16 pursuant to this paragraph shall, no later than forty-two
17 days before the election, be sent to the ballot printer or
18 other person preparing the ballot for use by the voters and a
19 certified copy sent to the secretary of state. A copy of
20 each certification shall be kept on file in the office of the
21 secretary of state for twelve months, after which the ballot
22 certification shall be transferred to be a permanent record
23 at the state records center.

24 F. Except for municipalities that provide for a
25 top-two runoff election pursuant to Section 1-22-16 NMSA

1 1978, the term of office for municipalities holding elections
2 pursuant to this section shall begin the first day of the
3 month following the election. For municipalities that
4 provide for a top-two runoff election, the term of office for
5 municipalities holding elections pursuant to this section
6 shall begin the first day of the month following the runoff
7 election.

8 G. When the Municipal Code:

9 (1) provides for vacancies in municipal
10 office to be filled by election at the next regular local
11 election, the vacancies shall instead be filled by election
12 at the next municipal officer election; or

13 (2) references a ballot question that may be
14 placed on the regular local election or general election
15 ballot, the reference shall also permit placing the ballot
16 question on the municipal officer election ballot."

17 SECTION 144. Section 1-22-3.2 NMSA 1978 (being Laws
18 2018, Chapter 79, Section 35) is amended to read:

19 "1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION
20 PROVISIONS--ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR
21 PROCEDURES AFFECTED BY THE ELECTION CODE--PUBLIC FINANCING.--

22 A. Election provisions or procedures in the laws
23 of a municipality that operate in addition to and do not
24 conflict with the provisions of the Election Code continue in
25 effect as long as such provisions do not conflict with the

1 Election Code or until amended or repealed by the
2 municipality. Election provisions or procedures in an
3 ordinance or charter of a municipality that conflict with the
4 Election Code or other applicable state or federal law are
5 not operable and shall not be enforced. Election provisions
6 or procedures in an ordinance or charter of a municipality
7 that do not conflict with the Election Code shall be
8 administered pursuant to the ordinances or charter of the
9 municipality, unless the municipal clerk and the county clerk
10 have signed a memorandum of understanding for the county
11 clerk to conduct election provisions or procedures on behalf
12 of the municipality.

13 B. A municipality with election provisions or
14 procedures in an ordinance or its charter that do not
15 conflict with the Election Code shall adjust the calendar
16 dates that implement those election provisions and procedures
17 to accord with the schedules imposed by the Election Code.
18 At the discretion of the municipality, the adjustment of
19 calendar dates may be done administratively, by ordinance or
20 as otherwise provided by the charter of the municipality.
21 The municipal clerk shall post the adjusted dates no later
22 than June 30 of each odd-numbered year.

23 C. At the discretion of the municipality, a
24 municipality with a charter may amend its charter by
25 ordinance or as otherwise provided by the municipality to

1 conform its ordinances or charter with the requirements of
2 the Election Code and other applicable state or federal laws
3 related to elections.

4 D. In any municipality implementing public
5 financing for its municipal elections consistent with this
6 section and notwithstanding any provision to the contrary in
7 the ordinances or charter of the municipality:

8 (1) the municipality shall require as a
9 precondition to the receipt of public financing that a person
10 first be qualified as a candidate;

11 (2) if the date in the ordinances or charter
12 of the municipality for submitting documents to be approved
13 for public financing is an earlier date than the filing date
14 for declarations of candidacy provided in the Local Election
15 Act, the municipal clerk shall accept declarations of
16 candidacy and other candidate qualification documents from
17 persons seeking to be approved for public financing on the
18 date provided in the ordinances or charter of the
19 municipality upon which the municipal clerk shall deliver to
20 the county clerk the candidate qualification documents of
21 each person seeking to be approved for public financing;

22 (3) the county clerk shall notify the
23 municipal clerk in writing no later than 5:00 p.m. on the
24 third day following receipt of the candidate qualification
25 documents that the certificate of registration of the

1 candidate, the declaration of candidacy and the petition, if
2 any, are in proper order and whether the person, based on
3 those documents, is qualified to be a candidate;

4 (4) any voter may challenge the
5 determination of candidacy qualification by the county clerk
6 of a person seeking election to municipal office for the
7 reason that the person does not meet the candidate
8 qualification requirements by filing a petition in the
9 district court within seven days after the deadline for the
10 municipal clerk to approve candidates to receive public
11 financing. The district court shall hear and render a
12 decision on the matter within ten days after the filing of
13 the petition. The decision of the district court may be
14 appealed to the supreme court within five days after the
15 decision is rendered. The supreme court shall hear and
16 render a decision on the appeal forthwith; and

17 (5) on the day provided in the Local
18 Election Act to submit declarations of candidacy, any
19 qualified person may file a declaration of candidacy for
20 municipal office and other candidate qualification documents,
21 including a person who failed to be approved for public
22 financing but who otherwise qualifies to be a candidate, but
23 not including a person who previously sought public financing
24 in the same election but was not qualified to be a candidate;
25 provided that any candidate qualification requirements

1 imposed by the municipality other than those pertinent to
2 public financing and the date for filing a declaration of
3 candidacy must be fulfilled by a person who submits a
4 declaration of candidacy on the day provided in the Local
5 Election Act.

6 E. Until December 31, 2019, a municipality with a
7 population greater than one hundred thousand, based on the
8 latest federal decennial census, shall use the provisions of
9 this section that existed prior to the effective date of this
10 2019 act. After December 31, 2019, all municipalities shall
11 use the provisions of this section as it exists on the
12 effective date of this 2019 act."

13 SECTION 145. Section 1-22-3.2 NMSA 1978 (being Laws
14 2018, Chapter 79, Section 35, as amended by Section 144 of
15 this act) is repealed and a new Section 1-22-3.2 NMSA 1978 is
16 enacted to read:

17 "1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION
18 PROVISIONS--ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR
19 PROCEDURES AFFECTED BY THE ELECTION CODE--PUBLIC FINANCING.--

20 A. Election provisions or procedures in the laws
21 of a municipality that operate in addition to and do not
22 conflict with the provisions of the Election Code continue in
23 effect as long as such provisions do not conflict with the
24 Election Code or until amended or repealed by the
25 municipality. Election provisions or procedures in an

1 ordinance or charter of a municipality that conflict with the
2 Election Code or other applicable state or federal law are
3 not operable and shall not be enforced. Election provisions
4 or procedures in an ordinance or charter of a municipality
5 that do not conflict with the Election Code shall be
6 administered pursuant to the ordinances or charter of the
7 municipality, unless the municipal clerk and the county clerk
8 have signed a memorandum of understanding for the county
9 clerk to conduct election provisions or procedures on behalf
10 of the municipality.

11 B. A municipality with election provisions or
12 procedures in an ordinance or its charter that do not
13 conflict with the Election Code shall adjust the calendar
14 dates that implement those election provisions and procedures
15 to accord with the schedules imposed by the Election Code.
16 At the discretion of the municipality, the adjustment of
17 calendar dates may be done administratively, by ordinance or
18 as otherwise provided by the charter of the municipality.
19 The municipal clerk shall post the adjusted dates no later
20 than June 30 of each odd-numbered year.

21 C. At the discretion of the municipality, a
22 municipality with a charter may amend its charter by
23 ordinance or as otherwise provided by the municipality to
24 conform its ordinances or charter with the requirements of
25 the Election Code and other applicable state or federal laws

1 related to elections.

2 D. In any municipality implementing public
3 financing for its municipal elections consistent with this
4 section and notwithstanding any provision to the contrary in
5 the ordinances or charter of the municipality:

6 (1) the municipality shall require as a
7 precondition to the receipt of public financing that a person
8 first be qualified as a candidate;

9 (2) if the date in the ordinances or charter
10 of the municipality for submitting documents to be approved
11 for public financing is an earlier date than the filing date
12 for declarations of candidacy provided in the Local Election
13 Act, the municipal clerk shall accept declarations of
14 candidacy and other candidate qualification documents from
15 persons seeking to be approved for public financing on the
16 date provided in the ordinances or charter of the
17 municipality upon which the municipal clerk shall deliver to
18 the county clerk the candidate qualification documents of
19 each person seeking to be approved for public financing;

20 (3) the county clerk shall notify the
21 municipal clerk in writing no later than 5:00 p.m. on the
22 third day following receipt of the candidate qualification
23 documents that the certificate of registration of the
24 candidate, the declaration of candidacy and the petition, if
25 any, are in proper order and whether the person, based on

1 those documents, is qualified to be a candidate;

2 (4) any voter may challenge the candidacy of
3 a person seeking election to municipal office by the county
4 clerk for the reason that the person does not meet the
5 candidate qualification requirements by filing a petition in
6 the district court within seven days after the deadline for
7 the municipal clerk to approve candidates to receive public
8 financing. The district court shall hear and render a
9 decision on the matter within ten days after the filing of
10 the petition. The decision of the district court may be
11 appealed to the supreme court within five days after the
12 decision is rendered. The supreme court shall hear and
13 render a decision on the appeal forthwith; and

14 (5) on the day provided in the Local
15 Election Act to submit declarations of candidacy, any
16 qualified person may file a declaration of candidacy for
17 municipal office and other candidate qualification documents,
18 including a person who failed to be approved for public
19 financing but who otherwise qualifies to be a candidate, but
20 not including a person who previously sought public financing
21 in the same election but was not qualified to be a candidate;
22 provided that any candidate qualification requirements
23 imposed by the municipality other than those pertinent to
24 public financing and the date for filing a declaration of
25 candidacy must be fulfilled by a person who submits a

1 declaration of candidacy on the day provided in the Local
2 Election Act."

3 SECTION 146. Section 1-22-4 NMSA 1978 (being Laws 2018,
4 Chapter 79, Section 19) is amended to read:

5 "1-22-4. REGULAR LOCAL
6 ELECTION--PROCLAMATION--PUBLICATION.--

7 A. Between one hundred twenty and one hundred
8 fifty days before the next regular local election, each local
9 government shall notify the county clerk of the county in
10 which the primary administrative office of the local
11 government is situate of all local government positions that
12 are to be filled at the next regular local election. Each
13 county clerk shall inform the secretary of state of all
14 positions to be filled no later than one hundred twelve days
15 before the regular local election.

16 B. The secretary of state shall by resolution
17 issue a public proclamation in Spanish and English calling a
18 regular local election. The proclamation shall be issued and
19 filed by the secretary of state in the office of the
20 secretary of state ninety days preceding the date of the
21 regular local election, and upon filing the proclamation, the
22 secretary of state shall post the proclamation and certify it
23 to each county clerk.

24 C. The proclamation shall specify:

25 (1) the date when the election will be held;

1 (2) each elective office, local governing
2 body and judicial position to be filled;

3 (3) the date on which declarations of
4 candidacy are to be filed;

5 (4) the date on which declarations of intent
6 to be a write-in candidate are to be filed; and

7 (5) the municipalities subject to a ranked-
8 choice voting runoff election and those subject to a top-two
9 runoff election and the date of the top-two runoff election
10 should one be necessary.

11 D. After receipt of the proclamation from the
12 secretary of state, the county clerk shall post the entire
13 proclamation on the county clerk's website and, not less than
14 seventy-five days before the date of the election, shall
15 publish portions of the proclamation relevant to the county
16 at least once in a newspaper of general circulation within
17 the county. The publication of the proclamation shall
18 conform to the requirements of the federal Voting Rights Act
19 of 1965, as amended, and shall specify:

20 (1) the date when the election will be held;

21 (2) for each local government situated in
22 whole or in part in the county, each elective executive,
23 local governing body and judicial position to be filled by
24 voters of any precinct in the county;

25 (3) the date on which declarations of

1 candidacy are to be filed and the date on which declarations
2 of intent to be a write-in candidate are to be filed;

3 (4) the location, days and hours for voting
4 at the office of the county clerk;

5 (5) the location, days and hours for early
6 voting at each alternate voting location and mobile alternate
7 voting location;

8 (6) the location, date and hours for voting
9 at each election day polling place; and

10 (7) the date certificates of registration
11 shall be subscribed and sworn as required by law.

12 E. Whenever two or more members of a local
13 governing body are to be elected at large for terms of the
14 same length of time, the secretary of state shall numerically
15 designate the positions on the ballot as "position one",
16 "position two" and such additional consecutively numbered
17 positions as are necessary, but only one member shall be
18 elected for each position. Whenever two or more members of a
19 local governing body are to be elected to represent the same
20 area with terms of different lengths of time, the secretary
21 of state shall list the office with the shorter length of
22 time first and shall designate each position with "for a term
23 expiring ____".

24 SECTION 147. Section 1-22-7 NMSA 1978 (being Laws 2018,
25 Chapter 79, Section 20) is amended to read:

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

3 A. A candidate for a position that will be filled
4 at a regular local election shall file a declaration of
5 candidacy with the proper filing officer between 9:00 a.m.
6 and 5:00 p.m. on the seventieth day before the date of the
7 regular local election.

8 B. A candidate shall file for only one position in
9 the same local government but may file for a position in more
10 than one local government on the same filing day.

11 C. A declaration of candidacy shall not be amended
12 after it has been filed with the proper filing officer.

13 D. Each declaration of candidacy shall be
14 delivered for filing in person by the eligible candidate or
15 by a person acting by virtue of written authorization. The
16 proper filing officer shall not accept for filing from any
17 one individual more than one declaration of candidacy.

18 E. Whoever knowingly makes a false statement in a
19 declaration of candidacy is guilty of a fourth degree felony
20 and shall be sentenced pursuant to the provisions of Section
21 31-18-15 NMSA 1978."

22 SECTION 148. Section 1-22-8 NMSA 1978 (being Laws 2018,
23 Chapter 79, Section 21) is amended to read:

24 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF
25 INTENT--FORM.--In making a declaration of candidacy, the

1 candidate shall submit a sworn statement of intent in
2 substantially the following form:

3 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

4 I, _____ (candidate's name on certificate
5 of registration), being first duly sworn, say that I am a
6 voter of the county of _____, State of New
7 Mexico. I reside at

8 _____
9 and was registered to vote at that place on the date of the
10 proclamation calling this election;

11 I reside within and am registered to vote in the area to
12 be elected to represent;

13 I desire to become a candidate for the office of
14 _____ at the regular local election to be held
15 in November of the year this declaration is filed;

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

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

21 _____
22 (Signature of Declarant)

23 _____
24 (Mailing Address)

25 _____

(Residence Address)

Subscribed and sworn to before me by _____ this
_____ day of _____, 20 _____.

_____.

(Notary Public)

My commission expires:

_____".

SECTION 149. Section 1-22-8.1 NMSA 1978 (being Laws
2018, Chapter 79, Section 22) 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. 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 write-in candidate shall be considered a
candidate for all purposes and provisions relating to

1 candidates in the Local Election Act, except that the write-
2 in candidate's name shall not be printed on the ballot nor
3 posted in any polling place."

4 SECTION 150. Section 1-22-10 NMSA 1978 (being Laws
5 2018, Chapter 79, Section 24) is amended to read:

6 "1-22-10. CANDIDATE QUALIFICATION--CHALLENGES--
7 BALLOTS.--

8 A. The proper filing officer shall determine
9 whether a candidate filing a declaration of candidacy is
10 registered to vote within the area to be elected to represent
11 and, if required for the office being sought, whether the
12 candidate's nominating petition for that office has been
13 filed with a number of signatures that is equal to or greater
14 than the number required for that office. If the candidate
15 is so qualified and no withdrawal of candidacy has been filed
16 as provided in the Local Election Act, the proper filing
17 officer shall place the candidate's name on the ballot for
18 the position specified in the declaration of candidacy and
19 notify each candidate in writing no later than 5:00 p.m. on
20 the sixtieth day before the local election.

21 B. Any voter may challenge the candidacy of any
22 person seeking election at the regular local election for the
23 reason that the person does not meet the requirements for the
24 office sought by filing a petition in the district court
25 within seven days after the day for filing a declaration of

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

7 C. Ballots for the regular local election shall be
8 prepared by the proper filing officer and printed in
9 accordance with the provisions of Section 1-10-5 NMSA 1978.

10 D. The printed ballot shall contain the name of
11 each person who is a candidate and the position for which the
12 person is a candidate.

13 E. The ballot shall also contain all ballot
14 questions that are to be submitted to the voters as certified
15 by a local governing body to the county clerk in each county
16 in which the local government is situate and shall conform to
17 the requirements for ballot questions on the regular local
18 election ballot as provided in Chapter 1, Article 16 NMSA
19 1978."

20 SECTION 151. Section 1-22-16 NMSA 1978 (being Laws
21 2018, Chapter 79, Section 29) is amended to read:

22 "1-22-16. MUNICIPAL RUNOFF ELECTIONS.--

23 A. All runoff elections authorized by Article 7,
24 Section 5 of the constitution of New Mexico shall be
25 conducted pursuant to this section as a top-two runoff

1 election or as a ranked-choice runoff election as follows:

2 (1) a top-two runoff election shall be
3 conducted on a separate ballot when the candidate receiving
4 the most votes for an office did not receive the percentage
5 of votes required by the laws of the municipality to be
6 elected in the first round of voting. When ordered, the
7 top-two runoff election shall be held following the regular
8 local election and allow the voter to select between the two
9 candidates who in the first round of voting received the
10 highest number of votes for an office; and

11 (2) a ranked-choice runoff election shall be
12 conducted on the same ballot as the regular local election
13 and allow the voter to rank the candidates for an office in
14 the order of preference for the voter.

15 B. If a municipality whose laws provide for
16 top-two runoff elections is notified by the proper canvassing
17 board that a runoff election is required following the
18 regular local election, the top-two runoff election shall be
19 conducted in accordance with those election provisions and
20 procedures in the ordinances or charter of the municipality
21 that do not conflict with the Election Code or administrative
22 rules issued by the secretary of state; provided that in a
23 municipality in which the first round of voting is conducted
24 at the regular local election:

25 (1) the county clerk shall perform the

1 duties of administering the top-two runoff election; and

2 (2) the municipality shall reimburse the
3 secretary of state the actual cost of conducting the runoff
4 election.

5 C. A municipality whose laws provide for a runoff
6 election shall conduct the election in the manner provided by
7 the municipality's ordinance or charter; provided that a
8 municipality may by ordinance choose between conducting a
9 top-two runoff election and a ranked-choice runoff election.
10 The ordinance shall be filed with the secretary of state no
11 later than June 30 of the year the next regular local
12 election is scheduled.

13 D. The secretary of state shall issue rules to
14 implement top-two and ranked-choice runoff elections."

15 SECTION 152. Section 1-22-19 NMSA 1978 (being Laws
16 2018, Chapter 79, Section 32) is amended to read:

17 "1-22-19. EARLY VOTING--MUNICIPAL EARLY VOTING
18 LOCATIONS.--In a regular local election, a county clerk shall
19 provide at least one alternate voting or mobile alternate
20 voting location in a municipality when requested by a
21 municipality in the county; provided that the:

22 A. municipality elects its municipal officers at
23 the regular local election and submits a written request to
24 the county clerk no later than January 30 of the year of the
25 local election;

1 B. alternate voting or mobile alternate voting
2 location may operate for less than the full early voting
3 period, to be decided upon between the municipality and the
4 county clerk;

5 C. location of the alternate voting or mobile
6 alternate voting location in the municipality conforms to the
7 requirements for alternate voting locations; and

8 D. municipality provides the facility and services
9 for the alternate voting or mobile alternate voting
10 location."

11 SECTION 153. Section 1-24-1 NMSA 1978 (being Laws 1989,
12 Chapter 295, Section 1, as amended) is amended to read:

13 "1-24-1. SHORT TITLE--SPECIAL ELECTION
14 ACT--APPLICATION--PROHIBITION.--

15 A. Chapter 1, Article 24 NMSA 1978 may be cited as
16 the "Special Election Act".

17 B. Notwithstanding any state or local laws to the
18 contrary, the provisions of the Special Election Act govern
19 the conduct of all special elections conducted by the state
20 or any local public body.

21 C. No special election shall be held beginning the
22 seventieth day prior to any statewide election and until:

23 (1) the one hundredth day following a
24 general or regular local election; or

25 (2) the seventieth day following a major

1 political party primary or an election to fill a vacancy in
2 the office of united states representative."

3 SECTION 154. Section 1-24-6 NMSA 1978 (being Laws 2018,
4 Chapter 79, Section 39) is recompiled as Section 1-24-1.1
5 NMSA 1978 and is amended to read:

6 "1-24-1.1. DEFINITION.--As used in the Special Election
7 Act, "local public body" means:

8 A. a county;

9 B. a local government subject to the Local
10 Election Act; or

11 C. a special district not subject to the Local
12 Election Act."

13 SECTION 155. Section 1-24-2 NMSA 1978 (being Laws 1989,
14 Chapter 295, Section 2, as amended) is amended to read:

15 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--
16 PUBLICATION.--

17 A. Whenever a local public body determines that it
18 is necessary or desirable to conduct a special election:

19 (1) the governing body shall by resolution
20 issue a public proclamation calling the election. The
21 proclamation shall forthwith be filed with the county clerk
22 no later than seventy days prior to the date for the special
23 election. If the boundaries of the local public body include
24 precincts in multiple counties, the proclamation shall
25 forthwith be filed with each county clerk no later than

1 seventy days prior to the election;

2 (2) the proclamation shall specify:

3 (a) the date on which the special
4 election will be held;

5 (b) the purpose for which the special
6 election is called; and

7 (c) the text of the ballot question or
8 ballot questions to be voted on;

9 (3) after filing with the county clerk or
10 clerks the proclamation issued pursuant to this subsection,
11 each county clerk shall post the proclamation beginning no
12 later than sixty-seven days before the election and,
13 beginning not less than sixty-three days before the date of
14 the election, each county clerk shall publish the
15 proclamation once each week for two consecutive weeks in a
16 newspaper of general circulation within the boundaries of the
17 local public body; provided that if the boundaries of the
18 local public body include precincts in multiple counties that
19 share the same newspaper of general circulation, the county
20 clerks may jointly publish the proclamation;

21 (4) the posting and publication pursuant to
22 this subsection shall also inform the public that the special
23 election will be conducted by mailed ballot, of the date
24 ballots will be initially mailed to voters and of the last
25 day to register to vote or to update an existing registration

1 in advance of the special election; and

2 (5) the proclamation shall conform to the
3 requirements of the federal Voting Rights Act of 1965, as
4 amended.

5 B. Whenever the state determines that it is
6 necessary or desirable to conduct a special election:

7 (1) the secretary of state shall by
8 resolution issue a public proclamation calling the election.
9 The proclamation shall forthwith be filed with the secretary
10 of state no later than seventy-five days prior to the
11 election;

12 (2) the proclamation shall specify:

13 (a) the date on which the special
14 election will be held;

15 (b) the purpose for which the special
16 election is called; and

17 (c) the text of the ballot question or
18 ballot questions to be voted upon;

19 (3) after filing with the secretary of state
20 the proclamation issued pursuant to this subsection, the
21 secretary of state shall within five days certify the
22 proclamation to each county clerk in the state;

23 (4) the proclamation shall be posted and
24 published in the same manner as provided for a proposed state
25 constitutional amendment pursuant to Section 1-16-4 NMSA

1 1978;

2 (5) the posting and publication pursuant to
3 this subsection shall also inform the public that the special
4 election will be conducted by mailed ballot, of the date
5 ballots will be initially mailed to voters and of the last
6 day to register to vote or to update an existing registration
7 in advance of the special election; and

8 (6) the proclamation shall conform to the
9 requirements of the federal Voting Rights Act of 1965, as
10 amended."

11 SECTION 156. Section 1-24-3 NMSA 1978 (being Laws 1989,
12 Chapter 295, Section 3, as amended) is repealed and a new
13 Section 1-24-3 NMSA 1978 is enacted to read:

14 "1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--

15 A. All special elections in this state shall be
16 conducted absentee. Mailed ballots shall be used exclusively
17 for voting in special elections. Except as otherwise
18 provided in the Special Election Act, all special elections
19 in this state shall be conducted and canvassed as provided in
20 the Election Code.

21 B. Without requiring a voter to file an
22 application to receive a ballot, the county clerk shall send
23 a mailed ballot to every voter of the county or local public
24 body, except a voter:

25 (1) who was sent a notice pursuant to

1 Subsection C of Section 1-4-28 NMSA 1978 and who has not
2 returned the prepaid and pre-addressed return card sent
3 pursuant to that section and has not filed a new certificate
4 of registration with a new address; or

5 (2) whose official election-related mail
6 sent through a uniform, nondiscriminatory process was
7 returned to the county clerk or the secretary of state as
8 undeliverable and the voter has not communicated with the
9 county clerk that the official election-related mail was
10 returned as undeliverable in error or filed a certificate of
11 registration with a new address.

12 C. Forty-two days before the election, the county
13 clerk shall send to each voter of the county or local public
14 body described in Paragraphs (1) and (2) of Subsection B of
15 this section notice, sent by forwardable mail, that the voter
16 will not be sent a ballot for the special election unless the
17 voter updates the voter's address as provided by the Election
18 Code or informs the county clerk that the address on the
19 certificate of registration is valid. The notice shall
20 include contact information for the office of the county
21 clerk and an internet address where the voter may update the
22 voter's address or communicate with the county clerk. The
23 mailed ballot register shall note which voters were sent a
24 notice pursuant to this subsection.

25 D. Between the twenty-seventh and twenty-fifth day

1 before the election, pursuant to Subsection B of this
2 section, the county clerk shall send to each voter a ballot
3 for the special election, along with a postage-paid return
4 envelope, a notice that there will be no traditional polling
5 places for the election, the deadline for the ballot to be
6 received by the county clerk and a list of the times and
7 locations of secured containers available in addition to the
8 United States postal service for a voter to return the
9 ballot.

10 E. Beginning twenty-two days before the election,
11 the county clerk shall issue replacement and provisional
12 ballots as provided in the Absent Voter Act for the mailed
13 ballot process. In addition, the county clerk shall send a
14 ballot to any voter described in Paragraphs (1) and (2) of
15 Subsection B of this section who has not previously been sent
16 a ballot if the voter submits an application pursuant to
17 Section 1-6-4 NMSA 1978.

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

1 The county clerk shall note on the mailed ballot register and
2 signature roster that the applicant's mailed ballot must be
3 returned with the required voter identification."

4 SECTION 157. Section 1-24-4 NMSA 1978 (being Laws 1989,
5 Chapter 295, Section 4) is amended to read:

6 "1-24-4. SPECIAL ELECTION PROCEDURES--ELECTION BOARD--
7 RECORDS.--

8 A. Upon the filing in the office of the county
9 clerk of a proclamation calling a special election, the
10 county clerk shall appoint election boards for the special
11 election pursuant to the provisions of Sections 1-2-6 through
12 1-2-18 NMSA 1978. The county clerk shall keep a log of how
13 each person was notified and confirmation that the notice was
14 received. Presiding judges and election judges on the
15 election board for the special election shall be appointed
16 from among those persons who served as election board members
17 in a recent statewide election. The handling of mailed
18 ballots returned to the county clerk in a special election
19 shall be pursuant to the provisions of Section 1-6-14 NMSA
20 1978. The election board for the special election shall
21 tally the votes for each ballot question in the special
22 election ballot in the presence of the county clerk and any
23 other person who may desire to be present; provided that such
24 person does not interfere with the duties of the election
25 board for the special election. After completion of the

1 tally, the election board for the special election shall
2 replace the ballots in the ballot boxes or ballot containers
3 and lock the ballot boxes or ballot containers, and the
4 election board for the special election shall certify for the
5 county canvassing report the results of the special election.

6 B. The returns of the results of special elections
7 are public documents, subject to retention and inspection
8 pursuant to Section 1-12-69 NMSA 1978."

9 SECTION 158. Section 1-24-5 NMSA 1978 (being Laws 2018,
10 Chapter 79, Section 42) is amended to read:

11 "1-24-5. SPECIAL ELECTION PROCEDURES--COSTS OF
12 ELECTION--PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

13 A. The costs of conducting a special election
14 shall be paid for by the state or local public body calling
15 for the election.

16 B. When the proclamation is issued by:

17 (1) the secretary of state, the state shall
18 pay all costs of the special election, including reasonable
19 costs incurred by each county clerk; and

20 (2) a local public body:

21 (a) unless the local public body has
22 made appropriate arrangements with the county clerk by means
23 of a written memorandum of understanding or has provided the
24 county clerk with written documentation that the local public
25 body has made arrangements for payment with an election

1 vendor, the local public body shall deposit the estimated
2 actual amount for all costs associated with the conduct of
3 the special local election with the county clerk no later
4 than forty-nine days before the special local election; and
5 if multiple local public bodies jointly conduct a special
6 local election, each local public body shall post a pro rata
7 share of the estimated actual cost of conducting the special
8 local election;

9 (b) a county clerk may refuse to print
10 or mail ballots for a special local election if the estimated
11 actual cost of the election has not been deposited with the
12 county clerk no later than forty-nine days before the special
13 local election and the local public body has not made
14 appropriate arrangements with the county clerk by means of a
15 written memorandum of understanding;

16 (c) within sixty days following the
17 special local election, the county clerk shall provide an
18 accounting of expenses along with a refund for any funds not
19 expended or a bill for the remainder of the expenses to be
20 paid by the local public body within ninety days following
21 the special local election; and

22 (d) the secretary of state shall
23 maintain current on the secretary's website guidance for
24 calculating the estimated actual cost of a special local
25 election.

1 C. No individual, corporation, person, political
2 action committee or other nongovernmental entity shall pay
3 for or reimburse the state or a local public body for the
4 costs associated with conducting a special election. Upon a
5 finding of a violation of this subsection, the district court
6 shall nullify the votes cast in the special election and
7 shall void the result of the special election."

8 SECTION 159. Section 22-7-1 NMSA 1978 (being Laws 1977,
9 Chapter 308, Section 1, as amended) is recompiled as Section
10 1-25-1 NMSA 1978 and is amended to read:

11 "1-25-1. SHORT TITLE.--Chapter 1, Article 25 NMSA 1978
12 may be cited as the "Recall Act"."

13 SECTION 160. Section 22-7-3 NMSA 1978 (being Laws 1977,
14 Chapter 308, Section 3, as amended) is recompiled as Section
15 1-25-2 NMSA 1978 and is amended to read:

16 "1-25-2. DEFINITIONS.--As used in the Recall Act:

17 A. "canvasser" means a person who circulates a
18 petition and collects signatures;

19 B. "county clerk" means:

20 (1) the clerk of the county in which the
21 local jurisdiction is situate;

22 (2) in the case of a multicounty
23 jurisdiction, the clerk of the county in which the primary
24 administrative office of the local jurisdiction is situate;

25 and

1 (3) the clerk of each county containing any
2 precinct in which votes may be cast for or against the recall
3 of a named official;

4 C. "face sheet" means the first page of a petition
5 containing the information required in the Recall Act;

6 D. "filing date" means the date on which the
7 county clerk receives signed petitions for the recall of one
8 or more named officials;

9 E. "initiation date" means the date on which the
10 district court stamps the face sheet of the petition after
11 entering an order finding that probable cause exists to
12 proceed with the recall process;

13 F. "malfeasance" means wrongful conduct that
14 affects, interrupts or interferes with the performance of
15 official duties; provided that if the act is discretionary,
16 the act was performed with an improper or corrupt motive;

17 G. "misfeasance" means performing a legal act in
18 an improper or illegal manner and the conduct evinces an
19 improper or corrupt motive;

20 H. "named official" means an elected official of a
21 local jurisdiction subject to the Recall Act and who is named
22 on a petition;

23 I. "petition" means a document consisting of a
24 completed face sheet or exact duplicate thereof and as many
25 subsequent pages as are necessary for signatures;

1 J. "petitioner" means a person, group or
2 organization initiating the petition;

3 K. "subsequent page" means the pages in a petition
4 after the face sheet; and

5 L. "violation of oath of office" means to refuse
6 or neglect to perform, without any just cause, any of the
7 duties that are or shall be required by law of the named
8 official."

9 SECTION 161. Section 22-7-4 NMSA 1978 (being Laws 1977,
10 Chapter 308, Section 4) is recompiled as Section 1-25-3 NMSA
11 1978 and is amended to read:

12 "1-25-3. RECALL--ELECTED OFFICIALS SUBJECT TO RECALL--
13 LIMITATIONS.--

14 A. An elected official of the following local
15 jurisdictions is subject to recall pursuant to the provisions
16 of the Recall Act:

17 (1) a school district, pursuant to Article
18 12, Section 14 of the constitution of New Mexico;

19 (2) a county, pursuant to Article 10,
20 Section 9 of the constitution of New Mexico;

21 (3) a commission-manager municipality,
22 pursuant to Section 3-14-16 NMSA 1978; and

23 (4) a home rule municipality, if the charter
24 of the home rule municipality provides for recall of elective
25 officers and notwithstanding any election provisions or

1 procedures in the laws of the municipality that may conflict
2 with the Recall Act; provided that if the recall procedures
3 of a home rule municipality provide greater due process than
4 the Recall Act, the recall procedures of the home rule
5 municipality shall be utilized in place of the due process
6 procedures of the Recall Act.

7 B. Recall of elected officials of the local
8 jurisdictions listed in Subsection A of this section is
9 subject to the following limitations:

10 (1) the cited grounds for recall shall be
11 based upon acts or failures to act constituting malfeasance
12 in office, misfeasance in office or violation of oath of
13 office occurring during the current term of the named
14 official sought to be recalled;

15 (2) no petition for recall of a named
16 official shall be submitted more than once during the same
17 term of office to which the official is elected; and

18 (3) an election to recall a named official
19 shall not be conducted:

20 (a) later than one hundred eighty days
21 from the end of the term for the office for which the recall
22 of a named official is sought, in the case of any office
23 subject to recall; and

24 (b) after May 1 in the calendar year in
25 which an election is to be held for the office for which the

1 recall of a named official is sought, in the case of a county
2 official who is a candidate for reelection."

3 SECTION 162. Section 22-7-6 NMSA 1978 (being Laws 1977,
4 Chapter 308, Section 6, as amended) is recompiled as Section
5 1-25-4 NMSA 1978 and is amended to read:

6 "1-25-4. RECALL--PETITION.--

7 A. The recall petition shall be composed of a face
8 sheet and a subsequent page. An individual, group or
9 organization desiring to initiate the recall process may
10 obtain the forms from the district court.

11 B. The petition shall be on eight and one-half
12 inch by eleven inch paper.

13 C. All information written on the petition form
14 shall be in compliance with the federal Voting Rights Act of
15 1965, as amended.

16 D. Each face sheet of a petition shall contain the
17 following:

18 (1) a space for the initiation date;

19 (2) a notice at the top of the sheet
20 stating: "Recall is a local decision to be funded by local
21 money. State funds will not be advanced to support recall.";

22 (3) a space for the name of the named
23 official;

24 (4) a space for the name of the local
25 jurisdiction in which the named official has been elected;

1 (5) a space for the name of the individual,
2 group or organization initiating the petition;

3 (6) a space in which to list the specific
4 charges to support recall of the named official that
5 constitute malfeasance in office, misfeasance in office or
6 violation of oath of office; and

7 (7) a notice stating "Signatures are valid
8 for a maximum of ninety days from the initiation date."

9 E. The remaining portion of the face sheet shall
10 be substantially in the following form:

11 "I, the undersigned, a registered voter and a resident
12 of the _____ (name of local jurisdiction), hereby
13 petition for the recall of the named official on the face
14 sheet of this petition.

15 1. _____
16 Usual Signature Name Printed Address As City Or Date
17 As Registered Registered Zip Code Signed

18 2. _____
19 Usual Signature Name Printed Address As City Or Date
20 As Registered Registered Zip Code Signed".

21 F. One completed face sheet or duplicate thereof
22 shall be the first page of all circulated petitions.

23 G. Each subsequent page shall describe the purpose
24 of the petition, provide the name of the named official
25 sought to be recalled and indicate that additional details

1 are contained on the face sheet and be substantially in the
2 form provided in this section."

3 SECTION 163. Section 22-7-8 NMSA 1978 (being Laws 1977,
4 Chapter 308, Section 8, as amended) is recompiled as Section
5 1-25-5 NMSA 1978 and is amended to read:

6 "1-25-5. RECALL--RESPONSIBILITIES OF PETITIONER.--

7 The petitioner shall complete the following
8 portions of the face sheet:

9 A. name of the named official;

10 B. name of the local jurisdiction in which the
11 named official has been elected;

12 C. name of the individual, group or organization
13 initiating the petition; and

14 D. the specific charges to support recall of the
15 named official, which shall constitute malfeasance in office,
16 misfeasance in office or violation of oath of office."

17 SECTION 164. Section 22-7-9.1 NMSA 1978 (being Laws
18 1987, Chapter 142, Section 2) is recompiled as Section 1-25-6
19 NMSA 1978 and is amended to read:

20 "1-25-6. RECALL--COURT HEARING.--

21 A. The petitioner shall file the completed face
22 sheet along with a petition in the district court of the
23 county in which the named official resides, requesting a
24 hearing for a determination by the court of whether
25 sufficient facts and probable cause exist to allow the

1 petitioner to continue with the recall process. A separate
2 face sheet and petition shall be filed for each named
3 official.

4 B. Upon the filing of the application, the
5 district court shall set a hearing date on the issue of
6 sufficiency of the facts alleged, which hearing shall be held
7 not more than fourteen days from the date the petitioner
8 files the face sheet and petition. The court shall notify
9 the county clerk of the date for the hearing. At the
10 hearing, the petitioner and the named official shall each be
11 given an opportunity to present evidence and cross-examine
12 witnesses.

13 C. The district court's decision is appealable by
14 the petitioner or the named official only to the supreme
15 court, and notice of appeal shall be filed within five days
16 after the decision of the district court. The supreme court
17 shall hear and render a decision on the appeal forthwith."

18 SECTION 165. Section 22-7-9 NMSA 1978 (being Laws 1977,
19 Chapter 308, Section 9, as amended) is recompiled as Section
20 1-25-7 NMSA 1978 and is amended to read:

21 "1-25-7. RECALL--DUTIES OF COUNTY CLERK.--

22 A. Upon receipt of completed petitions, the county
23 clerk shall stamp the petitions with the filing date. All
24 completed petitions for the recall of one or more named
25 officials shall be filed with the county clerk on the same

1 day within ninety days from the date of initiation.

2 B. For each petition that is accompanied by the
3 required affidavit pursuant to the Recall Act, the county
4 clerk shall verify the signatures on the completed petitions
5 within fifteen days and determine whether the verified
6 signatures meet the required minimum number.

7 C. The minimum number of verified signatures
8 required to validate a petition is thirty-three and one-third
9 percent of the total number of voters who voted for all
10 candidates for the elected position currently occupied by the
11 named official at the last election where the official was
12 elected.

13 D. Within five days of making a determination
14 whether the verified signatures meet the required minimum
15 number, the county clerk shall notify the petitioner and the
16 named official in writing of the determination, and if the
17 county clerk determines that sufficient signatures have been
18 submitted, the clerk shall initiate procedures for a recall
19 election as provided in the Local Election Act; provided that
20 the order of the district court shall serve as the
21 proclamation calling the recall election."

22 SECTION 166. Section 22-7-7 NMSA 1978 (being Laws 1977,
23 Chapter 308, Section 7, as amended) is recompiled as Section
24 1-25-8 NMSA 1978 and is amended to read:

25 "1-25-8. RECALL--AFFIDAVIT WITH PETITION--PENALTY.--

1 A. When submitted to the county clerk, each
2 petition shall have a notarized affidavit attached. The
3 affidavit shall state that the canvasser circulated that
4 particular petition and witnessed each signature and any
5 other information recorded on the petition.

6 B. According to the best information and belief of
7 the canvasser, the canvasser shall ensure the following:

8 (1) each signature is the signature of the
9 person whose name it purports to be;

10 (2) each signer is a registered voter of the
11 local jurisdiction listed on the petition;

12 (3) each signature was obtained on or after
13 the filing date; and

14 (4) each signer had an opportunity to read
15 the information on the completed face sheet or an exact
16 duplicate thereof.

17 C. Any knowingly false statement made in the
18 affidavit constitutes a fourth degree felony."

19 **SECTION 167.** Section 22-7-10 NMSA 1978 (being Laws
20 1977, Chapter 308, Section 10, as amended) is recompiled as
21 Section 1-25-9 NMSA 1978 and is amended to read:

22 "1-25-9. RECALL--SIGNATURES.--

23 A. No signature may be signed on the petition
24 prior to the initiation date.

25 B. Signatures are valid for a maximum of ninety

1 days from the date of initiation.

2 C. Each signer of a recall petition shall sign but
3 one petition for each named official of a local jurisdiction
4 in which the signer is registered to vote.

5 D. The signature shall not be counted unless the
6 entire line is filled in full and is upon the form prescribed
7 by the Recall Act.

8 E. A signature shall be counted on a recall
9 petition unless there is evidence presented that the person
10 signing:

11 (1) is not a registered voter of the local
12 jurisdiction listed on the face sheet of the petition, and in
13 the case of a named official serving in a districted
14 position, is not a registered voter of that district within
15 the local jurisdiction;

16 (2) has signed more than one recall petition
17 page seeking to recall the same named official or has signed
18 one petition page more than once; or

19 (3) is not the person whose name appears as
20 a signer of the recall petition."

21 SECTION 168. Section 22-7-12 NMSA 1978 (being Laws
22 1977, Chapter 308, Section 12, as amended) is recompiled as
23 Section 1-25-10 NMSA 1978 and is amended to read:

24 "1-25-10. RECALL--LIMITATION ON APPEALS OF VALIDITY OF
25 RECALL PETITION.--

1 A. Any person filing any court action challenging
2 a recall petition provided for in the Recall Act shall do so
3 within seven days after the determination of the county clerk
4 as to whether sufficient signatures have been submitted.

5 Challenges to the recall petition shall be directed to:

6 (1) the validity of the signatures on the
7 petitions; or

8 (2) the determination of the county clerk as
9 to the minimum number of signatures.

10 B. Within ten days after the filing of the action,
11 the district court shall hear and render a decision on the
12 matter. The decision shall be appealable only to the supreme
13 court, and notice of appeal shall be filed within five days
14 after the decision of the district court. The supreme court
15 shall hear and render a decision on the appeal forthwith."

16 **SECTION 169.** Section 22-7-13 NMSA 1978 (being Laws
17 1977, Chapter 308, Section 13, as amended) is recompiled as
18 Section 1-25-11 NMSA 1978 and is amended to read:

19 "1-25-11. RECALL--ELECTION.--

20 A. Except as otherwise provided in the Recall Act,
21 recall elections shall be conducted and canvassed pursuant to
22 the provisions of the Local Election Act.

23 B. The date of the recall election shall be set no
24 later than ninety days after the date of the determination by
25 the county clerk; provided that:

1 (1) the date is not in conflict with the
2 provisions of Section 1-24-1 NMSA 1978; and

3 (2) if the date of the determination by the
4 county clerk is within ninety days but no less than
5 forty-nine days before a statewide election, the recall
6 election shall be the first ballot question following the
7 election or nomination of candidates on the statewide
8 election ballot; and if the statewide election is a political
9 party primary or the regular local election, ballots
10 containing only the recall ballot question shall be available
11 to voters who do not otherwise qualify to vote in the
12 statewide election.

13 C. The question to be submitted to the voters at
14 the recall election shall be whether the named official shall
15 be recalled and shall present the voter the choice of voting
16 "for the removal of" the named official or "against the
17 removal of" the named official. The ballot or ballot question
18 shall be in compliance with the federal Voting Rights Act of
19 1965, as amended."

20 SECTION 170. Section 22-7-5 NMSA 1978 (being Laws 1977,
21 Chapter 308, Section 5, as amended) is recompiled as Section
22 1-25-12 NMSA 1978 and is amended to read:

23 "1-25-12. RECALL--EXPENSES.--Following a decision of
24 the district court, if the county clerk proceeds to initiate
25 proceedings for a recall election as a special local

1 election, the local jurisdiction shall ensure payment of the
2 cost of the recall election as provided in the Special
3 Election Act."

4 **SECTION 171.** Section 22-7-14 NMSA 1978 (being Laws
5 1977, Chapter 308, Section 14) is recompiled as Section
6 1-25-13 NMSA 1978 and is amended to read:

7 "1-25-13. RECALL--VACANCY.--

8 A. The vacancy created by a recalled official
9 shall be filled as provided by law for vacancies in office
10 for the local jurisdiction.

11 B. Under no circumstances may a recalled official
12 be appointed to fill any vacancy for the remainder of the
13 term of office for which the recalled official was elected
14 and from which the official was recalled."

15 **SECTION 172.** A new section of the Election Code is
16 enacted to read:

17 "SHORT TITLE.--Sections 172 through 177 of this act may
18 be cited as the "Nonpartisan Judicial Retention Act"."

19 **SECTION 173.** A new section of the Election Code is
20 enacted to read:

21 "JUDICIAL RETENTION--ELIGIBILITY FOR RETENTION--
22 DEFINITIONS.--

23 A. A justice of the supreme court, judge of the
24 court of appeals, district court judge or metropolitan court
25 judge is eligible for nonpartisan judicial retention after

1 the justice or judge has first been elected to that position
2 in a partisan election.

3 B. In the last year of the term of office for the
4 position to which an eligible justice or eligible judge was
5 elected in a partisan election or by a previous nonpartisan
6 retention election, the eligible justice or judge desiring to
7 continue to serve in that position shall be subject to a
8 nonpartisan judicial retention election as provided in the
9 Nonpartisan Judicial Retention Act.

10 C. Declarations of candidacy for nonpartisan
11 judicial retention for the supreme court, court of appeals,
12 district court or metropolitan court shall be filed with the
13 proper filing officer between the hours of 9:00 a.m. and 5:00
14 p.m. on the twenty-third day after the primary election.

15 D. Each declaration of candidacy for nonpartisan
16 judicial retention shall be delivered for filing in person by
17 the eligible justice or judge therein named or by a person
18 acting by virtue of written authorization. The proper filing
19 officer shall not accept for filing from any one individual
20 more than one declaration of candidacy for nonpartisan
21 judicial retention.

22 E. As used in the Nonpartisan Judicial Retention
23 Act, "eligible justice" or "eligible judge" means a justice
24 or judge who has been elected to that position in a partisan
25 election."

1 SECTION 174. A new section of the Election Code is
2 enacted to read:

3 "JUDICIAL RETENTION--SUPREME COURT JUSTICES.--

4 A. Each eligible justice of the supreme court
5 shall be subject to retention or rejection at the general
6 election in the last year of the eight-year term of office
7 for the position in which the justice is serving.

8 B. Terms of office for positions on the supreme
9 court shall be staggered so that at least one term of office
10 shall expire each even-numbered year; provided that no more
11 than two terms of office shall expire in the same year.

12 C. The administrative office of the courts shall
13 maintain current on its website a list of the names of the
14 currently serving justices of the supreme court and the year
15 in which the term of office for each position on the supreme
16 court expires."

17 SECTION 175. A new section of the Election Code is
18 enacted to read:

19 "JUDICIAL RETENTION--APPEALS COURT JUDGES.--

20 A. Each eligible judge of the court of appeals
21 shall be subject to retention or rejection at the general
22 election in the last year of the eight-year term of office
23 for the position in which the judge is serving.

24 B. Terms of office for positions on the court of
25 appeals shall be staggered so that at least two terms of

1 office shall expire each even-numbered year; provided that no
2 more than three terms of office shall expire in the same
3 year.

4 C. The administrative office of the courts shall
5 maintain current on its website a list of the names of the
6 currently serving judges of the court of appeals and the year
7 in which the term of office for each position on the court of
8 appeals expires."

9 SECTION 176. A new section of the Election Code is
10 enacted to read:

11 "JUDICIAL RETENTION--DISTRICT COURT JUDGES.--

12 A. Each eligible district court judge shall be
13 subject to retention or rejection at the general election in
14 the last year of the six-year term of office for the position
15 in which the judge is serving.

16 B. Terms of office for positions on the district
17 court in each judicial district shall be staggered, as
18 follows:

19 (1) the term of office for division 1 and
20 for every third division number thereafter shall expire in
21 2020 and every six years thereafter;

22 (2) the term of office for division 2 and
23 for every third division number thereafter shall expire in
24 2022 and every six years thereafter; and

25 (3) the term of office for division 3 and

1 for every third division number thereafter shall expire in
2 2024 and every six years thereafter.

3 C. The administrative office of the courts shall
4 maintain current on its website a list of the names of the
5 currently serving judges of each judicial district and the
6 year in which the term of office for each position expires.

7 D. As used in this section, "division" means the
8 divisions established pursuant to Section 34-6-18 NMSA 1978."

9 SECTION 177. A new section of the Election Code is
10 enacted to read:

11 "JUDICIAL RETENTION--METROPOLITAN COURT JUDGES.--

12 A. Each eligible metropolitan court judge shall be
13 subject to retention or rejection at the general election in
14 the last year of the four-year term of office for the
15 position in which the judge is serving.

16 B. Terms of office for positions on each
17 metropolitan court shall be staggered, as follows:

18 (1) the term of office for division 1 and
19 for every second division number thereafter shall expire in
20 2022 and every four years thereafter; and

21 (2) the term of office for division 2 and
22 for every second division number thereafter shall expire in
23 2024 and every four years thereafter.

24 C. The administrative office of the courts shall
25 maintain current on its website a list of the names of the

1 currently serving judges of the metropolitan court and the
2 year in which the term of office for each position expires.

3 D. As used in this section, "division" means the
4 divisions established pursuant to Subsection B of Section
5 34-8A-4 NMSA 1978."

6 SECTION 178. Section 3-1-2 NMSA 1978 (being Laws 1965,
7 Chapter 300, Section 14-1-2, as amended) is amended to read:

8 "3-1-2. DEFINITIONS.--As used in the Municipal Code:

9 A. "acquire" or "acquisition" means purchase,
10 construct, accept or any combination of purchasing,
11 constructing or accepting;

12 B. "business" means any person, occupation,
13 profession, trade, pursuit, corporation, institution,
14 establishment, utility, article, commodity or device engaged
15 in making a profit, but does not include an employee;

16 C. "census" means any enumeration of population of
17 a municipality conducted under the direction of the
18 government of the United States, the state of New Mexico or
19 the municipality;

20 D. "county" means the county in which the
21 municipality or land is situated;

22 E. "district court" means the district court of
23 the district in which the municipality or land is situated;

24 F. "governing body" means the city council or city
25 commission of a city, the board of trustees of a town or

1 village, the council of incorporated counties and the board
2 of county commissioners of H class counties;

3 G. "municipal" or "municipality" means any
4 incorporated city, town or village, whether incorporated
5 under general act, special act or special charter,
6 incorporated counties and H class counties;

7 H. "municipal utility" means sewer facilities,
8 water facilities, gas facilities, electric facilities,
9 generating facilities or any interest in jointly owned
10 generating facilities owned by a municipality and serving the
11 public. A municipality that owns both electric facilities
12 and any interest in jointly owned generating facilities may,
13 by ordinance, designate such interest in jointly owned
14 generating facilities as part of its electric facilities.
15 Generating facilities shall be considered as part of a
16 municipality's electric facilities unless the municipality
17 designates, by ordinance, the generating facilities as a
18 separate municipal utility, such designation being conclusive
19 subject to any existing property rights or contract rights;

20 I. "public ground" means any real property owned
21 or leased by a municipality;

22 J. "publish" or "publication" means printing in a
23 newspaper that maintains an office in the municipality and is
24 of general circulation within the municipality or, if such
25 newspaper is a nondaily paper that will not be circulated to

1 the public in time to meet publication requirements or if
2 there is no newspaper that maintains an office in the
3 municipality and is of general circulation within the
4 municipality, then "publish" or "publication" means posting
5 in six public places within the municipality on the first day
6 that publication is required in a newspaper that maintains an
7 office in the municipality and is of general circulation
8 within the municipality. One of the public places where
9 posting shall be made is the office of the municipal clerk,
10 who shall maintain the posting during the length of time
11 necessary to comply with the provisions relating to the
12 number of times publication is required in a newspaper of
13 general circulation within the municipality. The municipal
14 clerk may, in addition to posting, publish one or more times
15 in a newspaper of general circulation in the municipality;

16 K. "qualified elector" means any person who is a
17 resident of the municipality and is registered to vote under
18 the provisions of the Election Code. Persons who would
19 otherwise be qualified electors if land on which they reside
20 is annexed to a municipality shall be deemed to be qualified
21 electors:

22 (1) upon the effective date of the municipal
23 ordinance effectuating the terms of the annexation as
24 certified by the board of arbitration pursuant to Section
25 3-7-10 NMSA 1978;

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

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

10 L. "revenue producing project" means any
11 municipally owned self-liquidating projects that furnish
12 public services to a municipality and its citizens, including
13 but not necessarily limited to public buildings; facilities
14 and equipment for the collection or disposal of trash, refuse
15 or garbage; swimming pools; golf courses and other
16 recreational facilities; cemeteries or mausoleums or both;
17 airports; off-street parking garages; and transportation
18 centers, which may include but are not limited to office
19 facilities and customary terminal facilities for airlines,
20 trains, monorails, subways, intercity and intracity buses and
21 taxicabs. "Revenue producing project" does not mean a
22 municipal utility as defined in Subsection H of this section;

23 M. "street" means any thoroughfare that can
24 accommodate pedestrian or vehicular traffic, is open to the
25 public and is under the control of the municipality;

1 N. "warrant" means a warrant, check or other
2 negotiable instrument issued by a municipality in payment for
3 goods or services acquired by the municipality or for the
4 payment of a debt incurred by the municipality;

5 O. "mayor" means the chief executive officer of
6 municipalities having the mayor-council form of government.
7 In municipalities having other forms of government, the
8 presiding officer of the governing body and the official head
9 of the government, without executive powers, may be
10 designated mayor by the governing body. Wherever the
11 Municipal Code requires an act to be performed by the mayor
12 with the consent of the governing body, in municipalities not
13 having the mayor-council form of government, the act shall be
14 performed by the governing body;

15 P. "generating facility" means any facility
16 located within or outside the state necessary or incidental
17 to the generation or production of electric power and energy
18 by any means and includes:

19 (1) any facility necessary or incidental to
20 the acquisition of fuel of any kind for the production of
21 electric power and energy, including the acquisition of fuel
22 deposits, the extraction of fuel from natural deposits, the
23 conversion of fuel for use in another form, the burning of
24 fuel in place and the transportation and storage of such
25 fuel; and

1 (2) any facility necessary or incidental to
2 the transfer of the electric power and energy to the
3 municipality, including without limitation step-down
4 substations or other facilities used to reduce the voltage in
5 a transmission line in order that electric power and energy
6 may be distributed by the municipality to its retail
7 customers;

8 Q. "jointly owned generating facility" means any
9 generating facility in which a municipality owns any
10 undivided or other interest, including without limitation any
11 right to entitlement or capacity; and

12 R. "joint participant" means any municipality in
13 New Mexico or any other state; any public entity incorporated
14 under the laws of any other state having the power to enter
15 into the type of transaction contemplated by the Municipal
16 Electric Generation Act; the state of New Mexico; the United
17 States; Indian tribes; and any public electric utility,
18 investor-owned electric utility or electric cooperative
19 subject to general or limited regulation by the public
20 regulation commission or a similar commission of any other
21 state."

22 **SECTION 179.** Section 3-2-3 NMSA 1978 (being Laws 1965,
23 Chapter 300, Section 14-2-3, as amended) is amended to read:

24 "3-2-3. URBANIZED TERRITORY--INCORPORATION LIMITED
25 WITHIN URBANIZED TERRITORY.--

1 A. Urbanized territory is that territory within
2 the same county and within five miles of the boundary of any
3 municipality having a population of five thousand or more
4 persons and that territory within the same county and within
5 three miles of a municipality having a population of less
6 than five thousand persons, except that territory in a class
7 B county with a population between ninety-five thousand and
8 ninety-nine thousand five hundred, based on the 1990 federal
9 decennial census, declared by an ordinance of the board of
10 county commissioners to be a traditional historic community
11 shall not be considered urbanized territory and shall not be
12 annexed by a municipality unless it is considered for
13 annexation pursuant to a petition requesting annexation
14 signed by a majority of the qualified electors within the
15 traditional historic community.

16 B. No territory within an urbanized territory
17 shall be incorporated as a municipality unless the:

18 (1) municipality or municipalities causing
19 the urbanized territory approve, by resolution, the
20 incorporation of the territory as a municipality;

21 (2) residents of the territory proposed to
22 be incorporated have filed with the municipality a valid
23 petition to annex the territory proposed to be incorporated
24 and the municipality fails, within one hundred twenty days
25 after the filing of the annexation petition, to annex the

1 territory proposed to be incorporated; or

2 (3) residents of the territory proposed to
3 be annexed conclusively prove that the municipality is unable
4 to provide municipal services within the territory proposed
5 to be incorporated within the same period of time that the
6 proposed municipality could provide municipal service.

7 C. A traditional historic community may become
8 incorporated even though it is located within what is defined
9 as urbanized territory pursuant to Subsection A of this
10 section, by following the procedures set forth in Sections
11 3-2-5 through 3-2-9 NMSA 1978."

12 **SECTION 180.** Section 3-7-1 NMSA 1978 (being Laws 1965,
13 Chapter 300, Section 14-7-1, as amended by Laws 1995, Chapter
14 170, Section 2 and also by Laws 1995, Chapter 211, Section 1)
15 is amended to read:

16 "3-7-1. METHODS OF ANNEXATION.--

17 A. There shall be three methods of annexing
18 territory to a municipality:

19 (1) the arbitration method as provided in
20 Sections 3-7-5 through 3-7-10 NMSA 1978;

21 (2) the boundary commission method as
22 provided in Sections 3-7-11 through 3-7-16 NMSA 1978; and

23 (3) the petition method as provided in
24 Section 3-7-17 NMSA 1978.

25 B. Territory may be annexed to a municipality by

1 any one of the three methods of annexation provided for in
2 Sections 3-7-5 through 3-7-18 NMSA 1978 except where
3 limitations of annexation are provided by law. The
4 provisions of this section apply to annexations of all
5 municipalities except those that are otherwise specifically
6 provided by law. The arbitration method of annexation may be
7 used for municipal annexation of a traditional historic
8 community only upon petition of a majority of the qualified
9 electors of the territory within the traditional historic
10 community."

11 SECTION 181. Section 3-7-1.1 NMSA 1978 (being Laws
12 1995, Chapter 170, Section 5 and Laws 1995, Chapter 211,
13 Section 4) is amended to read:

14 "3-7-1.1. TRADITIONAL HISTORIC COMMUNITY--
15 QUALIFICATIONS--ANNEXATION RESTRICTIONS.--

16 A. To qualify as a traditional historic community,
17 an area shall:

18 (1) be an unincorporated area of a class B
19 county with a population between ninety-five thousand and
20 ninety-nine thousand five hundred, based on the 1990 federal
21 decennial census;

22 (2) be an identifiable village, community,
23 neighborhood or district that can be documented as having
24 existed for more than one hundred years;

25 (3) include structures or landmarks that are

1 associated with the identity of the specific village,
2 community, neighborhood or district seeking designation as a
3 traditional historic community;

4 (4) have a distinctive character or
5 traditional quality that can be distinguished from
6 surrounding areas or new developments in the vicinity; and

7 (5) be declared a traditional historic
8 community by an ordinance of the board of county
9 commissioners of the county in which the petitioning village,
10 community, neighborhood or district is located.

11 B. A traditional historic community may be annexed
12 by a municipality only by petition of a majority of the
13 qualified electors of the territory within the traditional
14 historic community proposed to be annexed by the municipality
15 or by the arbitration method of annexation only upon petition
16 of a majority of the qualified electors of the territory
17 within the traditional historic community."

18 SECTION 182. Section 3-14-16 NMSA 1978 (being Laws
19 1965, Chapter 300, Section 14-13-16, as amended) is amended
20 to read:

21 "3-14-16. COMMISSION--MANAGER--RECALL--ELECTION.--

22 A. In any commission-manager municipality, any
23 elective executive or commissioner is subject to a recall
24 election for malfeasance in office, misfeasance in office or
25 a violation of oath of office based upon acts or failures to

1 act occurring during the current term of the official sought
2 to be recalled. Recall of an elective executive or
3 commissioner in a commissioner-manager municipality shall be
4 conducted pursuant to the provisions of the Recall Act.

5 B. If all commissioners are recalled at the same
6 election, the district court shall order an election."

7 SECTION 183. Section 3-21-1 NMSA 1978 (being Laws 1965,
8 Chapter 300, Section 14-20-1, as amended by Laws 2007,
9 Chapter 46, Section 3 and by Laws 2007, Chapter 270, Section
10 1) is amended to read:

11 "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

12 A. For the purpose of promoting health, safety,
13 morals or the general welfare, a county or municipality is a
14 zoning authority and may regulate and restrict within its
15 jurisdiction the:

16 (1) height, number of stories and size of
17 buildings and other structures;

18 (2) percentage of a lot that may be
19 occupied;

20 (3) size of yards, courts and other open
21 space;

22 (4) density of population; and

23 (5) location and use of buildings,
24 structures and land for trade, industry, residence or other
25 purposes.

1 B. The county or municipal zoning authority may:

2 (1) divide the territory under its
3 jurisdiction into districts of such number, shape, area and
4 form as is necessary to carry out the purposes of Sections
5 3-21-1 through 3-21-14 NMSA 1978; and

6 (2) regulate or restrict the erection,
7 construction, reconstruction, alteration, repair or use of
8 buildings, structures or land in each district. All such
9 regulations shall be uniform for each class or kind of
10 buildings within each district, but regulation in one
11 district may differ from regulation in another district.

12 C. All state-licensed or state-operated community
13 residences for persons with a mental or developmental
14 disability and serving ten or fewer persons may be considered
15 a residential use of property for purposes of zoning and may
16 be permitted use in all districts in which residential uses
17 are permitted generally, including particularly residential
18 zones for single-family dwellings.

19 D. A board of county commissioners of the county
20 in which the greatest amount of the territory of the
21 petitioning village, community, neighborhood or district lies
22 may declare by ordinance that a village, community,
23 neighborhood or district is a "traditional historic
24 community" upon petition by twenty-five percent or more of
25 the qualified electors of the territory within the village,

1 community, neighborhood or district requesting the
2 designation. The number of qualified electors shall be based
3 on county records as of the date of the last general
4 election.

5 E. Any village, community, neighborhood or
6 district that is declared a traditional historic community
7 shall be excluded from the extraterritorial zone and
8 extraterritorial zoning authority of any municipality whose
9 extraterritorial zoning authority extends to include all or a
10 portion of the traditional historic community and shall be
11 subject to the zoning jurisdiction of the county in which the
12 greatest portion of the traditional historic community lies.

13 F. Zoning authorities, including zoning
14 authorities of home rule municipalities, shall accommodate
15 multigenerational housing by creating a mechanism to allow up
16 to two kitchens within a single-family zoning district, such
17 as conditional use permits.

18 G. For the purpose of this section,
19 "multigenerational" means any number of persons related by
20 blood, common ancestry, marriage, guardianship or adoption."

21 SECTION 184. Section 3-30-1 NMSA 1978 (being Laws 1965,
22 Chapter 300, Section 14-29-1) is repealed and a new Section
23 3-30-1 NMSA 1978 is enacted to read:

24 "3-30-1. BOND ELECTIONS--FINDINGS--QUALIFIED
25 ELECTORS.--

1 A. The legislature finds that the provisions of
2 Article 9, Section 12 of the constitution of New Mexico
3 regarding nonresident municipal electors violate the rights
4 of property owners who are not qualified electors of the
5 county where such city, town or village is situated compared
6 to nonresident property owners who are qualified electors of
7 the county where such city, town or village is located, and
8 further finds that providing voting rights based on property
9 ownership violates the franchise provisions in Article 7,
10 Section 1 of the constitution of New Mexico.

11 B. Voting for all purposes in all public elections
12 in a municipality shall be based exclusively on voter
13 registration by qualified electors of the municipality as
14 provided in the Municipal Code and Election Code."

15 SECTION 185. Section 3-30-6 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-29-6, as amended) is amended to read:

17 "3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--
18 SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

19 A. Before bonds are issued, the governing body of
20 the municipality shall submit to a vote of the qualified
21 electors of the municipality the question of issuing the
22 bonds. The election may be held at the same time as the
23 regular local election or at any special election held
24 pursuant to Article 9, Section 12 of the constitution of New
25 Mexico.

1 B. The governing body of the municipality shall
2 give notice of the time and place of holding the election and
3 the purpose for which the bonds are to be issued. The
4 election shall be conducted pursuant to the provisions of the
5 Local Election Act.

6 C. The question shall state the purpose for which
7 the bonds are to be issued and the amount of the issue. If
8 bonds are to be issued for more than one purpose, a separate
9 question shall be submitted to the voter for each purpose to
10 be voted upon. The ballots shall contain words indicating
11 the purpose of the bond issue and a place for a vote "For
12 . . . (designate type) bonds" and "Against . . . (designate
13 type) bonds" for each bond issue. The ballots shall be
14 deposited in a separate ballot box unless voting machines are
15 used."

16 **SECTION 186.** Section 3-33-14.1 NMSA 1978 (being Laws
17 2001, Chapter 312, Section 5) is amended to read:

18 "3-33-14.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY
19 TAX--LIMITATIONS.--

20 A. If in connection with the creation of the
21 improvement district the governing body determines that it is
22 in the best interest of the municipality to finance the
23 district improvements by the imposition of an improvement
24 district property tax and the issuance of improvement
25 district general obligation bonds, the governing body shall

1 enact an ordinance making the determination and provide in
2 the ordinance the improvement district property tax rate to
3 be imposed; the date, which may be a predetermined date or a
4 date to be established in the future after completion of the
5 improvements, of commencement of the tax; the amount of the
6 bonds to be issued to finance the improvements; and any other
7 matters the governing body deems necessary or appropriate.

8 The governing body shall call an election within the
9 improvement district for the purpose of authorizing the
10 governing body to issue general obligation bonds, the
11 proceeds of the sale of which shall be used for constructing
12 the improvements for which the district was created and to
13 impose improvement district property taxes on all taxable
14 property within the district for the purpose of paying the
15 principal, debt service and other expenses incidental to the
16 issuance and sale of the bonds. The election shall be
17 conducted as prescribed by the Local Election Act and
18 pursuant to the requirements of the property tax division of
19 the taxation and revenue department.

20 B. If at the election described in Subsection A of
21 this section the property tax imposition and the issuance of
22 improvement district general obligation bonds are approved by
23 a majority of the voters voting on the issues, the governing
24 body shall impose the tax at a rate sufficient to pay the
25 debt service on the bonds and retire them at maturity.

1 C. Imposition and collection of the improvement
2 district property tax authorized in this section shall be
3 made at the same time and in the same manner as impositions
4 and collections of property taxes for use by municipalities
5 and counties are made.

6 D. Bonds issued by the governing body for payment
7 of the specified improvement district improvements shall be
8 sold at a price that does not result in a net effective
9 interest rate exceeding the maximum net effective interest
10 rate permitted by the Public Securities Act. The bonds may
11 be sold at public or private sale and may be in denominations
12 that the governing body determines.

13 E. The form and terms of the bonds, including a
14 final maturity of thirty years and provisions for their
15 payment and redemption, shall be as determined by the
16 governing body. The bonds shall be executed in the name of
17 and on behalf of the improvement district by the mayor and
18 clerk of the municipality. The bonds may be executed and
19 sealed in accordance with the provisions of the Uniform
20 Facsimile Signature of Public Officials Act.

21 F. To provide for the payment of the interest and
22 principal of the bonds issued and sold pursuant to this
23 section, the governing body shall annually impose a property
24 tax on all taxable property in the district in an amount
25 sufficient to produce a sum equal to the principal and

1 interest on all bonds as they mature.

2 G. The bonds authorized in this section are
3 general obligation bonds of the district, and the full faith
4 and credit of the district are pledged to the payment of the
5 bonds. The proceeds obtained from the issuance of the bonds
6 shall not be diverted or expended for any purposes other than
7 those provided in Chapter 3, Article 33 NMSA 1978.

8 H. All bonds issued by an improvement district
9 shall be fully negotiable and constitute negotiable
10 instruments within the meaning of and for all the purposes of
11 the Uniform Commercial Code. If lost or completely
12 destroyed, any bond may be reissued in the form and tenor of
13 the lost or destroyed bond upon the owner furnishing to the
14 satisfaction of the governing body:

- 15 (1) proof of ownership;
- 16 (2) proof of loss or destruction;
- 17 (3) a surety bond in twice the face amount
18 of the bond and coupons; and
- 19 (4) payment of the cost of preparing and
20 issuing the new bond and coupons.

21 I. The governing body may in any proceeding
22 authorizing improvement district bonds provide for the
23 initial issuance of one or more bonds aggregating the amount
24 of the entire issue or may make provision for installment
25 payments of the principal amount of any bond as it may

1 consider desirable.

2 J. The governing body may issue bonds to be
3 denominated refunding bonds, for the purpose of refunding any
4 of the general obligation bonded indebtedness of the
5 improvement district. Whenever the governing body deems it
6 expedient to issue refunding bonds, it shall adopt an
7 ordinance setting out the facts making the issuance of the
8 refunding bonds necessary or advisable, the determination of
9 the necessity or advisability by the governing body and the
10 amount of refunding bonds that the governing body deems
11 necessary and advisable to issue. The ordinance shall fix
12 the form of the bonds; the rate or rates of interest of the
13 bonds, but the net effective interest rate of the bonds shall
14 not exceed the maximum net effective interest rate permitted
15 by the Public Securities Act; the date of the refunding
16 bonds; the denominations of the refunding bonds; the maturity
17 dates; and the place or places of payment within or without
18 the state of both principal and interest. Refunding bonds
19 when issued, except for bonds issued in book entry or similar
20 form without the delivery of physical securities, shall be
21 negotiable in form and shall bear the signature or the
22 facsimile signature of the mayor and clerk of the
23 municipality. All refunding bonds may be exchanged dollar
24 for dollar for the bonds to be refunded or they may be sold
25 as directed by the governing body, and the proceeds of the

1 sale shall be applied only to the purpose for which the bonds
2 were issued and the payment of any incidental expenses.

3 K. The principal amount of improvement district
4 general obligation bonds that may be issued by the governing
5 body for any improvement district shall not exceed twenty-
6 five percent of the final estimated value of properties in
7 the district after completion of the projects to be financed
8 with the improvement district general obligation bonds and
9 after development of the properties in the improvement
10 district in accordance with their planned use, as determined
11 by the governing body with the assistance of the engineer and
12 other qualified professionals.

13 L. In connection with an improvement district
14 project to be financed with the proceeds of improvement
15 district general obligation bonds issued pursuant to this
16 section, a property owner subject to the improvement district
17 property tax or the governing body may enter into contracts
18 to design, engineer, finance, construct or acquire a project
19 with contractors and professionals, on such terms and with
20 such persons as a property owner subject to the improvement
21 district property tax or the governing body determines to be
22 appropriate, without following the procedures or meeting the
23 requirements of the Procurement Code or the requirements of
24 Sections 6-15-1 through 6-15-22 NMSA 1978."

25 SECTION 187. Section 3-52-3 NMSA 1978 (being Laws 1965,

1 Chapter 300, Section 14-53-3, as amended) is amended to read:

2 "3-52-3. AUTHORIZATION.--

3 A. A municipality may invoke the authority
4 contained in the Municipal Transit Law on finding all of the
5 following state of facts to exist:

6 (1) general transportation of persons is
7 necessary and convenient;

8 (2) privately owned public transportation
9 facilities in operation are inadequate;

10 (3) it is impossible for existing franchise
11 operators to render necessary service with adequate resulting
12 return on the investment of capital; and

13 (4) assignment of the existing franchise by
14 the holder or release of the existing franchise and granting
15 of a new franchise by the city will not afford adequate
16 service. Such finding, if made, shall be by resolution
17 adopted by the governing body on the affirmative recorded
18 vote of at least two-thirds of the elected members of the
19 governing body. The resolution shall be published in full in
20 a daily newspaper of general circulation in the municipality.
21 It shall not take effect until thirty days after the
22 publication. If within the thirty days of the publication a
23 petition signed by qualified voters in number equal to twenty
24 percent of the number of voters at the preceding city
25 election on which members of the governing body were elected

1 asks that the resolution in question be submitted to a vote
2 of the people for adoption or rejection, the measure shall
3 not take effect until an election is held as petitioned. The
4 governing body may then rescind the resolution or, in its
5 discretion, call an election within ninety days, at which
6 time the proposition shall be submitted to the voters;
7 provided that the date is not in conflict with the provisions
8 of Section 1-24-1 NMSA 1978. The governing body shall
9 provide for the election pursuant to the provisions of the
10 Local Election Act. If a majority of the votes cast at such
11 election are against the measure, it shall be void. If a
12 majority of the votes cast favor the measure, the governing
13 body may proceed to acquire and operate a transit system as
14 provided in the Municipal Transit Law. If a majority of
15 those voting on the proposition disapprove the proposition,
16 the matter may not again be submitted by the governing body
17 until the next election at which city commissioners are
18 chosen.

19 B. Any transit department so established is
20 declared to be a public utility."

21 SECTION 188. Section 4-33-3 NMSA 1978 (being Laws 1947,
22 Chapter 196, Section 3, as amended) is amended to read:

23 "4-33-3. CONTEST--NOTICE OF ELECTION.--Immediately upon
24 the filing of a petition under Section 4-33-2 NMSA 1978, it
25 shall be the duty of the board of county commissioners with

1 which the petition is filed to cause a notice to be published
2 in some newspaper of general circulation in each county
3 affected. Within thirty days after the publication of the
4 notice, but not thereafter, any resident of either of the
5 counties affected, on behalf of the resident and all others
6 similarly situated, may bring an action in the district court
7 of the county in which the area proposed to be annexed is
8 located, against any one or more of the signers of the
9 petition, alleging that the petition has not been executed by
10 the requisite number of signers or that the area to be
11 annexed is not accurately described or that the conditions
12 described in Section 4-33-1 NMSA 1978 do not exist. The
13 judge, after hearing, shall make a determination as to
14 whether the allegations of the petition are well taken. If
15 the judge shall determine that the allegations of the
16 petition are well taken, the judge shall enter an order. If
17 the order is not stayed, it shall be the duty of the board of
18 county commissioners to call an election to be held within
19 ninety days within the county of the area proposed to be
20 annexed; provided that the date is not in conflict with the
21 provisions of Section 1-24-1 NMSA 1978. The county clerk
22 shall cause a notice of election to be published two times in
23 a newspaper of general circulation in the county, the last
24 publication thereof to be at least seven days before the date
25 of the election. The notice shall specify whether the

1 proposed annexation shall appear as a ballot question in a
2 statewide election or specify the date a special election
3 will be held as prescribed in the Election Code. At the
4 election, all qualified electors who reside within the county
5 shall be entitled to vote."

6 SECTION 189. Section 4-48A-6 NMSA 1978 (being Laws
7 1978, Chapter 29, Section 6, as amended) is amended to read:

8 "4-48A-6. BOARD OF TRUSTEES--TERMS--VACANCIES--
9 REMOVAL.--

10 A. Subject to the requirements of Section 4-48A-3
11 NMSA 1978, the board of trustees of a special hospital
12 district shall consist of the greater of five members or a
13 number of members equal to the number of counties which agree
14 to form a special hospital district. In the case of a
15 special hospital district:

16 (1) included wholly within a county, the
17 members shall be elected at large or from single-member
18 districts as provided in the Special Hospital District Act;
19 or

20 (2) that includes all or a portion of two or
21 more counties, one member of the board shall be elected from
22 each subdistrict by the qualified electors who reside in that
23 subdistrict and the remainder shall be elected at large by
24 the qualified electors who reside in the special hospital
25 district.

1 B. Members shall be elected as follows:

2 (1) for the purposes of the first election
3 of a board of trustees, the board of county commissioners
4 shall designate in its proclamation five positions to be
5 filled so that:

6 (a) two members shall be elected for an
7 initial term of two years; and

8 (b) three members shall be elected for
9 an initial term of four years.

10 Thereafter, all members shall be elected for four-year terms;
11 and

12 (2) for the purposes of staggering the terms
13 of any nonstaggered terms of a board of trustees elected
14 under the provisions of the Special Hospital District Act,
15 the board of county commissioners may call an election to
16 provide for five positions to be filled so that:

17 (a) two members shall be elected for an
18 initial term of two years; and

19 (b) three members shall be elected for
20 an initial term of four years.

21 Thereafter, all members shall be elected for four-year terms.

22 C. Vacancies on the board of trustees created by a
23 member elected from a subdistrict or a single-member district
24 shall be filled by the board of county commissioners of the
25 county in which the subdistrict or single-member district is

1 located, and vacancies created by a member elected at large
2 shall be filled by the remaining members of the board of
3 trustees for the remainder of the unexpired term of the
4 member creating the vacancy.

5 D. Members of the board of trustees shall be
6 suspended or removed from office only as provided in Sections
7 10-4-1 through 10-4-29 NMSA 1978 or as provided in Section
8 4-48A-7 NMSA 1978."

9 SECTION 190. Section 5-5-3 NMSA 1978 (being Laws 1959,
10 Chapter 300, Section 3, as amended) is amended to read:

11 "5-5-3. DEFINITIONS.--As used in the Joint City-County
12 Building Law, the following words or phrases shall be defined
13 as follows:

14 A. "city" means any incorporated city, town or
15 village that is a county seat in the state of New Mexico,
16 whether incorporated or governed under a general act, special
17 act or special charter of any type and includes any
18 combination of such cities, towns or villages located in
19 adjacent counties;

20 B. "council" or "city council" means the city
21 council, city commission, board of commissioners, board of
22 trustees or other governing body of a city in which the
23 legislative powers of the city are vested. "Councilmen"
24 means the members of the council;

25 C. "county" means any county or combination of

1 adjacent counties in the state of New Mexico;

2 D. "board" means the board of county
3 commissioners. "Commissioners" or "county commissioners"
4 means the members of a board;

5 E. "municipality" means a city or county;

6 F. "governing body" means a council or board;

7 G. "building" means any building for use as a
8 county courthouse, city hall, jail, regional jail, library,
9 museum, utility office, garage for housing county and city
10 vehicles, transportation office, communications office,
11 maintenance shop, warehouse, cafeteria and restaurant
12 facilities for county and city personnel, sheriff's office,
13 police station, fire station, records office and
14 administration building and for similar uses, or any
15 combination thereof, to be acquired and jointly owned by a
16 county and a city as tenants in common;

17 H. "site" means land and any estate, interest or
18 right therein on which to locate a building. Any building
19 site may include landscaped grounds and off-street parking
20 facilities, including improved or unimproved parking lots and
21 buildings erected above or below the surface of the land for
22 the accommodation of parked motor and other vehicles;

23 I. "acquisition" or "acquire" means the
24 acquisition by purchase, construction, installation,
25 reconstruction, condemnation, lease, rent, gift, grant,

1 endowment, bequest, devise, contract and other acquisition as
2 may be deemed necessary or desirable by the board and
3 council, or any combination thereof;

4 J. "improvement" or "improve" means the extension,
5 betterment, alteration, reconstruction, repair and other
6 improvement as may be deemed necessary or desirable by the
7 board and council, or any combination thereof;

8 K. "equipment" or "equip" means furnishing all
9 necessary or desirable, related or appurtenant, facilities,
10 or any combination thereof;

11 L. "project" means any building site therefor,
12 structure, facility and undertaking of any kind that a county
13 and a city are authorized by the Joint City-County Building
14 Law to acquire, improve, equip, maintain and operate. A
15 project may consist of any kind or all kinds of personal and
16 real property, including land, improvements and fixtures
17 thereon, property of any nature appurtenant thereto or used
18 in connection therewith and every estate, interest and right
19 therein, legal or equitable, including terms for years, or
20 any combination thereof;

21 M. "disposition" or "dispose" means the sale,
22 lease, exchange, transfer, assignment and other disposition
23 as may be deemed necessary or desirable by the board and
24 council, or any combination thereof;

25 N. "federal government" means the United States or

1 any federal agency, instrumentality or corporation;

2 O. "state" means the state of New Mexico or,
3 except where the subject matter or context is repugnant
4 thereto, any state agency, instrumentality or corporation;

5 P. "publication" or "publish" means publication
6 once a week for at least three consecutive weeks commencing
7 at least twenty days prior to the election in any newspaper
8 published in a county;

9 Q. for the purpose of computing any period of time
10 prescribed in the Joint City-County Building Law, including
11 publications, the day of the first publication, other act or
12 designated time shall be excluded and the day of the last
13 publication, other act or designated time shall be included;
14 and

15 R. whenever such construction is applicable, words
16 used in the Joint City-County Building Law importing singular
17 or plural number may be construed so that one number includes
18 both; words importing masculine gender shall be construed to
19 apply to the feminine gender as well; and the word "person"
20 may extend to and include a firm and corporation, except in
21 any reference to any election; provided, however, that these
22 rules of construction shall not apply to any part of that law
23 containing express provisions excluding such construction or
24 where the subject matter or context is repugnant thereto."

25 SECTION 191. Section 5-5-9 NMSA 1978 (being Laws 1959,

1 Chapter 300, Section 9, as amended) is amended to read:

2 "5-5-9. LIMITATIONS UPON INCURRING DEBTS.--No general
3 obligation bonds or other evidences of indebtedness, the
4 payment of which is secured wholly or in part by a pledge of
5 any proceeds of general ad valorem property taxes or to which
6 the full faith and credit of a municipality are pledged,
7 shall be issued, except as follows:

8 A. a county shall so borrow money only for the
9 purpose of erecting necessary public buildings in connection
10 with any project, and in any such case only after the
11 proposition to create such debt shall have been submitted at
12 a general or special election to the qualified electors of
13 the county and approved by a majority of those voting
14 thereon;

15 B. a city shall so contract any such debt only by
16 an ordinance that shall be irrevocable until the
17 indebtedness therein provided for shall have been fully paid
18 or discharged and that shall specify the purposes to which
19 the funds to be raised shall be applied. No such debt shall
20 be created unless the question of incurring the debt shall,
21 at a regular election for councilmen or other officers of the
22 city, have been submitted to a vote of the qualified electors
23 thereof and a majority of those voting on the question shall
24 have voted in favor of creating the debt; and

25 C. no municipality shall ever become indebted to

1 an amount in the aggregate, including existing indebtedness,
2 exceeding four percent on the value of the taxable property
3 within the municipality as shown by the last preceding
4 assessment for state or county taxes, but excluding debts
5 contracted by a city for the construction or purchase of a
6 system for supplying water or of a sewer system for the city;
7 and all bonds or obligations issued in excess of that amount
8 shall be void."

9 SECTION 192. Section 5-11-2 NMSA 1978 (being Laws 2001,
10 Chapter 305, Section 2, as amended) is amended to read:

11 "5-11-2. DEFINITIONS.--As used in the Public
12 Improvement District Act:

13 A. "allowable base" means the sum of the appraised
14 value, not including the value of public infrastructure
15 improvements, of:

16 (1) taxable property in a district that is
17 owned by persons other than the applicant or the applicant's
18 related entities;

19 (2) commercial, industrial or retail
20 property in a district that is owned by the applicant or the
21 applicant's related entities for which a certificate of
22 completion has been issued; and

23 (3) all other taxable property in a district
24 not described in Paragraphs (1) and (2) of this subsection,
25 to the extent that its appraised value is less than or equal

1 to the appraised value of property described in Paragraph (1)
2 of this subsection;

3 B. "applicant" means a person that applies for the
4 formation of a district pursuant to the Public Improvement
5 District Act;

6 C. "clerk" means the clerk of the municipality or
7 county, or any person appointed by the district board to be
8 the district clerk pursuant to Section 5-11-6 NMSA 1978;

9 D. "county" means a county that forms a public
10 improvement district pursuant to the Public Improvement
11 District Act in an unincorporated area or in an incorporated
12 area with the municipality's consent;

13 E. "debt service" means the principal of, interest
14 on and premium, if any, on the bonds, when due, whether at
15 maturity or prior redemption; the fees and costs of
16 registrars, trustees, paying agents or other agents necessary
17 to handle the bonds; and the costs of credit enhancement or
18 liquidity support;

19 F. "development agreement" means an agreement
20 between a property owner or developer and the county,
21 municipality or district, concerning the improvement of
22 specific property within the district, which agreement may be
23 used to establish obligations of the owner or developer, the
24 county or municipality or the district concerning the zoning,
25 subdivision, improvement, impact fees, financial

1 responsibilities and other matters relating to the
2 development, improvement and use of real property within a
3 district;

4 G. "district" means a public improvement district
5 formed pursuant to the Public Improvement District Act by a
6 municipality or by a county in an unincorporated area or in
7 an incorporated area with the municipality's consent;

8 H. "district board" means the board of directors
9 of the district, which shall be composed of members of the
10 governing body, ex officio, or, at the option of the
11 governing body, five directors appointed by the governing
12 body of the municipality or county in which the district is
13 located, until replaced by elected directors, which shall
14 occur not later than six years after the date on which the
15 resolution establishing the district is enacted, as provided
16 in Section 5-11-9 NMSA 1978;

17 I. "election" means an election held in compliance
18 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978
19 and pursuant to the provisions of the Local Election Act;

20 J. "enhanced services" means public services
21 provided by a municipality or county within the district at a
22 higher level or to a greater degree than otherwise available
23 to the land located in the district from the municipality or
24 county, including such services as public safety, fire
25 protection, street or sidewalk cleaning or landscape

1 maintenance in public areas. "Enhanced services" does not
2 include the basic operation and maintenance related to
3 infrastructure improvements financed by the district pursuant
4 to the Public Improvement District Act;

5 K. "general plan" means the general plan described
6 in Section 5-11-3 NMSA 1978, as the plan may be amended from
7 time to time;

8 L. "governing body" means the body or board that
9 by law is constituted as the governing body of the
10 municipality or county in which the public improvement
11 district is located;

12 M. "municipality" means an incorporated city,
13 village or town;

14 N. "owner" means:

15 (1) the person who is listed as the owner of
16 real property in the district on the current property tax
17 assessment roll in effect at the time that the action,
18 proceeding, hearing or election has begun. For purposes of
19 voting in elections held pursuant to the Public Improvement
20 District Act, when the owner of record title is a married
21 person, only one spouse in whose name title is held may vote
22 at such election. Where record title is held in more than
23 one name, each owner may vote the number of fractions of
24 acres represented by the owner's legal interest or
25 proportionate share of and in the lands within the district;

1 (2) the administrator or executor of an
2 estate holding record title to land within the district;

3 (3) the guardian of a minor or incompetent
4 person holding record title to land within the district,
5 appointed and qualified under the laws of the state;

6 (4) an officer of a corporation holding
7 record title to land within the district, which officer has
8 been authorized by resolution of the corporation's board of
9 directors to act with respect to such land;

10 (5) the general partner of a partnership
11 holding record title to land within the district;

12 (6) the trustee of a trust holding record
13 title to land within the district; or

14 (7) the manager or member of a limited
15 liability company holding record title to land within the
16 district who has been authorized to represent the company;

17 O. "person" means any individual, estate, trust,
18 receiver, cooperative association, club, corporation,
19 company, firm, partnership, limited liability company, joint
20 venture, syndicate or other association;

21 P. "public infrastructure improvements" means all
22 improvements listed in this subsection and includes both on-
23 site improvements and off-site improvements that directly or
24 indirectly benefit the district. Such improvements include
25 necessary or incidental work, whether newly constructed,

1 renovated or existing, and all necessary or desirable
2 appurtenances. "Public infrastructure improvements"
3 includes:

4 (1) sanitary sewage systems, including
5 collection, transport, storage, treatment, dispersal,
6 effluent use and discharge;

7 (2) drainage and flood control systems,
8 including collection, transport, diversion, storage,
9 detention, retention, dispersal, use and discharge;

10 (3) water systems for domestic, commercial,
11 office, hotel or motel, industrial, irrigation, municipal or
12 fire protection purposes, including production, collection,
13 storage, treatment, transport, delivery, connection and
14 dispersal;

15 (4) highways, streets, roadways, bridges,
16 crossing structures and parking facilities, including all
17 areas for vehicular use for travel, ingress, egress and
18 parking;

19 (5) trails and areas for pedestrian,
20 equestrian, bicycle or other nonmotor vehicle use for travel,
21 ingress, egress and parking;

22 (6) pedestrian malls, parks, recreational
23 facilities and open space areas for the use of members of the
24 public for entertainment, assembly and recreation;

25 (7) landscaping, including earthworks,

1 structures, lakes and other water features, plants, trees and
2 related water delivery systems;

3 (8) public buildings, public safety
4 facilities and fire protection and police facilities;

5 (9) electrical generation, transmission and
6 distribution facilities;

7 (10) natural gas distribution facilities;

8 (11) lighting systems;

9 (12) cable or other telecommunications lines
10 and related equipment;

11 (13) traffic control systems and devices,
12 including signals, controls, markings and signage;

13 (14) school sites and facilities with the
14 consent of the governing board of the public school district
15 for which the site or facility is to be acquired, constructed
16 or renovated;

17 (15) library and other public educational or
18 cultural facilities;

19 (16) equipment, vehicles, furnishings and
20 other personalty related to the items listed in this
21 subsection; and

22 (17) inspection, construction management and
23 program management costs;

24 Q. "public infrastructure purpose" means:

25 (1) planning, design, engineering,

1 construction, acquisition or installation of public
2 infrastructure, including the costs of applications, impact
3 fees and other fees, permits and approvals related to the
4 construction, acquisition or installation of such
5 infrastructure;

6 (2) acquiring, converting, renovating or
7 improving existing facilities for public infrastructure,
8 including facilities owned, leased or installed by an owner;

9 (3) acquiring interests in real property or
10 water rights for public infrastructure, including interests
11 of an owner;

12 (4) establishing, maintaining and
13 replenishing reserves in order to secure payment of debt
14 service on bonds;

15 (5) funding and paying from bond proceeds
16 interest accruing on bonds for a period not to exceed three
17 years from their date of issuance;

18 (6) funding and paying from bond proceeds
19 fiscal, financial and legal consultant fees, trustee fees,
20 discount fees, district formation and election costs and all
21 costs of issuance of bonds issued pursuant to the Public
22 Improvement District Act, including fees and costs for bond
23 counsel, financial advisors, consultants and underwriters,
24 costs of obtaining credit ratings, bond insurance premiums,
25 fees for letters of credit and other credit enhancement costs

1 and printing costs;

2 (7) providing for the timely payment of debt
3 service on bonds or other indebtedness of the district;

4 (8) refinancing any outstanding bonds with
5 new bonds, including through the formation of a new public
6 improvement district; and

7 (9) incurring expenses of the district
8 incident to and reasonably necessary to carry out the
9 purposes specified in this subsection;

10 R. "related entities" means two or more entities
11 that are owned in an amount greater than fifty percent by the
12 same person, either directly or through one or more persons;

13 S. "special levy" means a levy imposed against
14 real property within a district that may be apportioned
15 according to direct or indirect benefits conferred upon
16 affected real property, as well as acreage, front footage,
17 the cost of providing public infrastructure for affected real
18 property, or other reasonable method, as determined by the
19 governing body or district board, as applicable; and

20 T. "treasurer" means the treasurer of the
21 governing body or the person appointed by the district board
22 as the district treasurer pursuant to Section 5-11-6 NMSA
23 1978."

24 **SECTION 193.** Section 5-11-6 NMSA 1978 (being Laws 2001,
25 Chapter 305, Section 6, as amended) is amended to read:

1 "5-11-6. ORDER FORMING DISTRICT--FORMATION
2 DETERMINATION--ELECTION.--

3 A. After the hearing, the governing body shall
4 determine whether the district should be formed based upon
5 the interests, convenience or necessity of the owners,
6 residents of the district and citizens of the municipality or
7 county in which the proposed district would be located. If
8 the governing body determines that the district should be
9 formed, it shall adopt a resolution ordering that the
10 district be formed, deleting any property determined not to
11 be directly or indirectly benefited by the district or
12 modifying the general plan and then ordering that a formation
13 determination be conducted and an election be held on the
14 question whether to form the district. A resolution ordering
15 a formation of the district shall state that the district
16 will be governed by a district board consisting of members of
17 the governing body, ex officio, or, upon determination of the
18 governing body, five directors appointed by the governing
19 body, and shall contain the names of the five initial
20 directors and the terms of office of each. If the governing
21 body appoints a district board, it shall appoint a treasurer
22 and a clerk from the appointed members.

23 B. Before submitting the question of formation of
24 the district to the qualified electors of the proposed
25 district, a formation determination shall be conducted by the

1 governing body among the owners unless a petition is
2 presented to the governing body pursuant to Subsection F of
3 Section 5-11-7 NMSA 1978. In the formation determination,
4 each owner shall have the number of votes or portions of
5 votes equal to the number of acres or portions of acres
6 rounded upward to the nearest one-fifth of an acre owned by
7 that owner in the submitted district.

8 C. A formation or other determination shall not be
9 a local election for purposes of the Local Election Act. The
10 governing body or the district board may establish local
11 procedures for noticing, conducting and canvassing
12 determinations, which may include determinations made by
13 unanimous written approval of the owners in affidavits
14 executed by the owners and confirmed in a review by the
15 district board.

16 D. Should the formation determination by the
17 owners result in a three-fourths' majority vote in favor of
18 formation, the question shall also be submitted to a vote of
19 the qualified electors of the proposed district. The conduct
20 of a formation election by qualified electors shall meet the
21 requirements of Section 5-11-7 NMSA 1978.

22 E. The right of the qualified electors to vote on
23 the question of formation of the district shall not be
24 assigned or delegated to the property owners, or related
25 entities of the property owners, signing a petition submitted

1 to the governing body for formation of a district."

2 SECTION 194. Section 5-11-7 NMSA 1978 (being Laws 2001,
3 Chapter 305, Section 7) is amended to read:

4 "5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

5 A. Any election by qualified electors pursuant to
6 the Public Improvement District Act shall be a nonpartisan
7 election called, conducted and canvassed pursuant to the
8 provisions of the Election Code. In addition to those
9 matters required for notice as provided in the Local Election
10 Act, the notice of election shall state:

11 (1) if the election is a formation election,
12 the boundaries of the proposed district;

13 (2) if the election is a bond election, the
14 amount of bonds to be authorized for the district, the
15 maximum rate of interest to be paid on the bonds and the
16 maximum term of the bonds, not exceeding thirty years;

17 (3) if the election is a property tax levy
18 election pursuant to Section 5-11-19 NMSA 1978, the maximum
19 tax rate per one thousand dollars (\$1,000) of assessed
20 valuation to be imposed, the purposes for which the revenues
21 raised will be used and the existing maximum tax rate, if
22 any;

23 (4) that a general plan is on file with the
24 clerk;

25 (5) the purposes for which the property

1 taxes or the special levies will be imposed, and the revenues
2 raised will be used, including a description of the public
3 improvements to be financed with tax revenues, special
4 levies, district revenues or bond proceeds; and

5 (6) that the imposition of property taxes or
6 special levies will result in a lien for the payment thereof
7 on property within the district.

8 B. The district board or, in the case of a
9 formation election, the governing body, shall determine the
10 date of the election by passing a resolution to place the
11 ballot question on a regular local election or general
12 election ballot or by adopting a proclamation calling for a
13 special election.

14 C. Except as otherwise provided by this section,
15 the election shall comply with the Local Election Act. The
16 ballot material provided to each qualified elector shall
17 include:

18 (1) for a formation election, an impartial
19 description of the district improvements contemplated and a
20 brief description of arguments for and against the formation
21 of the district, if any;

22 (2) for an election concerning the
23 imposition of property taxes, an impartial description of the
24 taxes to be imposed, the method of apportionment, collection
25 and enforcement and other details sufficient to enable each

1 elector to determine the amount of tax it will be obligated
2 to pay; a brief description of arguments for and against the
3 imposition of taxes that are the subject of the election, if
4 any; and a statement that the imposition of property taxes is
5 for the provision of certain but not necessarily all public
6 infrastructure improvements and services that may be needed
7 or desirable within the district, and that other taxes,
8 levies or assessments by other governmental entities may be
9 presented for approval by owners and qualified electors; and

10 (3) for a formation election, the ballot,
11 which shall pose the question to be voted upon as "district,
12 yes" and "district, no"; for a bond election, "bonds, yes"
13 and "bonds, no"; for a property tax election, if no tax is in
14 place, "property tax, yes" and "property tax, no"; and for an
15 election to change an existing maximum or eliminate an
16 existing tax, "tax change, yes" and "tax change, no",
17 specifying the type of tax to which the proposed change
18 pertains.

19 D. At least a three-fourths' majority of the votes
20 cast by qualified electors at the election shall be required
21 for formation, issuing the bonds, imposing the tax or special
22 levy or changing the tax or special levy. Failure of a
23 required majority to vote in favor of the matter submitted
24 shall not prejudice the submission of the same or similar
25 matters at a later election.

1 E. If a person listed on the assessment roll is no
2 longer the owner of land in the district and the name of the
3 successor owner becomes known to the governing body or the
4 district board, as applicable, and is verified by recorded
5 deed or other similar evidence of transfer of ownership, the
6 successor owner is deemed to be the owner for the purposes of
7 the Public Improvement District Act.

8 F. Notwithstanding any other provision of the
9 Public Improvement District Act, if a petition for formation
10 is signed by owners of all of the land in the district
11 described in the petition and is approved by the municipality
12 or county, the municipality or county may waive any or all
13 requirements of posting, publication, mailing, notice,
14 hearing and owner determination. On receipt of such a
15 petition, and after approval by an election of qualified
16 electors, if any, the municipality or county shall declare
17 the district formed without being required to comply with the
18 provisions of the Public Improvement District Act for
19 posting, publication, mailing, notice, hearing or owner
20 determination.

21 G. If no person is registered to vote within the
22 district or proposed district areas within seventy days
23 immediately preceding any scheduled election date, the
24 election required to be held pursuant to the Public
25 Improvement District Act shall be canceled. Under such

1 circumstances, when the question is on the formation of the
2 district, the results of the formation determination of the
3 owners shall prevail, unless the formation determination was
4 waived by the governing body pursuant to Subsection F of this
5 section. To the extent allowable by the constitution of New
6 Mexico, when the question is on any other allowable action
7 otherwise requiring a vote of the qualified electors, the
8 owners or the owners of the proposed district areas shall
9 make a determination, the result of which shall prevail."

10 **SECTION 195.** Section 5-11-9 NMSA 1978 (being Laws 2001,
11 Chapter 305, Section 9, as amended) is amended to read:

12 "5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--
13 TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

14 A. The governing body, at its option, may
15 authorize the appointment of a separate district board. In
16 the case of an appointed district board, three of the
17 appointed directors shall serve an initial term to expire
18 following a regular local election and not to exceed six
19 years. Two of the appointed directors shall serve an initial
20 term to expire following a regular local election and not to
21 exceed four years. The resolution forming the district shall
22 state which directors shall serve the longer terms and which
23 shall serve the shorter terms. If a vacancy occurs on the
24 district board because of death, resignation or inability of
25 the director to discharge the duties of director, the

1 governing body shall appoint a director to fill the vacancy,
2 who shall hold office for the remainder of the unexpired term
3 until a successor is appointed or elected.

4 B. At the end of the appointed directors' terms,
5 the governing body shall resume governance of the district as
6 its board either directly or through the governing body's
7 designees or, at the governing body's option, shall hold an
8 election of new directors by majority vote of the qualified
9 electors or if the election is canceled pursuant to
10 Subsection G of Section 5-11-7 NMSA 1978, an owner's
11 determination conducted by ballot shall decide the new
12 directors."

13 SECTION 196. Section 5-11-13 NMSA 1978 (being Laws
14 2001, Chapter 305, Section 13) is amended to read:

15 "5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL
16 PLAN.--

17 A. Following formation of the district, an area
18 may be deleted from the district only following a hearing on
19 notice to the owners of land in the district given in the
20 manner prescribed for the formation hearing, adoption of a
21 resolution of intention to do so by the district board, a
22 determination by the owners and voter approval by the
23 qualified electors as provided in the local Election Act and
24 the Public Improvement District Act. Lands within the
25 district that are subject to the lien of property taxes,

1 special levies or other charges imposed pursuant to the
2 Public Improvement District Act shall not be deleted from the
3 district while there are bonds outstanding that are payable
4 by such taxes, special levies or charges.

5 B. Following formation of the district, an area
6 may be added to the district upon a determination by the
7 owners of land in the proposed addition area and the approval
8 of the qualified electors residing therein, as well as a
9 determination by the owners of land in the district and
10 approval of the qualified electors of the district, as
11 provided in the Local Election Act and the Public Improvement
12 District Act.

13 C. The district board, following a hearing on
14 notice to the owners of real property located in the district
15 given in the manner prescribed for the formation hearing, may
16 amend the general plan in any manner that it determines will
17 not substantially reduce the benefits to be received by any
18 land in the district from the public infrastructure on
19 completion of the work to be performed under the general
20 plan. No election shall be required solely for the purposes
21 of this subsection."

22 SECTION 197. Section 5-11-19 NMSA 1978 (being Laws
23 2001, Chapter 305, Section 19, as amended) is amended to
24 read:

25 "5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--

1 EXCEPTION.--

2 A. At any time after the hearing on formation of
3 the district, the district board, or, if before formation,
4 the governing body may from time to time order that the
5 question of authorizing the issuance of general obligation
6 bonds to provide money for public infrastructure purposes
7 consistent with the general plan be presented to the owners
8 for a determination and that a general obligation bond
9 election be called to submit the question to the qualified
10 electors. The question shall include authorization for a
11 levy, including a limitation on the levy, of a property tax
12 to pay debt service on the bonds. The election shall be held
13 pursuant to the provisions of the Local Election Act and may
14 be held in conjunction with the formation election.

15 B. If general obligation bonds are approved by a
16 determination of the owners and approved at an election, the
17 district board may issue and sell general obligation bonds of
18 the district; provided that the district board shall have
19 determined by resolution that the principal amount of all
20 district general obligation bonds currently outstanding and
21 the district general obligation bonds proposed for issuance
22 and sale shall not result in a total annual debt service that
23 exceeds five-tenths percent of the allowable base.

24 C. Bonds may be sold in a public offering or in a
25 negotiated sale.

1 D. After the bonds are issued, the district board
2 shall enter in its minutes a record of the bonds sold and
3 their numbers and dates and shall annually levy and cause a
4 property tax to be collected, at the same time and in the
5 same manner as other property taxes are levied and collected
6 on all taxable property in the district, sufficient, together
7 with any money from the sources described in Section 5-11-17
8 NMSA 1978 to pay debt service on the bonds when due. Money
9 derived from the levy of property taxes that are pledged to
10 pay the debt service on the bonds shall be kept separately
11 from other funds of the district. Property tax revenues not
12 pledged to pay debt service on bonds may be used to pay other
13 costs of the district, including costs of formation,
14 administration, operation and maintenance, services or
15 enhanced services. A district's levy of property taxes shall
16 constitute a lien on all taxable property within the
17 district, including, without limitation, all leased property
18 or improvements to leased land, which shall be subject to
19 foreclosure in the same manner as other property tax liens
20 under the laws of this state. The lien shall include
21 delinquencies and interest thereon at a rate not to exceed
22 ten percent per year, the actual costs of foreclosure and any
23 other costs of the district resulting from the delinquency.
24 The proceeds of any foreclosure sale shall be deposited in
25 the special bond fund for payment of any obligations secured

1 thereby.

2 E. Subject to the determination and election
3 provisions of this section, a district may issue general
4 obligation bonds at such times and in such amounts as the
5 district deems appropriate to carry out a project or projects
6 in phases.

7 F. Pursuant to this section, the district may
8 issue and sell refunding bonds to refund general obligation
9 bonds of the district authorized by the Public Improvement
10 District Act. No determination or election is required in
11 connection with the issuance and sale of refunding bonds.
12 Refunding bonds issued pursuant to this section shall have a
13 final maturity date no later than the final maturity date of
14 the bonds being refunded."

15 SECTION 198. Section 5-11-23 NMSA 1978 (being Laws
16 2001, Chapter 305, Section 23) is amended to read:

17 "5-11-23. DISTRICT TAXES--ANNUAL FINANCIAL ESTIMATE--
18 ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL
19 GOVERNMENT DIVISION.--

20 A. All property taxes for the operation and
21 maintenance expenses of the district shall not exceed an
22 amount equal to three dollars (\$3.00) per one thousand
23 dollars (\$1,000) of net taxable value for all real and
24 personal property in the district, unless a higher rate is
25 approved by a vote of the qualified electors voting at an

1 election conducted pursuant to the provisions of the Local
2 Election Act not less than three years after the date of the
3 formation of the district.

4 B. Once approved at an election or, in the case of
5 a special levy, by resolution of the district board, the
6 maximum rate of a property tax shall remain in effect until
7 increased or decreased at a subsequent election, and the
8 maximum rate of a special levy shall remain in effect until
9 increased or decreased by resolution of the district board at
10 a subsequent hearing.

11 C. If a maximum property tax rate is in effect,
12 the district board, on petition of twenty-five percent of the
13 qualified electors, or by the owners of twenty-five percent
14 of the land area of the district, shall call an election
15 pursuant to the provisions of the Local Election Act to
16 reduce the maximum tax rate but not below the lesser of that
17 rate determined by the district board to be necessary to
18 maintain the district's facilities and improvements where the
19 tax was authorized for operation and maintenance, or the
20 actual rate then in effect, but in no event shall the rate be
21 reduced below the rate necessary to satisfy the district's
22 obligations in connection with any outstanding bonds issued
23 pursuant to the Public Improvement District Act.

24 D. If a maximum special levy is in effect, the
25 district board, on petition of twenty-five percent of the

1 qualified electors, or by the owners of twenty-five percent
2 of the land area of the district, shall hold a hearing to
3 determine whether to reduce the maximum special levy but not
4 below the lesser of that rate determined by the district
5 board to be necessary to maintain the district's facilities
6 and improvements, where the special levy was authorized for
7 operation and maintenance, or the actual rate then in effect,
8 but in no event shall the rate be reduced below the rate
9 necessary to satisfy the district's obligations in connection
10 with any outstanding bonds issued pursuant to the Public
11 Improvement District Act.

12 E. Upon presentation to the district board of a
13 petition signed by the owners of a majority of the property
14 in the district, the district board shall adopt a resolution
15 to reduce or eliminate the portion of the tax or special
16 levy, beginning the next fiscal year, required for one or
17 more services or enhanced services specified in the petition.
18 Signatures on a petition to reduce or eliminate a tax or
19 special levy shall be valid for a period of sixty days.

20 F. When levying property tax or imposing a special
21 levy, the district board shall make annual statements and
22 estimates of the operation and maintenance expenses of the
23 district, the costs of public improvements to be financed by
24 the taxes or special levy and the amount of all other
25 expenditures for public infrastructure improvements and

1 enhanced services proposed to be paid from the taxes or
2 special levy and of the amount to be raised to pay general
3 obligation bonds of the district or special levy bonds, all
4 of which shall be provided for by the levy and collection of
5 property taxes on the net taxable value of the real property
6 in the district or by the imposition and collection of
7 special levies. The district board shall file the annual
8 statements and estimates with the clerk. The district board
9 shall publish a notice of the filing of the estimate, shall
10 hold hearings on the portions of the estimate not relating to
11 debt service on general obligation bonds or special levy
12 bonds and shall adopt a budget. The district board, on or
13 before the date set by law for certifying the annual budget
14 of the municipality or county, shall fix, levy and assess the
15 amounts to be raised by property taxes or special levies of
16 the district and shall cause certified copies of the order to
17 be delivered to the local government division of the
18 department of finance and administration. All statutes
19 relating to the levy and collection of property taxes,
20 including the collection of delinquent taxes and sale of
21 property for nonpayment of taxes, apply to district property
22 taxes and to special levies, except to the extent that the
23 district board has provided for other imposition, collection
24 and foreclosure procedures in connection with special
25 levies."

1 **SECTION 199.** Section 5-15-3 NMSA 1978 (being Laws 2006,
2 Chapter 75, Section 3) is amended to read:

3 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
4 Development Act:

5 A. "base gross receipts taxes" means:

6 (1) the total amount of gross receipts taxes
7 collected within a tax increment development district, as
8 estimated by the governing body that adopted a resolution to
9 form that district, in consultation with the taxation and
10 revenue department, in the calendar year preceding the
11 formation of the tax increment development district or, when
12 an area is added to an existing district, the amount of gross
13 receipts taxes collected in the calendar year preceding the
14 effective date of the modification of the tax increment
15 development plan and designated by the governing body to be
16 available as part of the gross receipts tax increment; and

17 (2) any amount of gross receipts taxes that
18 would have been collected in such year if any applicable
19 additional gross receipts taxes imposed after that year had
20 been imposed in that year;

21 B. "base property taxes" means:

22 (1) the portion of property taxes produced
23 by the total of all property tax levied at the rate fixed
24 each year by each governing body levying a property tax on
25 the assessed value of taxable property within the tax

1 increment development area last certified for the year ending
2 immediately prior to the year in which a tax increment
3 development plan is approved for the tax increment
4 development area, or, when an area is added to an existing
5 tax increment development area, "base property taxes" means
6 that portion of property taxes produced by the total of all
7 property tax levied at the rate fixed each year by each
8 governing body levying a property tax upon the assessed value
9 of taxable property within the tax increment development area
10 on the date of the modification of the tax increment
11 development plan and designated by the governing body to be
12 available as part of the property tax increment; and

13 (2) any amount of property taxes that would
14 have been collected in such year if any applicable additional
15 property taxes imposed after that year had been imposed in
16 that year;

17 C. "county option gross receipts taxes" means
18 gross receipts taxes imposed by counties pursuant to the
19 County Local Option Gross Receipts Taxes Act and designated
20 by the governing body of the county to be available as part
21 of the gross receipts tax increment;

22 D. "district" means a tax increment development
23 district;

24 E. "district board" means a board formed in
25 accordance with the provisions of the Tax Increment for

1 Development Act to govern a tax increment development
2 district;

3 F. "enhanced services" means public services
4 provided by a municipality or county within the district at a
5 higher level or to a greater degree than otherwise available
6 to the land located in the district from the municipality or
7 county, including such services as public safety, fire
8 protection, street or sidewalk cleaning or landscape
9 maintenance in public areas; provided that "enhanced
10 services" does not include the basic operation and
11 maintenance related to infrastructure improvements financed
12 by the district pursuant to the Tax Increment for Development
13 Act;

14 G. "governing body" means the city council or city
15 commission of a city, the board of trustees or council of a
16 town or village or the board of county commissioners of a
17 county;

18 H. "gross receipts tax increment" means the gross
19 receipts taxes collected within a tax increment development
20 district in excess of the base gross receipts taxes collected
21 for the duration of the existence of a tax increment
22 development district and distributed to the district in the
23 same manner as distributions are made under the provisions of
24 the Tax Administration Act;

25 I. "gross receipts tax increment bonds" means

1 bonds issued by a district in accordance with the Tax
2 Increment for Development Act, the pledged revenue for which
3 is a gross receipts tax increment;

4 J. "local government" means a municipality or
5 county;

6 K. "municipal option gross receipts taxes" means
7 those gross receipts taxes imposed by municipalities pursuant
8 to the Municipal Local Option Gross Receipts Taxes Act and
9 designated by the governing body of the municipality to be
10 available as part of the gross receipts tax increment;

11 L. "municipality" means an incorporated city, town
12 or village;

13 M. "owner" means a person owning real property
14 within the boundaries of a district;

15 N. "person" means an individual, corporation,
16 association, partnership, limited liability company or other
17 legal entity;

18 O. "project" means a tax increment development
19 project;

20 P. "property tax increment" means all property tax
21 collected on real property within the designated tax
22 increment development area that is in excess of the base
23 property tax until termination of the district and
24 distributed to the district in the same manner as
25 distributions are made under the provisions of the Tax

1 Administration Act;

2 Q. "property tax increment bonds" means bonds
3 issued by a district in accordance with the Tax Increment for
4 Development Act, the pledged revenue for which is a property
5 tax increment;

6 R. "public improvements" means on-site
7 improvements and off-site improvements that directly or
8 indirectly benefit a tax increment development district or
9 facilitate development within a tax increment development
10 area and that are dedicated to the governing body in which
11 the district lies. "Public improvements" includes:

12 (1) sanitary sewage systems, including
13 collection, transport, treatment, dispersal, effluent use and
14 discharge;

15 (2) drainage and flood control systems,
16 including collection, transport, storage, treatment,
17 dispersal, effluent use and discharge;

18 (3) water systems for domestic, commercial,
19 office, hotel or motel, industrial, irrigation, municipal or
20 fire protection purposes, including production, collection,
21 storage, treatment, transport, delivery, connection and
22 dispersal;

23 (4) highways, streets, roadways, bridges,
24 crossing structures and parking facilities, including all
25 areas for vehicular use for travel, ingress, egress and

1 parking;

2 (5) trails and areas for pedestrian,
3 equestrian, bicycle or other non-motor vehicle use for
4 travel, ingress, egress and parking;

5 (6) pedestrian and transit facilities,
6 parks, recreational facilities and open space areas for the
7 use of members of the public for entertainment, assembly and
8 recreation;

9 (7) landscaping, including earthworks,
10 structures, plants, trees and related water delivery systems;

11 (8) public buildings, public safety
12 facilities and fire protection and police facilities;

13 (9) electrical generation, transmission and
14 distribution facilities;

15 (10) natural gas distribution facilities;

16 (11) lighting systems;

17 (12) cable or other telecommunications lines
18 and related equipment;

19 (13) traffic control systems and devices,
20 including signals, controls, markings and signage;

21 (14) school sites and facilities with the
22 consent of the governing board of the public school district
23 for which the facility is to be acquired, constructed or
24 renovated;

25 (15) library and other public educational or

1 cultural facilities;

2 (16) equipment, vehicles, furnishings and
3 other personal property related to the items listed in this
4 subsection;

5 (17) inspection, construction management,
6 planning and program management and other professional
7 services costs incidental to the project;

8 (18) workforce housing; and

9 (19) any other improvement that the
10 governing body determines to be for the use or benefit of the
11 public;

12 S. "state gross receipts tax" means the gross
13 receipts tax imposed pursuant to the Gross Receipts and
14 Compensating Tax Act, but does not include that portion
15 distributed to municipalities pursuant to Sections 7-1-6.4
16 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section
17 7-1-6.47 NMSA 1978;

18 T. "sustainable development" means land
19 development that achieves sustainable economic and social
20 goals in ways that can be supported for the long term by
21 conserving resources, protecting the environment and ensuring
22 human health and welfare using mixed-use, pedestrian-
23 oriented, multimodal land use planning;

24 U. "tax increment development area" means the land
25 included within the boundaries of a tax increment development

1 district;

2 V. "tax increment development district" means a
3 district formed for the purposes of carrying out tax
4 increment development projects;

5 W. "tax increment development plan" means a plan
6 for the undertaking of a tax increment development project;

7 X. "tax increment development project" means
8 activities undertaken within a tax increment development area
9 to enhance the sustainability of the local, regional or
10 statewide economy; to support the creation of jobs, schools
11 and workforce housing; and to generate tax revenue for the
12 provision of public improvements and may include:

13 (1) acquisition of land within a designated
14 tax increment development area or a portion of that tax
15 increment development area;

16 (2) demolition and removal of buildings and
17 improvements and installation, construction or reconstruction
18 of streets, utilities, parks, playgrounds and improvements
19 necessary to carry out the objectives of the Tax Increment
20 for Development Act;

21 (3) installation, construction or
22 reconstruction of streets, water utilities, sewer utilities,
23 parks, playgrounds and other public improvements necessary to
24 carry out the objectives of the Tax Increment for Development
25 Act;

1 (4) disposition of property acquired or held
2 by a tax increment development district as part of the
3 undertaking of a tax increment development project at the
4 fair market value of such property for uses in accordance
5 with the Tax Increment for Development Act;

6 (5) payments for professional services
7 contracts necessary to implement a tax increment development
8 plan or project;

9 (6) borrowing to purchase land, buildings or
10 infrastructure in an amount not to exceed the revenue stream
11 that may be derived from the gross receipts tax increment or
12 the property tax increment estimated to be received by a tax
13 increment development district; and

14 (7) grants for public improvements essential
15 to the location or expansion of a business;

16 Y. "taxing entity" means the governing body of a
17 political subdivision of the state, the gross receipts tax
18 increment or property tax increment of which may be used for
19 a tax increment development project; and

20 Z. "workforce housing" means decent, safe and
21 sanitary dwellings, apartments, single-family dwellings or
22 other living accommodations that are affordable for persons
23 or families earning less than eighty percent of the median
24 income within the county in which the tax increment
25 development project is located; provided that an owner-

1 occupied housing unit is affordable to a household if the
2 expected sales price is reasonably anticipated to result in
3 monthly housing costs that do not exceed thirty-three percent
4 of the household's gross monthly income; provided that:

5 (1) determination of mortgage amounts and
6 payments is to be based on down payment rates and interest
7 rates generally available to lower- and moderate-income
8 households; and

9 (2) a renter-occupied housing unit is
10 affordable to a household if the unit's monthly housing
11 costs, including rent and basic utility and energy costs, do
12 not exceed thirty-three percent of the household's gross
13 monthly income."

14 SECTION 200. Section 5-15-7 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 7) is amended to read:

16 "5-15-7. PUBLIC HEARING.--

17 A. At a public hearing conducted pursuant to the
18 Tax Increment for Development Act, the governing body shall
19 hear all relevant evidence and testimony and make findings.
20 A record of the hearing shall be kept and may consist of a
21 transcription by a court reporter, an electronic recording or
22 minutes taken by a designated person. The record shall be
23 preserved in the official records of the governing body and
24 shall be open to public inspection pursuant to the Inspection
25 of Public Records Act.

1 B. Testimony at a hearing is not required to be
2 given under oath.

3 C. At the conclusion of a hearing, the governing
4 body shall determine whether the tax increment development
5 district should be formed based upon the interests,
6 convenience or necessity of the owners, the residents of the
7 proposed tax increment development district and the residents
8 of the municipality or county in which the proposed tax
9 increment development district is to be located. The
10 governing body shall make the following findings before
11 adopting a resolution to approve the formation of a district:

12 (1) the tax increment development plan
13 reasonably protects the interests of the governing body in
14 meeting its goals to support:

- 15 (a) job creation;
16 (b) workforce housing;
17 (c) public school facility creation and
18 improvement, including the creation and improvement of
19 facilities for charter schools; and
20 (d) underdeveloped area or historical
21 area redevelopment;

22 (2) the tax increment development plan
23 demonstrates elements of innovative planning techniques,
24 including mixed-use transit-oriented development, traditional
25 neighborhood design or sustainable development techniques,

1 that are deemed by the governing body to benefit community
2 development;

3 (3) the tax increment development plan
4 incorporates sustainable development considerations; and

5 (4) the tax increment development plan
6 conforms to general or long-term planning of the governing
7 body.

8 D. If the governing body determines that the
9 district should be formed, it shall:

10 (1) adopt a resolution ordering that the tax
11 increment development district be formed;

12 (2) order that a formation determination
13 among the owners of real property within the proposed
14 district be conducted or declare that the formation
15 determination is waived pursuant to Subsection B of Section
16 5-15-8 NMSA 1978; and

17 (3) set the matter for an election or
18 declare that an election is canceled pursuant to Subsection I
19 of Section 5-15-8 NMSA 1978."

20 SECTION 201. Section 5-15-8 NMSA 1978 (being Laws 2006,
21 Chapter 75, Section 8) is amended to read:

22 "5-15-8. FORMATION DETERMINATION--ELECTION.--

23 A. The formation determination and election
24 procedures set forth in this section shall be used for:

25 (1) formation of a new tax increment

1 development district;

2 (2) selection of a district board member;

3 (3) adoption of a property tax levy by a tax
4 increment development district;

5 (4) use of property tax increment financing
6 by a tax increment development district; or

7 (5) issuing of property tax increment bonds
8 to be repaid by funds raised by property tax increments.

9 B. A formation determination may be waived and a
10 tax increment development district shall be formed upon the
11 governing body's adoption of a resolution to form a tax
12 increment development district if a petition is presented to
13 a governing body in accordance with the Tax Increment for
14 Development Act and if the petition contains the signatures
15 of all owners of the real property within the proposed tax
16 increment development area and states that the owners waive
17 the right to a formation determination.

18 C. A formation or other determination shall not be
19 a local election for purposes of the Local Election Act. The
20 governing body or district board may establish local
21 procedures for noticing, conducting and canvassing
22 determinations, which may include determinations by unanimous
23 written approval of the owners in affidavits executed by the
24 owners and confirmed in a review by the district board.

25 D. An election by the qualified electors pursuant

1 to the Tax Increment for Development Act shall be a
2 nonpartisan election called, conducted and canvassed pursuant
3 to the provisions of the Election Code.

4 E. In addition to the notice requirements in the
5 Local Election Act, the notice of election shall state:

6 (1) if the election is a formation election,
7 the boundaries of the proposed tax increment development
8 district;

9 (2) if the election is a bond election, the
10 purpose for which the bonds are to be issued and the amount
11 of the issue;

12 (3) if the election is a property tax levy
13 election, the maximum tax rate per one thousand dollars
14 (\$1,000) of assessed valuation to be imposed, the purposes
15 for which the revenues raised will be used and the existing
16 maximum tax rate, if any;

17 (4) that an approved tax increment
18 development plan is on file with the clerk of the governing
19 body;

20 (5) the purposes for which property taxes
21 will be imposed and for which the revenues raised will be
22 used, including a description of the public improvements to
23 be financed with tax revenues, bond proceeds or other
24 revenues of the tax increment development district; and

25 (6) that the imposition of property taxes

1 will result in a lien for the payment on property within the
2 district.

3 F. The district board, or, in the case of a
4 formation election, the governing body, shall determine the
5 date of the election, which shall comply with the provisions
6 of the Local Election Act. The ballot material provided to
7 each qualified electors shall include:

8 (1) for a formation election, an impartial
9 description of the tax increment development plan and a brief
10 description of arguments for and against the formation of the
11 tax increment development district, if any;

12 (2) for an election concerning the
13 imposition of property taxes, an impartial description of the
14 taxes to be imposed, the method of apportionment, collection
15 and enforcement and other details sufficient to enable each
16 qualified elector to determine the amount of tax it will be
17 obligated to pay; a brief description of arguments for and
18 against the imposition of taxes that are the subject of the
19 election, if any; and a statement that the imposition of
20 property taxes is for the provision of certain, but not
21 necessarily all, public improvements that may be needed or
22 desirable within the tax increment development district, and
23 that other taxes, levies or assessments by other governmental
24 entities may be presented for approval by owners and
25 qualified electors;

1 (3) for an election concerning the use of
2 property tax increment financing, an impartial description of
3 the estimated increment to be generated over the life of the
4 project and the nature and extent of the public improvements
5 to be constructed and maintained using such financing;

6 (4) for a formation election, the question
7 to be voted upon as "district, yes" and "district, no";

8 (5) for a property tax imposition election,
9 the question to be voted upon as "property tax, yes" and
10 "property tax, no";

11 (6) for an election to change an existing
12 maximum tax or eliminate an existing tax, the question to be
13 voted upon as "tax change, yes" and "tax change, no" and
14 shall specify the type of tax to which the proposed change
15 pertains; and

16 (7) for an election concerning the use of
17 property tax increment bonds, the ballot shall pose the
18 question to be voted upon as "bonds, yes" and "bonds, no".

19 G. Failure of a majority to vote in favor of the
20 matter submitted shall not prejudice the submission of the
21 same or similar matters at a later election; provided that an
22 election on the same question shall not be held within one
23 year of the failure of a majority to vote in favor of that
24 question.

25 H. If a person transfers real property located in

1 a district and the name of the successor owner becomes known
2 to the governing body or the district board, as applicable,
3 and is verified by recorded deed or other similar evidence of
4 transfer of ownership, the successor owner is deemed to be
5 the owner of the real property for the purposes of the Tax
6 Increment for Development Act.

7 I. If there are no persons registered to vote
8 within a district or proposed district areas within seventy
9 days immediately preceding a scheduled election date, an
10 election required to be held pursuant to the Tax Increment
11 for Development Act shall be canceled and the determination
12 made by the owners of property within the district or
13 proposed district areas shall prevail, unless an election is
14 otherwise required by the constitution of New Mexico or the
15 determination was waived by the governing body pursuant to
16 Subsection B of this section. Each owner shall have the
17 number of votes or portion of votes equal to the number of
18 acres or portion of acres rounded upward to the nearest one-
19 fifth of an acre owned in the district by that owner."

20 **SECTION 202.** Section 5-15-9 NMSA 1978 (being Laws 2006,
21 Chapter 75, Section 9, as amended) is amended to read:

22 "5-15-9. **FORMATION OF A DISTRICT.--**

23 A. If the formation of the tax increment
24 development district is approved in accordance with the
25 provisions of Section 5-15-8 NMSA 1978, the governing body

1 shall deliver a copy of the resolution ordering formation of
2 the tax increment development district to each of the
3 following persons or entities:

4 (1) the county assessor, the county
5 treasurer and the clerk of the county in which the district
6 is located;

7 (2) the school district within which any
8 portion of the property located within a tax increment
9 development area lies;

10 (3) any other taxing entities within which
11 any portion of the property located within a tax increment
12 development area lies;

13 (4) the taxation and revenue department;

14 (5) the local government division of the
15 department of finance and administration; and

16 (6) the director of the legislative finance
17 committee.

18 B. A notice of the formation showing the number
19 and date of the resolution and giving a description of the
20 land included in the district shall be recorded with the
21 clerk of the county in which the district is located.

22 C. A tax increment development district shall be a
23 political subdivision of the state, separate and apart from a
24 municipality or county."

25 **SECTION 203.** Section 5-15-10 NMSA 1978 (being Laws

1 2006, Chapter 75, Section 10, as amended) is amended to read:

2 "5-15-10. GOVERNANCE OF THE DISTRICT.--

3 A. Following formation of a tax increment
4 development district, a district board shall administer in a
5 reasonable manner the implementation of the tax increment
6 development plan as approved by the governing body.

7 B. The district shall be governed by the governing
8 body that adopted a resolution to form the district or by a
9 five-member board composed of four members appointed by that
10 governing body; provided, however, that the fifth member of
11 the five-member board is the secretary of finance and
12 administration or the secretary's designee with full voting
13 privileges.

14 C. Two of the appointed directors shall serve an
15 initial term to expire following a regular local election and
16 not to exceed six years. Two of the appointed directors
17 shall serve an initial term to expire following a regular
18 local election and not to exceed four years. The resolution
19 forming the district shall state which directors shall serve
20 the longer terms and which shall serve the shorter terms. If
21 a vacancy occurs on the district board because of the death,
22 resignation or inability of the director to discharge the
23 duties of the director, the governing body shall appoint a
24 director to fill the vacancy, and the director shall hold
25 office for the remainder of the unexpired term until a

1 successor is appointed or elected.

2 D. In the case of an appointed board of directors
3 that is not the governing body, at the end of the appointed
4 directors' initial terms, the board shall hold an election of
5 new directors by majority vote of qualified electors in
6 accordance with the Local Election Act and the Tax Increment
7 for Development Act. If the election is canceled pursuant to
8 Subsection I of Section 5-15-8 NMSA 1978, a determination by
9 the owners conducted by ballot shall select the new
10 directors."

11 SECTION 204. Section 5-15-13 NMSA 1978 (being Laws
12 2006, Chapter 75, Section 13) is amended to read:

13 "5-15-13. AUTHORITY TO IMPOSE PROPERTY TAX LEVY.--A
14 district has the power to establish a property tax levy upon
15 real property located within the tax increment development
16 area, with the following limitations:

17 A. the maximum property tax levy a district may
18 impose is five dollars (\$5.00) on each one thousand dollars
19 (\$1,000) of net taxable value, as that term is defined in the
20 Property Tax Code, which may be used for operation,
21 maintenance and capital improvements, in furtherance of the
22 purposes of the Tax Increment for Development Act;

23 B. a district may impose a property tax levy only
24 after authorization through a determination made by the
25 owners of real property in the district and by a majority of

1 votes cast by the qualified resident electors of a district
2 in an election held in accordance with the Local Election Act
3 and the Tax Increment for Development Act; and

4 C. a property tax levy imposed by a district shall
5 not be effective for more than four years."

6 SECTION 205. Section 5-15-14 NMSA 1978 (being Laws
7 2006, Chapter 75, Section 14) is amended to read:

8 "5-15-14. PROPERTY TAX LEVY RESCISSION ELECTION.--

9 A. A property tax levy imposed by a district may
10 be rescinded within the four-year period during which a
11 property tax levy imposed by a district is effective if:

12 (1) thirty-three and one-third percent of
13 the number of persons who voted in the election for the
14 imposition of that property tax levy sign a petition to
15 rescind the property tax levy; and

16 (2) each person who signs the petition is a
17 qualified elector of the district or an owner of real
18 property within the tax increment development area.

19 B. The petition shall be filed with the district
20 board for verification of the signatures, as to both number
21 and qualifications of the persons signing. If the district
22 board verifies that the petition contains the requisite
23 number of signatures by persons qualified to sign the
24 petition pursuant to Subsection A of this section, the
25 question of rescission of the property tax levy imposed by

1 the district shall be placed on the ballot for:

2 (1) a special election held in accordance
3 with the special election procedures of the Election Code
4 that is called and held within ninety days; provided that the
5 date does not conflict with the provisions of Section 1-24-1
6 NMSA 1978; or

7 (2) the next occurring regular local
8 election or general election if that election is to be held
9 within less than one hundred twenty days.

10 C. A petition for rescission of a property tax
11 levy imposed by a district may be submitted only once each
12 year during the four-year period during which a property tax
13 levy by a district is effective."

14 **SECTION 206.** Section 5-15-18 NMSA 1978 (being Laws
15 2006, Chapter 75, Section 18) is amended to read:

16 "5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

17 A. Subject to the limitations and in accordance
18 with Article 9 of the constitution of New Mexico and Sections
19 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and
20 dispose of property tax increment bonds for the purpose of
21 securing funds for undertaking tax increment development
22 projects within the purposes of the Tax Increment for
23 Development Act.

24 B. Before property tax increment bonds are issued,
25 the district board shall submit the question of authorizing

1 the issuance of property tax increment bonds to the owners
2 for a determination and to a vote of the qualified electors
3 within the tax increment development area.

4 C. The district board shall give notice of a
5 property tax increment bond election as required by the Local
6 Election Act and the Tax Increment for Development Act.

7 D. The ballot question shall state the purpose for
8 which the property tax increment bonds are to be issued and
9 the amount of the issue. If property tax increment bonds are
10 to be issued for more than one purpose, a separate ballot
11 question shall be submitted to the voters for each purpose to
12 be voted upon. The ballot question shall contain words
13 indicating the purpose of the bond issued and a place for a
14 vote in favor of or in opposition to each property tax
15 increment bond issue.

16 E. Except as otherwise provided in the Tax
17 Increment for Development Act, property tax increment bonds:

18 (1) may have interest, principal value or
19 any part thereof payable at intervals or at maturity, as
20 determined by the governing body;

21 (2) may be subject to a prior redemption at
22 the district's option at a time or upon terms and conditions
23 with or without payment of premium or premiums, as determined
24 by the district board;

25 (3) may mature at any time not exceeding

1 twenty-five years after the date of issuance;

2 (4) may be serial in form and maturity or
3 may consist of one bond payable at one time or in
4 installments or may be in another form, as determined by the
5 district board;

6 (5) shall be sold for cash at, above or
7 below par and at a price that results in a net effective
8 interest rate that does not exceed the maximum permitted by
9 the Public Securities Act and the Public Securities Short-
10 Term Interest Rate Act; and

11 (6) may be sold at public or negotiated
12 sale.

13 F. Except as otherwise provided by law, the
14 district board shall determine the denominations, places of
15 payment, terms and conditions and the form of property tax
16 increment bonds.

17 G. The secretary and treasurer of the district
18 board shall sign property tax increment bonds.

19 H. The property tax increment bonds may be
20 executed in the manner provided by the Uniform Facsimile
21 Signature of Public Officials Act."

22 **SECTION 207.** Section 5-15-25 NMSA 1978 (being Laws
23 2006, Chapter 75, Section 25) is amended to read:

24 "5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT
25 AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

1 A. Following formation of a district, an area may
2 be eliminated from the tax increment development area only
3 following a hearing conducted upon notice given to the owners
4 of land in the tax increment development area in the manner
5 prescribed for the formation hearing, adoption of a
6 resolution of intention to do so by the district board, a
7 determination by the owners of real property within the
8 district to eliminate the area and voter approval by the
9 qualified electors as provided in the Local Election Act and
10 the Tax Increment for Development Act. Real property within
11 the tax increment development area that is subject to the
12 lien of property taxes, special levies or other charges
13 imposed pursuant to the Tax Increment for Development Act
14 shall not be eliminated from the district while there are
15 bonds outstanding that are payable by those taxes, special
16 levies or charges.

17 B. Following formation of a district, an area may
18 be added to the district upon a determination by the owners
19 of real property in the proposed additional area and the
20 approval of the qualified electors residing therein, as well
21 as a determination by the owners of real property in the
22 district and approval of the qualified electors, as provided
23 in the Local Election Act and the Tax Increment for
24 Development Act.

25 C. The district board, following a hearing

1 conducted upon notice given to the owners of real property
2 located in the district in the manner prescribed for the
3 formation hearing, may, subject to the approval of the
4 governing body that approved the district's tax increment
5 development plan, amend the tax increment development plan in
6 any manner that it determines will not substantially reduce
7 the benefits to be received by any land in the district from
8 the public infrastructure on completion of the work to be
9 performed under the general plan. A determination by the
10 owners and an election shall not be required solely for the
11 purposes of this subsection."

12 **SECTION 208.** Section 6-21-5.1 NMSA 1978 (being Laws
13 1998, Chapter 65, Section 1) is amended to read:

14 "6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY
15 LOANS.--The authority may issue bonds for a county to design,
16 construct, equip, furnish and otherwise improve a county
17 correctional facility pursuant to the County Correctional
18 Facility Gross Receipts Tax Act only after a majority of the
19 qualified electors of the county has voted to allow the
20 county to impose a county correctional facility gross
21 receipts tax in the amount needed to repay bonds issued by
22 the authority for the purpose of designing, constructing,
23 equipping, furnishing and otherwise improving a county
24 correctional facility."

25 **SECTION 209.** A new Section of Chapter 7, Article 38

1 NMSA 1978 is enacted to read:

2 "PROCEDURES TO DELAY THE MAILING OF PROPERTY TAX BILLS
3 FOR COUNTIES FOR WHICH A PROPERTY TAX LEVY IS IMPOSED AT THE
4 NOVEMBER 2019 or 2021 REGULAR LOCAL ELECTION TO PUT THE
5 QUESTION OF IMPOSING OR RENEWING A LEVY BEFORE THE VOTERS.--

6 A. In 2019 and 2021:

7 (1) if a local government desires to impose
8 or renew a property tax levy, the local government shall file
9 a resolution with the county clerk and the local government
10 division of the department of finance and administration no
11 later than July 15 calling for the imposition or renewal of a
12 property tax levy and indicate the local government's intent
13 to place the question of imposing or renewing the property
14 tax levy on the regular local election ballot in November;

15 (2) no later than September 1, and following
16 the procedures provided in Section 7-38-33 NMSA 1978, the
17 local government division of the department of finance and
18 administration shall by written order set two property tax
19 rates for the properties under the jurisdiction of the local
20 governments that submitted a resolution pursuant to Paragraph
21 (1) of this subsection. One set of rates shall assume that
22 the question of the property tax levy will be approved by the
23 voters, and a second set of rates shall assume that the
24 question of the property tax levy will not be approved by the
25 voters. A copy of the property tax rate-setting order with

1 both rates shall be sent to each board of county
2 commissioners and each county assessor of each affected
3 county and the taxation and revenue department within five
4 days of the date the order is made;

5 (3) within five days of receiving the
6 rate-setting order, the board of county commissioners of each
7 affected county shall issue a written order imposing a tax at
8 the rates set on the net taxable value of property allocated
9 to the appropriate governmental units pursuant to Section
10 7-38-34 NMSA 1978 for both of the property tax rates set
11 pursuant to Paragraph (2) of this subsection. The order
12 shall provide notice of both rates. A copy of each order
13 shall be delivered immediately to the county assessor;

14 (4) no later than October 1, and following
15 the procedures provided in Section 7-38-35 NMSA 1978, the
16 county assessor for each affected county shall prepare a
17 property tax schedule for all property subject to property
18 taxation in the county for both of the property tax rates set
19 pursuant to Paragraph (2) of this subsection;

20 (5) pursuant to Section 7-38-36 NMSA 1978,
21 the county assessor shall deliver a copy of the property tax
22 schedule prepared pursuant to Paragraph (4) of this
23 subsection to the county treasurer on October 1, with a
24 notice that the property tax bill for those properties shall
25 be mailed pursuant to Paragraph (6) of this subsection;

1 (6) after the regular local election is held
2 in November and the voters have answered the question of the
3 property tax levy, the county treasurer for each affected
4 county shall prepare and mail property tax bills no later
5 than November 24, notwithstanding Section 7-38-36 NMSA 1978,
6 reflecting the appropriate rate and amount due, to either the
7 owner of the property or any person other than the owner to
8 whom the tax bill is to be sent; and

9 (7) notwithstanding Section 7-38-38 NMSA
10 1978, the first installment of property taxes is due on
11 December 6, and shall become delinquent if not paid within
12 thirty days pursuant to Section 7-38-49 NMSA 1978.

13 B. As used in this section:

14 (1) "affected county" means a county within
15 which a local government is situate that files a resolution
16 indicating the local government's intent to place the
17 question of imposing or renewing a property tax levy on the
18 regular local election ballot in November 2019 or 2021
19 pursuant to Subsection A of this section; and

20 (2) "local government" means "local
21 government" as that term is defined in the Local Election
22 Act."

23 SECTION 210. Section 8-8-3.1 NMSA 1978 (being Laws
24 2013, Chapter 64, Section 1) is amended to read:

25 "8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

1 A. In addition to other requirements imposed by
2 law, in order to be elected or appointed as a commissioner, a
3 person must be qualified for office by:

4 (1) having at least ten years of
5 professional experience in an area regulated by the
6 commission or in the energy sector and involving a scope of
7 work that includes accounting, public or business
8 administration, economics, finance, statistics, engineering
9 or law; or

10 (2) having a total of ten years of combined
11 professional experience as described in Paragraph (1) of this
12 subsection and higher education resulting in at least a
13 professional license or a baccalaureate degree from an
14 institution of higher education that has been accredited by a
15 regional or national accrediting body in an area regulated by
16 the commission, including accounting, public or business
17 administration, economics, finance, statistics, engineering
18 or law.

19 B. As used in this section, "professional
20 experience" means employment in which the candidate or
21 prospective appointee for commissioner regularly made
22 decisions requiring discretion and independent judgment and:

23 (1) engaged in policy analysis, research or
24 implementation in an area regulated by the commission or in
25 the energy sector;

1 (2) managed, as the head, deputy head or
2 division director, a federal, state, tribal or local
3 government department or division responsible for utilities,
4 transportation or construction; or

5 (3) managed a business or organization
6 regulated by the commission or in the energy sector that had
7 five or more employees during the time it was managed by the
8 candidate or prospective appointee.

9 C. A candidate for election to the office of
10 commissioner shall certify by notarized affidavit that the
11 candidate meets the requirements of Subsection A of this
12 section to be filed with the declaration of candidacy. The
13 affidavit shall be on a form provided by the secretary of
14 state that shall permit a candidate to list with
15 particularity the candidate's specific professional
16 experience or higher education that meets the requirements of
17 Subsection A of this section.

18 D. A voter may challenge the candidacy for
19 election to the office of commissioner of any person seeking
20 nomination for the reason that the person seeking nomination
21 does not meet the requirements of Subsection A of this
22 section or that the affidavit of the person seeking
23 nomination does not contain sufficient information to
24 determine if the person meets the requirements of Subsection
25 A of this section. The challenge shall be made by filing a

1 petition in the district court within ten days after the last
2 day for filing a declaration of candidacy or a statement of
3 candidacy for convention designation, which petition shall be
4 heard in the same manner as provided in Subsection E of
5 Section 1-8-26 NMSA 1978."

6 SECTION 211. Section 10-3-1 NMSA 1978 (being Laws 1909,
7 Chapter 36, Section 3, as amended) is amended to read:

8 "10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL
9 OFFICE.--Any office of a political subdivision of the state
10 subject to election by the qualified electors within the
11 political subdivision becomes vacant under any of the
12 following circumstances:

13 A. by resignation or death of the party in office;

14 B. removal of the officer as provided by Sections
15 10-4-1 through 10-4-29 NMSA 1978;

16 C. failure of the officer to qualify as provided
17 by law;

18 D. expiration of the term of office when no
19 successor has been chosen as provided by law;

20 E. when the officer removes from the area from
21 which the officer was elected to represent and, in case of an
22 officer serving pursuant to an appointment, when the officer
23 removes from the area the officer was appointed to represent;

24 F. absence from the political subdivision in which
25 the officer serves for six consecutive months; but this

1 provision does not apply to those officers wherein the law
2 provides that the duties may be discharged by a deputy, when
3 such absence is due to illness or other unavoidable cause;

4 G. by an officer accepting and undertaking an
5 employment relationship with the political subdivision in
6 which the officer serves in a position subject to election;
7 or

8 H. by an officer taking the oath of office or
9 undertaking to discharge the duties of another incompatible
10 office."

11 SECTION 212. Section 10-3-3 NMSA 1978 (being Laws 1907,
12 Chapter 6, Section 2, as amended) is amended to read:

13 "10-3-3. VACANCY IN COUNTY OFFICE--APPOINTMENT.--
14 Whenever any vacancy in any county office in any of the
15 counties of this state, other than a vacancy in the office of
16 county commissioner, occurs by reason of death, resignation
17 or otherwise, it is the duty of the board of county
18 commissioners of the county where such vacancy has occurred
19 to fill the vacancy by appointment, and the appointee shall
20 be entitled to hold the office until the end of the unexpired
21 term of office."

22 SECTION 213. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "ELECTED OFFICIAL--AWARD OF SERVICE CREDIT FOR SHORTENED
25 TERM OF OFFICE--LOCAL ELECTION ACT.--A member shall be

1 credited an award of service to the member's service credit
2 account:

3 A. if, but for the shortening under the Local
4 Election Act of a term in elected office served by the
5 member, the member would meet the service requirement for
6 normal retirement; and

7 B. in the minimum amount of service credit needed
8 for the member to meet the requirement for normal retirement,
9 but no more than three months."

10 SECTION 214. Section 10-16A-3 NMSA 1978 (being Laws
11 1993, Chapter 46, Section 41, as amended) is amended to read:

12 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
13 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
14 BALLOT OR APPOINTMENT.--

15 A. A person holding a legislative or statewide
16 office shall file with the secretary of state a financial
17 disclosure statement during the month of January every year
18 that the person holds public office.

19 B. A candidate for legislative or statewide office
20 who has not already filed a financial disclosure statement
21 with the secretary of state in the same calendar year shall
22 file with the proper filing officer, as defined in the
23 Election Code, a financial disclosure statement at the time
24 of filing a declaration of candidacy. If the proper filing
25 officer is not the secretary of state, the proper filing

1 officer shall forward a copy of the financial disclosure
2 statement to the secretary of state within three days.

3 C. A state agency head, an official whose
4 appointment to a board or commission is subject to
5 confirmation by the senate or a member of the insurance
6 nominating committee shall file with the secretary of state a
7 financial disclosure statement within thirty days of
8 appointment and during the month of January every year
9 thereafter that the person holds public office.

10 D. The financial disclosure statement shall
11 include for any person identified in Subsection A, B or C of
12 this section and the person's spouse the following
13 information for the prior calendar year:

14 (1) the full name, mailing address and
15 residence address of each person covered in the disclosure
16 statement, except the address of the spouse need not be
17 disclosed; the name and address of the person's and spouse's
18 employer and the title or position held; and a brief
19 description of the nature of the business or occupation;

20 (2) all sources of gross income of more than
21 five thousand dollars (\$5,000) to each person covered in the
22 disclosure statement, identified by general category
23 descriptions that disclose the nature of the income source,
24 in the following broad categories: law practice or
25 consulting operation or similar business, finance and

1 banking, farming and ranching, medicine and health care,
2 insurance (as a business and not as payment on an insurance
3 claim), oil and gas, transportation, utilities, general stock
4 market holdings, bonds, government, education, manufacturing,
5 real estate, consumer goods sales with a general description
6 of the consumer goods and the category "other", with
7 direction that the income source be similarly described. In
8 describing a law practice, consulting operation or similar
9 business of the person or spouse, the major areas of
10 specialization or income sources shall be described, and if
11 the spouse or a person in the reporting person's or spouse's
12 law firm, consulting operation or similar business is or was
13 during the reporting calendar year or the prior calendar year
14 a registered lobbyist under the Lobbyist Regulation Act, the
15 names and addresses of all clients represented for lobbying
16 purposes during those two years shall be disclosed;

17 (3) a general description of the type of
18 real estate owned in New Mexico, other than a personal
19 residence, and the county where it is located;

20 (4) all other New Mexico business interests
21 not otherwise listed of ten thousand dollars (\$10,000) or
22 more in a New Mexico business or entity, including any
23 position held and a general statement of purpose of the
24 business or entity;

25 (5) all memberships held by the reporting

1 individual and the individual's spouse on boards of for-
2 profit businesses in New Mexico;

3 (6) all New Mexico professional licenses
4 held;

5 (7) each state agency that was sold goods or
6 services in excess of five thousand dollars (\$5,000) during
7 the prior calendar year by a person covered in the disclosure
8 statement; and

9 (8) each state agency, other than a court,
10 before which a person covered in the disclosure statement
11 represented or assisted clients in the course of the person's
12 employment during the prior calendar year.

13 E. A complete financial disclosure statement shall
14 be filed every year. The secretary of state shall deliver to
15 each elected official required to file a financial disclosure
16 statement a copy of any statement the person filed the
17 previous year.

18 F. The financial disclosure statements filed
19 pursuant to this section are public records open to public
20 inspection during regular office hours and shall be retained
21 by the state for five years from the date of filing.

22 G. A person who files a financial disclosure
23 statement may file an amended statement at any time to
24 reflect significant changed circumstances that occurred since
25 the last statement was filed.

1 H. A person who files to be a candidate for a
2 legislative or statewide office who fails or refuses to file
3 a financial disclosure statement required by this section
4 before the final date for qualification of the person as a
5 candidate as provided for in the Election Code shall not be
6 qualified by the proper filing officer as a candidate.

7 I. For a state agency head, an official whose
8 appointment to a board or commission is subject to
9 confirmation by the senate or a member of the insurance
10 nominating committee, the filing of the financial disclosure
11 statement required by this section is a condition of entering
12 upon and continuing in state employment or holding an
13 appointed position."

14 SECTION 215. Section 21-2A-10 NMSA 1978 (being Laws
15 1995, Chapter 224, Section 16) is amended to read:

16 "21-2A-10. PROCEDURE FOR ELECTION.--

17 A. In all elections held under the College
18 District Tax Act, the board shall issue a resolution calling
19 for an election. The resolution shall be filed with each
20 county clerk in the college district.

21 B. All elections held under the College District
22 Tax Act shall be conducted and canvassed pursuant to the
23 provisions of the Local Election Act.

24 C. Any person or corporation may institute, in the
25 district court of any county in which the college district

1 affected lies, an action or suit to contest the validity of
2 any proceedings held under the College District Tax Act, but
3 no such suit or action shall be maintained unless it is
4 instituted within ten days after the issuance by the proper
5 official of a certificate or notification of the results of
6 the election."

7 SECTION 216. Section 21-13-21 NMSA 1978 (being Laws
8 1963, Chapter 17, Section 16, as amended) is amended to read:

9 "21-13-21. ADDITION OF SCHOOL DISTRICTS TO EXISTING
10 COMMUNITY COLLEGE DISTRICTS.--

11 A. The school board of a school district, group of
12 school districts within a county or school districts in an
13 adjoining county, not included in the community college
14 district as originally formed, may by resolution petition the
15 higher education department to be added to the community
16 college district. The resolution may be initiated by the
17 school board or upon presentation to the school board of a
18 petition signed by ten percent of the qualified electors of
19 the district.

20 B. In reviewing the resolution, the higher
21 education department shall ascertain the attitude of the
22 community college board and ensure that the petitioning
23 district is not already within another institution's service
24 area. If the department finds that the proposed addition of
25 the petitioning district is not within another institution's

1 service area and the proposed addition is acceptable to the
2 community college district, it shall approve the resolution.
3 Thereafter, the petitioning district and the established
4 community college district shall call an election pursuant to
5 the provisions of the Local Election Act on the question of
6 the inclusion of the area in the community college district.

7 C. If it appears on canvass of the results of the
8 election a majority of the votes cast in each of the
9 petitioning areas and within the established community
10 college district was in favor of the addition of the
11 petitioning area, the secretary of higher education shall
12 declare the extension of the boundaries of the community
13 college district to include the petitioning area in which the
14 proposed addition referendum carried by a majority vote. The
15 addition shall take effect on the next succeeding July 1.

16 D. The territory within each school district added
17 to any existing community college district shall
18 automatically be subject to any special levy on taxable
19 property approved for the community college district for the
20 maintenance of facilities and services and for support of
21 bond issues."

22 SECTION 217. Section 21-14-2 NMSA 1978 (being Laws
23 1963, Chapter 162, Section 2, as amended) is amended to read:

24 "21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT
25 INSTITUTION--ELECTIONS.--

1 A. As used in Chapter 21, Article 14 NMSA 1978,
2 "board" means either the local school board or the combined
3 local school boards acting as a single board of the school
4 district or the board of the branch community college elected
5 pursuant to Section 21-14-2.1 NMSA 1978.

6 B. The duties of the board are to:

7 (1) enter into written agreements with the
8 board of regents of the parent institution, subject
9 thereafter to biennial review by all parties concerned and to
10 the review and commentary of the higher education department;

11 (2) act in an advisory capacity to the board
12 of regents of the parent institution in all matters relating
13 to the conduct of the branch community college;

14 (3) approve an annual budget for the branch
15 community college for recommendation to the board of regents
16 of the parent institution;

17 (4) certify to the board of county
18 commissioners the tax levy; and

19 (5) issue the proclamation for the election
20 for tax levies for the branch community college if the tax
21 levies are to be presented to the voters of the district at a
22 special election, or approve the ballot question if the tax
23 levies are to be presented to the voters of the district at
24 either the general or regular local election.

25 C. The board and the board of regents of the

1 parent institution of the branch community college shall
2 jointly conduct a search for qualified candidates for
3 director. The board of regents of the parent institution,
4 after consultation with the board, shall then select a
5 director for the branch community college.

6 D. The board and the board of regents of the
7 parent institution shall enter into a written agreement,
8 which shall include provisions for:

9 (1) the higher education institution to have
10 full authority and responsibility in relation to all academic
11 matters;

12 (2) the higher education institution to
13 honor all credits earned by students as though they were
14 earned on the parent campus;

15 (3) the course of study and program offered;

16 (4) the cooperative use of physical
17 facilities and teaching staff;

18 (5) consideration of applications of local
19 qualified people before employing teachers of the local
20 school system; and

21 (6) the detailed agreement of financing and
22 financial control of the branch community college.

23 E. The agreement shall be binding upon both the
24 board and the board of regents of the parent institution;
25 however, it may be terminated by mutual consent or it may be

1 terminated by either board upon six months' notice. However,
2 if the branch community college has outstanding general
3 obligation or revenue bonds, neither the board nor the board
4 of regents may terminate the agreement until the outstanding
5 bonds are retired, except as provided by Section 21-13-24.1
6 NMSA 1978. This provision shall apply to all agreements in
7 existence between the branch community college and the board
8 of regents of the parent institution.

9 F. All taxes levied to pay for principal and
10 interest on bonds of the branch community college shall be in
11 addition to the taxes levied for operating, maintaining and
12 providing facilities for the branch community college
13 pursuant to the College District Tax Act.

14 G. For the purpose of relating branch community
15 colleges to existing laws, branch community college districts
16 or branch community colleges shall not:

17 (1) be considered a part of the uniform
18 system of free public schools pursuant to Article 12, Section
19 1 and Article 21, Section 4 of the constitution of New
20 Mexico;

21 (2) benefit from the permanent school fund
22 and from the current school fund under Article 12, Sections 2
23 and 4 of the constitution of New Mexico;

24 (3) be subject, except as it relates to
25 technical and vocational education, to the control,

1 management and direction of the public education department;
2 and

3 (4) be considered school districts insofar
4 as the restrictions of Article 9, Section 11 of the
5 constitution of New Mexico are concerned.

6 H. All elections held pursuant to the branch
7 community college laws shall be conducted and canvassed
8 pursuant to the provisions of the Local Election Act.

9 I. The territory of a branch of community college
10 may be extended to include additional school districts in the
11 same manner as provided for community colleges in Section
12 21-13-21 NMSA 1978.

13 J. Any person or corporation may institute in the
14 district court of any county in which the branch community
15 college district affected lies an action or suit to contest
16 the validity of any proceedings held under the branch
17 community college laws, but no such suit or action shall be
18 maintained unless it is instituted within ten days after the
19 issuance by the proper officials of a certificate or
20 notification of the results of the election and the
21 canvassing of the election returns.

22 K. The tax rolls of the school districts
23 comprising the branch community college district shall be
24 adopted as the tax rolls of the branch community college
25 district."

1 SECTION 218. Section 21-14-2.1 NMSA 1978 (being Laws
2 1985, Chapter 238, Section 29) is amended to read:

3 "21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD--LOCAL
4 OPTION.--

5 A. A majority of the local board of education or
6 the combined boards of education acting as a single board may
7 cease to operate as the branch community college board and
8 provide for an elected branch community college board. In
9 that event, the majority of the local board of education or
10 the combined boards of education acting as a single board
11 shall elect five persons as members of the branch community
12 college board. Board members shall be qualified electors and
13 residents of the branch community college district. The
14 members of the board shall continue to serve until the next
15 regular local election, at which time five board members
16 shall be elected by the qualified electors of the branch
17 community college district. The candidates shall file for
18 and be elected to a particular position number. At the
19 first board meeting after the election, the five members
20 shall draw lots for the following terms: two for terms of
21 two years and three for terms of four years. Thereafter,
22 board members shall be elected for terms of four years. All
23 vacancies caused in any other manner than by the expiration
24 of the term of office shall be filled by appointment by the
25 remaining members.

1 B. Immediately after the election of the five
2 members by the assembled board of education members, the
3 board shall select from its members a chair and secretary who
4 shall serve in these offices until the next regular local
5 election. In January after each regular local election, the
6 members shall proceed to reorganize.

7 C. The duties of the board shall continue as set
8 out in Chapter 21, Article 14 NMSA 1978."

9 **SECTION 219.** Section 21-14A-3 NMSA 1978 (being Laws
10 1982, Chapter 42, Section 3, as amended) is amended to read:

11 "21-14A-3. ESTABLISHMENT AUTHORIZED--BOARD--
12 DETERMINATION OF NEED--AGREEMENTS.--

13 A. An off-campus instruction program may be
14 established in a school district upon the showing of need by
15 the local board of education. An off-campus instruction
16 program may be established to include more than one school
17 district, in which instance the two or more local boards of
18 education shall act as a single board and, if the off-campus
19 instruction program is established, shall continue to act as
20 a single board.

21 B. As used in the Off-Campus Instruction Act,
22 "off-campus board" means the local board of education, or the
23 combined local boards of education acting as a single board,
24 of the school district.

25 C. The duties of the off-campus board are to:

1 (1) initiate and conduct the survey provided
2 for in Subsection D of this section;

3 (2) select one or more parent institutions,
4 which shall be one of the state educational institutions as
5 specified in Article 12, Section 11 of the constitution of
6 New Mexico or one of the state educational institutions
7 established pursuant to Chapter 21 NMSA 1978;

8 (3) request approval of the off-campus
9 instruction program by the higher education department;

10 (4) enter into written agreements with the
11 board of regents of the selected parent institution, which
12 agreements shall be subject to biennial review of all parties
13 concerned and to the review and commentary of the higher
14 education department;

15 (5) act in an advisory capacity to the board
16 of regents of the parent institution in all matters relating
17 to the conduct of the off-campus instruction program;

18 (6) approve an annual budget for the off-
19 campus instruction program for recommendation to the board of
20 regents of the parent institution;

21 (7) certify to the board of county
22 commissioners the tax levy; and

23 (8) issue the proclamation for the election
24 for tax levies for the off-campus instruction program if the
25 tax levies are to be presented to the voters of the district

1 at a special election; or approve the ballot question if the
2 tax levies are to be presented to the voters of the district
3 at either the general or regular local election.

4 D. Upon evidence of a demand for an off-campus
5 instruction program, the off-campus board shall cause a
6 survey to be made. The higher education department shall
7 develop criteria for the establishment of an off-campus
8 instruction program, and no such program shall be established
9 without the written authorization of the department.

10 E. If need is established, the off-campus board,
11 in accordance with the higher education department criteria
12 for initiating an off-campus instruction program, shall
13 consult with the board of regents of the state educational
14 institution selected to be a parent institution, and, if the
15 off-campus board and the board of regents agree to conduct an
16 off-campus instruction program in the area, they shall
17 transmit a proposal to establish an off-campus instruction
18 program to the department. The department shall evaluate the
19 need and shall notify the off-campus board and the board of
20 regents of approval or disapproval of the proposal.

21 F. If the proposal is approved, the off-campus
22 board and the board of regents of the parent institution
23 shall enter into a written agreement, which shall include
24 provisions for:

- 25 (1) the state educational institution to

1 have full authority and responsibility in relation to all
2 academic matters;

3 (2) the state educational institution to
4 honor all credits earned by students as though they were
5 earned on the parent campus;

6 (3) the course of study and program approved
7 by the higher education department and offered to the
8 students;

9 (4) the cooperative use of physical
10 facilities and teaching staff; and

11 (5) the detailed agreement of financing and
12 financial control of the off-campus instruction program.

13 G. The agreement shall be binding upon both the
14 off-campus board and the board of regents of the parent
15 institution; however, it may be terminated by mutual consent
16 or it may be terminated by either board upon six months'
17 notice.

18 H. For the purpose of relating off-campus
19 instruction programs to existing laws, off-campus instruction
20 program districts or off-campus instruction programs shall
21 not:

22 (1) be considered a part of the uniform
23 system of free public schools pursuant to Article 12, Section
24 1 and Article 21, Section 4 of the constitution of New
25 Mexico;

1 (2) benefit from the permanent school fund
2 and from the current school fund under Article 12, Sections 2
3 and 4 of the constitution of New Mexico;

4 (3) be subject, except as it relates to
5 technical and vocational education, to the control,
6 management and direction of the public education department
7 under Article 12, Section 6 of the constitution of New
8 Mexico;

9 (4) be considered school districts insofar
10 as the restrictions of Article 9, Section 11 of the
11 constitution of New Mexico are concerned; and

12 (5) include the major attendance center of
13 northern New Mexico college at Espanola.

14 I. All elections held pursuant to the Off-Campus
15 Instruction Act shall be called, conducted and canvassed
16 pursuant to the Local Election Act.

17 J. Any person or corporation may institute in the
18 district court of any county in which the off-campus
19 instruction program district affected lies an action or suit
20 to contest the validity of any proceedings held under the
21 Off-Campus Instruction Act, but no such suit or action shall
22 be maintained unless it is instituted within ten days after
23 the issuance by the proper officials of a certificate or
24 notification of the results of the election and the
25 canvassing of the election returns.

1 K. The tax rolls of the school districts
2 comprising the off-campus instruction program district shall
3 be adopted as the tax rolls of the off-campus instruction
4 program district."

5 **SECTION 220.** Section 22-18-2 NMSA 1978 (being Laws
6 1967, Chapter 16, Section 229, as amended) is amended to
7 read:

8 "22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--
9 CALLING FOR BOND ELECTIONS.--

10 A. Before any general obligation bonds are issued,
11 a local school board of a school district shall submit to a
12 vote of the qualified electors of the school district the
13 question of creating a debt by issuing the bonds, and a
14 majority of those persons voting on the question shall vote
15 for issuing the general obligation bonds.

16 B. The election on the question of creating a debt
17 by issuing general obligation bonds shall be held pursuant to
18 the provisions of the Local Election Act. The question shall
19 be submitted to a vote at a district election upon the
20 initiative of a local school board or upon a petition being
21 filed with a local school board signed by qualified electors
22 of the school district. The number of signatures required on
23 the petition shall be at least ten percent of the number of
24 votes cast for governor in the school district in the last
25 preceding general election. For the purpose of determining

1 the number of votes cast for governor in the school district
2 at the last preceding general election, any portion of a
3 voting division within the school district shall be construed
4 to be wholly within the school district. A local school
5 board shall call for a bond election at the next regular
6 local or special election within ninety days following the
7 date a properly signed petition is filed with it; provided
8 that the timing of the election does not conflict with the
9 provisions of Section 1-24-1 NMSA 1978."

10 SECTION 221. Section 22-18-4 NMSA 1978 (being Laws
11 1967, Chapter 16, Section 231, as amended) is amended to
12 read:

13 "22-18-4. BOND ELECTIONS--CONDUCT.--

14 A. A person is required to be a qualified elector
15 to vote in a bond election in a school district.

16 B. Bond elections in a school district shall be
17 conducted pursuant to the Local Election Act."

18 SECTION 222. Section 22-25-3 NMSA 1978 (being Laws 1975
19 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

20 "22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO
21 SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

22 A. A local school board may adopt a resolution to
23 submit to the qualified electors of the school district the
24 question of whether a property tax should be imposed upon the
25 net taxable value of property allocated to the school

1 district under the Property Tax Code at a rate not to exceed
2 that specified in the resolution for the purpose of capital
3 improvements in the school district. The resolution shall:

4 (1) identify the capital improvements for
5 which the revenue proposed to be produced will be used;

6 (2) specify the rate of the proposed tax,
7 which shall not exceed two dollars (\$2.00) on each one
8 thousand dollars (\$1,000) of net taxable value of property
9 allocated to the school district under the Property Tax Code;

10 (3) limit the imposition of the proposed tax
11 to no more than six property tax years; and

12 (4) indicate the regular election on which
13 the ballot question shall appear or specify the date a
14 special election will be held to submit the question of
15 imposition of the tax to the qualified electors of the
16 district.

17 B. A resolution submitted to the qualified
18 electors pursuant to Subsection A of this section shall
19 include capital improvements funding for a locally chartered
20 or state-chartered charter school located within the school
21 district if the charter school timely provides the necessary
22 information to the school district for inclusion in the
23 resolution that identifies the capital improvements of the
24 charter school for which the revenue proposed to be produced
25 will be used."

1 SECTION 223. Section 22-25-4 NMSA 1978 (being Laws 1975
2 (S.S.), Chapter 5, Section 4) is amended to read:

3 "22-25-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The
4 resolution authorized under Section 22-25-3 NMSA 1978 shall
5 be adopted within the time frames required by the Election
6 Code and pursuant to the requirements of the property tax
7 division of the taxation and revenue department."

8 SECTION 224. Section 22-25-5 NMSA 1978 (being Laws 1975
9 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

10 "22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

11 A. An election on the question of imposing a tax
12 under the Public School Capital Improvements Act shall be
13 conducted as prescribed in the Local Election Act.

14 B. The proclamation authorizing the ballot
15 question or calling for a special election shall include as
16 the question to be submitted to the voters whether a property
17 tax at a rate not to exceed the rate specified in the
18 authorizing resolution should be imposed for the specified
19 number of property tax years not exceeding six years upon the
20 net taxable value of all property allocated to the school
21 district for the capital improvements specified in the
22 authorizing resolution.

23 C. The ballot shall include the information
24 specified in Subsection B of this section and shall present
25 the voter the choice of voting "for the public school capital

1 improvements tax" or "against the public school capital
2 improvements tax"."

3 SECTION 225. Section 22-25-6 NMSA 1978 (being Laws 1975
4 (S.S.), Chapter 5, Section 6, as amended) is amended to read:

5 "22-25-6. ELECTION RESULTS--CANVASS--CERTIFICATION.--

6 The canvass and certification of the results of an election
7 held on the question of imposition of a public school capital
8 improvements tax shall be as prescribed in the Local Election
9 Act and in addition to the reporting of results as required
10 by the Election Code, and a copy of the certificate of
11 results shall be delivered immediately to the director."

12 SECTION 226. Section 22-25-7 NMSA 1978 (being Laws 1975
13 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

14 "22-25-7. IMPOSITION OF TAX--LIMITATION ON
15 EXPENDITURES.--

16 A. If as a result of an election held in
17 accordance with the Public School Capital Improvements Act a
18 majority of the qualified electors voting on the question
19 votes in favor of the imposition of the tax, the tax rate
20 shall be certified, unless the local school board requests by
21 resolution that a rate be discontinued, by the department of
22 finance and administration at the rate specified in the
23 resolution authorized under Section 22-25-3 NMSA 1978 or at
24 any lower rate required by operation of the rate limitation
25 provisions of Section 7-37-7.1 NMSA 1978 upon the rate

1 specified in the resolution and be imposed at the rate
2 certified in accordance with the provisions of the Property
3 Tax Code.

4 B. The revenue produced by the tax and, except as
5 provided in Subsection F, G or H of Section 22-25-9 NMSA
6 1978, any state distribution resulting to the district under
7 the Public School Capital Improvements Act shall be expended
8 only for the capital improvements specified in the
9 authorizing resolution.

10 C. The amount of tax revenue to be distributed to
11 each charter school that was included in the resolution shall
12 be determined each year and shall be in the same proportion
13 as the average full-time-equivalent enrollment of the charter
14 school on the first reporting date of the prior school year
15 is to the total such enrollment in the school district;
16 provided that no distribution shall be made to an approved
17 charter school that had not commenced classroom instruction
18 in the prior school year. Each year, the department shall
19 certify to the county treasurer of the county in which the
20 eligible charter schools in the school district are located
21 the percentage of the revenue to be distributed to each
22 charter school. The county treasurer shall distribute the
23 charter school's share of the property tax revenue directly
24 to the charter school."

1 (S.S.), Chapter 5, Section 8, as amended) is amended to read:

2 "22-25-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX
3 YEARS.--A tax imposed in a school district as a result of an
4 election under the Public School Capital Improvements Act
5 shall be imposed for a specified number of property tax years
6 not exceeding six years. The local school board may
7 discontinue, by resolution, the Public School Capital
8 Improvements Act tax levy at the end of any property tax
9 year. The local school board shall direct that the Public
10 School Capital Improvements Act tax levy be decreased by the
11 amount required for any year in which the decrease is
12 required by operation of the rate limitation provisions of
13 Section 7-37-7.1 NMSA 1978."

14 SECTION 228. Section 22-26-3 NMSA 1978 (being Laws
15 1983, Chapter 163, Section 3, as amended) is amended to read:

16 "22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO
17 SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

18 A. A local school board may adopt a resolution to
19 submit to the qualified electors of the school district the
20 question of whether a property tax at a rate not to exceed
21 the rate specified in the resolution should be imposed upon
22 the net taxable value of property allocated to the school
23 district under the Property Tax Code for the purpose of
24 capital improvements to public schools in the school
25 district. The resolution shall:

1 (1) identify the capital improvements for
2 which the revenue proposed to be produced will be used;

3 (2) specify the rate of the proposed tax,
4 which shall not exceed ten dollars (\$10.00) on each one
5 thousand dollars (\$1,000) of net taxable value of property
6 allocated to the school district under the Property Tax Code;

7 (3) limit the imposition of the proposed tax
8 to no more than six property tax years; and

9 (4) indicate the regular election on which
10 the ballot question shall appear or specify the date a
11 special election will be held to submit the question of
12 imposition of the tax to the qualified electors of the
13 district.

14 B. A resolution submitted to the qualified
15 electors pursuant to Subsection A of this section shall
16 include capital improvements funding for a locally chartered
17 or state-chartered charter school located within the school
18 district if:

19 (1) the charter school timely provides the
20 necessary information to the school district for inclusion on
21 the resolution that identifies the capital improvements of
22 the charter school for which the revenue proposed to be
23 produced will be used; and

24 (2) the capital improvements are included in
25 the five-year facilities plan:

1 (a) of the school district, if the
2 charter school is a locally chartered charter school; or

3 (b) of the charter school, if the
4 charter school is a state-chartered charter school."

5 SECTION 229. Section 22-26-4 NMSA 1978 (being Laws
6 1983, Chapter 163, Section 4) is amended to read:

7 "22-26-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The
8 resolution authorized under Section 22-26-3 NMSA 1978 shall
9 be adopted within the time frames required by the Election
10 Code and pursuant to the requirements of the property tax
11 division of the taxation and revenue department."

12 SECTION 230. Section 22-26-5 NMSA 1978 (being Laws
13 1983, Chapter 163, Section 5, as amended) is amended to read:

14 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

15 A. An election on the question of imposing a tax
16 under the Public School Buildings Act shall be held as
17 prescribed in the Local Election Act.

18 B. The resolution authorizing the ballot question
19 or calling for a special election shall include as the
20 question to be submitted to the voters whether a property tax
21 at a rate not to exceed the rate specified in the authorizing
22 resolution should be imposed for the specified number of
23 property tax years not exceeding six years upon the net
24 taxable value of all property allocated to the school
25 district for capital improvements.

1 C. The ballot shall include the information
2 specified in Subsection B of this section and shall present
3 the voter the choice of voting "for the public school
4 buildings tax" or "against the public school buildings tax"."

5 SECTION 231. Section 22-26-6 NMSA 1978 (being Laws
6 1983, Chapter 163, Section 6, as amended) is amended to read:

7 "22-26-6. ELECTION RESULTS--CERTIFICATION.--The
8 certification of the results of an election held on the
9 question of imposition of a public school buildings tax shall
10 be as prescribed in the Local Election Act, and in addition
11 to the reporting of results required by the Election Code, a
12 copy of the certificate of results shall be delivered
13 immediately to the secretary."

14 SECTION 232. Section 22-26-8 NMSA 1978 (being Laws
15 1983, Chapter 163, Section 8, as amended) is amended to read:

16 "22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX
17 YEARS.--A tax imposed in a school district as a result of an
18 election under the Public School Buildings Act shall be
19 imposed for one, two, three, four, five or six years. The
20 local school board may direct that such levy be decreased or
21 not made for any year if, in its judgment, the total levy is
22 not necessary for such year and shall direct that the levy be
23 decreased by the amount required if a decrease is required by
24 operation of the rate limitation provisions of Section
25 7-37-7.1 NMSA 1978."

1 **SECTION 233.** Section 22-26-9 NMSA 1978 (being Laws
2 2007, Chapter 366, Section 23, as amended) is amended to
3 read:

4 "22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY
5 TAX REVENUE.--If the qualified electors of a school district
6 have voted in favor of the imposition of a property tax as
7 provided in Section 22-26-3 NMSA 1978, the amount of tax
8 revenue to be distributed to each charter school that was
9 included in the resolution shall be determined each year and
10 shall be in the same proportion as the average full-time-
11 equivalent enrollment of the charter school on the first
12 reporting date of the prior school year is to the total such
13 enrollment in the district; provided that, in the case of an
14 approved charter school that had not commenced classroom
15 instruction in the prior school year, the estimated full-
16 time-equivalent enrollment in the first year of instruction,
17 as shown in the approved charter school application, shall be
18 used, subject to adjustment after the first reporting date.
19 Each year, the department shall certify to the county
20 treasurer of the county in which the eligible charter schools
21 in the school district are located the percentage of the
22 revenue to be distributed to each charter school. The county
23 treasurer shall distribute the charter school's share of the
24 property tax revenue directly to the charter school."

25 **SECTION 234.** Section 36-1-8.3 NMSA 1978 (being Laws

1 1981, Chapter 25, Section 2, as amended) is amended to read:

2 "36-1-8.3. DISTRICT ATTORNEYS--ELECTION--RESIDENCE.--

3 The district attorney in division 1 shall be elected by the
4 qualified electors of San Juan county and the district
5 attorney in division 2 shall be elected by the qualified
6 electors in McKinley county. Each district attorney shall
7 have all the duties and powers vested in a district
8 attorney."

9 SECTION 235. Section 60-5A-1 NMSA 1978 (being Laws
10 1981, Chapter 39, Section 15, as amended) is amended to read:

11 "60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality
12 containing more than five thousand persons according to the
13 latest United States census, whether the county in which that
14 municipality is situated has adopted the local option
15 provisions of the Liquor Control Act or any former act or
16 not, or any county in the state may adopt local option in the
17 county or municipality upon the following terms and
18 conditions:

19 A. the qualified electors of a proposed local
20 option district may petition the governing body by filing a
21 petition in the appropriate office to hold an election for
22 the purpose of determining whether the county or municipality
23 shall adopt the local option provisions of the Liquor Control
24 Act. If the number of the signatures of the electors on the
25 petition equals or exceeds five percent of the number of

1 qualified electors of the district, the governing body shall
2 call an election within ninety days of the verification of
3 the petition; provided that the date is not in conflict with
4 the provisions of Section 1-24-1 NMSA 1978. The governing
5 body shall refuse to recognize the petition if more than
6 three months have elapsed between the date of the first
7 signature and the filing of the petition. The election also
8 may be initiated by a resolution adopted by the governing
9 body of the proposed local option district without a petition
10 having been submitted;

11 B. the election shall be called, conducted,
12 counted and canvassed pursuant to the provisions of the Local
13 Election Act;

14 C. except as otherwise provided in this section,
15 contests, recounts and rechecks shall be permitted as
16 provided for in the case of candidates. Applications for
17 contests, recounts or rechecks may be filed by any person who
18 voted in the election, and service shall be made upon the
19 county clerk or municipal clerk as the case may be;

20 D. if a majority of all the votes cast at the
21 election is cast in favor of the sale, service or public
22 consumption of alcoholic beverages in the county or
23 municipality, the chair of the governing body shall declare
24 by order entered upon the records of the county or
25 municipality that the county or municipality has adopted the

1 local option provisions of the Liquor Control Act and shall
2 notify the department of the results;

3 E. if an election is held under the provisions of
4 the Liquor Control Act in a county that contains within its
5 limits a municipality of more than five thousand persons
6 according to the latest United States census, it is not
7 necessary for the qualified electors in the municipality to
8 file a separate petition asking for a separate or different
9 vote on the question of adopting the local option provisions
10 of the Liquor Control Act by the municipality. The election
11 in the county shall be conducted so as to separate the votes
12 in the municipality from those in the remaining parts of the
13 county. If a majority of the voters in the county, including
14 the voters in the municipality, votes against the sale,
15 service or public consumption of alcoholic beverages in the
16 county, the county shall not adopt the local option
17 provisions of the Liquor Control Act; but if a majority of
18 the votes in the municipality is in favor of the sale,
19 service or public consumption of alcoholic beverages, the
20 municipality shall have adopted the local option provisions
21 of the Liquor Control Act. Nothing contained in this
22 subsection shall prevent any municipality from having a
23 separate election under the terms of this section;

24 F. a county or municipality composing a local
25 option district under the provisions of the Liquor Control

1 Act or a former act may vote to discontinue the sale, service
2 or public consumption of alcoholic beverages in the local
3 option district; the discontinuance shall become effective on
4 the ninetieth day after the local option election is held;
5 and

6 G. nothing in this section shall invalidate any
7 local option election held pursuant to any former act prior
8 to July 1, 1981."

9 SECTION 236. Section 60-6A-4 NMSA 1978 (being Laws
10 1981, Chapter 39, Section 21, as amended) is amended to read:

11 "60-6A-4. RESTAURANT LICENSE.--

12 A. A local option district may approve the
13 issuance of restaurant licenses for the sale of beer and wine
14 by holding an election on that question pursuant to the
15 procedures set out in Section 60-5A-1 NMSA 1978. The
16 election also may be initiated by a resolution adopted by the
17 governing body of the local option district without a
18 petition from qualified electors having been submitted.

19 B. After the approval of restaurant licenses by
20 the qualified electors of the local option district and upon
21 completion of all requirements in the Liquor Control Act for
22 the issuance of licenses, a restaurant located or to be
23 located within the local option district may receive a
24 restaurant license to sell, serve or allow the consumption of
25 beer and wine subject to the following requirements and

1 restrictions:

2 (1) the applicant shall submit evidence to
3 the department that the applicant has a current valid food
4 service establishment permit;

5 (2) the applicant shall satisfy the director
6 that the primary source of revenue from the operation of the
7 restaurant will be derived from meals and not from the sale
8 of beer and wine;

9 (3) the director shall condition renewal
10 upon a requirement that no less than sixty percent of gross
11 receipts from the preceding twelve months' operation of the
12 licensed restaurant was derived from the sale of meals;

13 (4) upon application for renewal, the
14 licensee shall submit an annual report to the director
15 indicating the annual gross receipts from the sale of meals
16 and from beer and wine sales;

17 (5) restaurant licensees shall not sell beer
18 and wine for consumption off the licensed premises;

19 (6) all sales, services and consumption of
20 beer and wine authorized by a restaurant license shall cease
21 at the time meal sales and services cease or at 11:00 p.m.,
22 whichever time is earlier;

23 (7) if Sunday sales have been approved in
24 the local option district, a restaurant licensee may serve
25 beer and wine on Sundays until the time meal sales and

1 services cease or 11:00 p.m., whichever time is earlier; and

2 (8) a restaurant license shall not be
3 transferable from person to person or from one location to
4 another.

5 C. The provisions of Section 60-6A-18 NMSA 1978
6 shall not apply to restaurant licenses.

7 D. Nothing in this section shall prevent a
8 restaurant licensee from receiving other licenses pursuant to
9 the Liquor Control Act."

10 SECTION 237. Section 60-7A-1 NMSA 1978 (being Laws
11 1981, Chapter 39, Section 47, as amended) is amended to read:

12 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--
13 CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED
14 PREMISES--ELECTIONS.--

15 A. Provided that nothing in this section shall
16 prohibit the consumption at any time of alcoholic beverages
17 in guest rooms of hotels, alcoholic beverages shall be sold,
18 served and consumed on licensed premises only during the
19 following hours and days:

20 (1) on Mondays from 7:00 a.m. until
21 midnight;

22 (2) on Tuesdays through Saturdays from after
23 midnight of the previous day until 2:00 a.m., then from 7:00
24 a.m. until midnight, except as provided in Subsections E and
25 G of this section; and

1 (3) on Sundays only after midnight of the
2 previous day until 2:00 a.m., except as provided in
3 Subsections D and F of this section and Section 60-7A-2 NMSA
4 1978.

5 B. Except as provided in Subsection C of this
6 section, alcoholic beverages may be sold by a dispenser or a
7 retailer in unbroken packages, for consumption off the
8 licensed premises and not for resale, only on Mondays through
9 Saturdays from 7:00 a.m. until midnight, except as provided
10 in Subsections E and G of this section.

11 C. The governing body of a local option district
12 that is a class B county with a population greater than
13 seventy thousand and less than seventy-six thousand according
14 to the most recent federal decennial census or that is a
15 municipality located within a class B county with a
16 population greater than seventy thousand and less than
17 seventy-six thousand according to the most recent federal
18 decennial census may pass an ordinance to place restrictions,
19 in addition to those provided in this section, on the hours
20 during which a dispenser or retailer may sell alcoholic
21 beverages in unbroken packages for consumption off the
22 licensed premises and not for resale. The ordinance may
23 restrict sales between 7:00 a.m. and 10:00 a.m. and shall
24 provide the hours between 7:00 a.m. and 10:00 a.m., if any,
25 during which a dispenser or retailer may sell alcoholic

1 beverages in unbroken packages for consumption off the
2 licensed premises and not for resale.

3 D. A dispenser, restaurant licensee or club may,
4 upon payment of an additional fee of one hundred dollars
5 (\$100), obtain a permit to sell, serve or permit the
6 consumption of alcoholic beverages by the drink on the
7 licensed premises on Sundays, subject to approval obtained
8 pursuant to the process set forth in Subsection F of this
9 section. Alcoholic beverages may be sold, served and
10 consumed from 11:00 a.m. until midnight as set forth in the
11 licensee's Sunday sales permit, and in those years when
12 December 31 falls on a Sunday, from 11:00 a.m. until 2:00
13 a.m. of the following day, except as otherwise provided for a
14 restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday
15 sales permit shall expire on June 30 of each year and may be
16 renewed from year to year upon application for renewal and
17 payment of the required fee. The permit fee shall not be
18 prorated. Sales made pursuant to this subsection or
19 Subsection H of this section shall be called "Sunday sales".

20 E. Retailers, dispensers, canopy licensees that
21 were replaced by dispenser's licensees pursuant to Section
22 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
23 governmental licensees or their lessees shall not sell,
24 serve, deliver or allow the consumption of alcoholic
25 beverages on the licensed premises from 2:00 a.m. on

1 Christmas day until 7:00 a.m. on the day after Christmas,
2 except as permitted pursuant to Subsection G of this section.

3 F. Sunday sales pursuant to the provisions of
4 Subsection D of this section are permitted in a local option
5 district that voted to permit them. If in that election a
6 majority of the voters in a local option district voted "no"
7 on the question "Shall Sunday sales of alcoholic beverages by
8 the drink for consumption on the licensed premises of
9 licensees be allowed in this local option district?", Sunday
10 sales are unlawful in that local option district upon
11 certification of the election returns unless the provisions
12 of Subsection K of this section apply. The question shall
13 not again be placed on the ballot in that local option
14 district until at least one year has passed and:

15 (1) the local governing body of the local
16 option district passes a resolution calling for the question
17 to be placed on a regular election ballot or adopts a
18 proclamation calling for the question to be placed before the
19 voters in a special local election; or

20 (2) a petition is filed with the local
21 governing body bearing the signatures of qualified electors
22 of the local option district equal in number to ten percent
23 of the number of votes cast and counted in the local option
24 district for governor in the last preceding general election
25 in which a governor was elected. The signatures on the

1 petition shall be verified by the clerk of the county in
2 which the local option district is situated.

3 G. On and after July 1, 2002, dispensers, canopy
4 licensees that were replaced by dispenser's licensees
5 pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees,
6 club licensees and governmental licensees or lessees of these
7 licensees; provided that the licensees have current, valid
8 food service establishment permits, may sell, serve or allow
9 the consumption of alcoholic beverages by the drink on
10 licensed premises from noon until 10:00 p.m. on Christmas
11 day, except in a local option district in which, pursuant to
12 election under this subsection, a majority of the voters
13 voting on the question votes against continuing such sales or
14 consumption on Christmas day. An election shall be held on
15 the question of whether to continue to allow the sale,
16 service or consumption of alcoholic beverages by the drink on
17 licensed premises from noon until 10:00 p.m. on Christmas day
18 in a local option district, if a petition requesting the
19 governing body of that district to call the election is
20 signed by at least ten percent of the registered voters of
21 the district and is filed with the clerk of the governing
22 body of the district. Upon verification by the clerk that
23 the petition contains the required number of signatures of
24 registered voters, the governing body shall pass a resolution
25 calling for the question to be placed on a regular election

1 ballot or adopt a proclamation calling for the question of
2 allowing the sale, service or consumption of alcoholic
3 beverages by the drink on licensed premises from noon until
4 10:00 p.m. on Christmas day to be placed before the voters in
5 a special local election. The election may also be initiated
6 by a resolution adopted by the governing body of the local
7 option district without a petition from qualified electors
8 having been submitted. The election shall be held pursuant
9 to the Local Election Act. If a majority of the voters
10 voting on the question votes against continuing the sale,
11 service or consumption of alcoholic beverages by the drink on
12 licensed premises from noon until 10:00 p.m. on Christmas
13 day, then such sales and consumption shall be prohibited. If
14 a majority of the voters voting on the question votes to
15 allow continued sale, service and consumption of alcoholic
16 beverages by the drink on licensed premises from noon until
17 10:00 p.m. on Christmas day, then such sales and consumption
18 shall be allowed to continue. The question then shall not be
19 submitted again to the voters within two years of the date of
20 the last election on the question.

21 H. Notwithstanding the provisions of Subsection F
22 of this section, any Indian nation, tribe or pueblo whose
23 lands are wholly situated within the state that has, by
24 statute, ordinance or resolution, elected to permit the sale,
25 possession or consumption of alcoholic beverages on lands

1 within the territorial boundaries of the Indian nation, tribe
2 or pueblo may, by statute, ordinance or resolution of the
3 governing body of the Indian nation, tribe or pueblo, permit
4 Sunday sales by the drink on the licensed premises of
5 licensees on lands within the territorial boundaries of the
6 Indian nation, tribe or pueblo; provided that a certified
7 copy of such enactment is filed with the office of the
8 director and with the secretary of state.

9 I. Subject to the provisions of Subsection J of
10 this section, a dispenser or retailer, upon payment of an
11 additional fee of one hundred dollars (\$100), may obtain a
12 permit to sell alcoholic beverages in unbroken packages for
13 consumption off the licensed premises on Sundays from noon
14 until midnight, and in those years when December 31 falls on
15 a Sunday, from noon on December 31 until 2:00 a.m. of the
16 following day. The permit shall expire on June 30 of each
17 year and may be renewed from year to year upon application
18 for renewal and payment of the required fee. The permit fee
19 shall not be prorated. Sales made pursuant to the provisions
20 of this subsection shall be called "Sunday package sales".

21 J. If a petition requesting the governing body of
22 a local option district to call an election on the question
23 of continuing to allow sales of alcoholic beverages in
24 unbroken packages for consumption off the licensed premises
25 on Sundays is filed with the clerk of the governing body and

1 that petition is signed by at least ten percent of the number
2 of registered voters of the local option district and the
3 clerk of the governing body verifies the petition signatures,
4 the governing body shall pass a resolution calling for the
5 question to be placed on a regular election ballot or adopt a
6 proclamation calling for the question to be placed before the
7 voters in a special local election on the question. The
8 election may also be initiated by a resolution adopted by the
9 governing body of the local option district without a
10 petition from qualified electors having been submitted. The
11 election shall be held within ninety days of the date that
12 the petition is verified pursuant to the provisions of the
13 Local Election Act; provided that the date of the election is
14 not in conflict with the provisions of Section 1-24-1 NMSA
15 1978. If a majority of the voters of the local option
16 district voting in the election votes to allow the sale of
17 alcoholic beverages in unbroken packages for consumption off
18 the licensed premises, then those sales shall continue to be
19 allowed. If a majority of the voters of the local option
20 district voting in the election votes not to allow the Sunday
21 package sales, then those Sunday package sales shall be
22 prohibited commencing the first Sunday after the results of
23 the election are certified. Following the election, the
24 question of allowing the Sunday package sales shall not be
25 submitted again to the voters within two years of the date of

1 the last election on the question.

2 K. Sunday sales of alcoholic beverages shall be
3 permitted at resorts and at horse racetracks statewide
4 pursuant to the provisions of Section 60-7A-2 NMSA 1978."

5 SECTION 238. Section 72-18-3 NMSA 1978 (being Laws
6 1981, Chapter 377, Section 3) is amended to read:

7 "72-18-3. DEFINITIONS.--As used in the Flood Control
8 District Act:

9 A. "acquisition" or "acquire" includes the
10 opening, laying out, establishment, purchase, construction,
11 securing, installation, reconstruction, lease, gift or grant
12 from the federal government, any public body or person or any
13 endowment, bequest, devise, condemnation, transfer,
14 assignment, option to purchase, other contract or other
15 acquirement of facilities, other property, any project or an
16 interest authorized by the Flood Control District Act;

17 B. "board" means the board of directors of a
18 district, which board shall consist of five directors;

19 C. "chair" means the chair of the board and
20 president of a district;

21 D. "cost" or "cost of the project" means all or
22 any part of the cost designated by the board of any
23 facilities, project or interest in any facilities or project
24 being acquired, and of all or any property, rights,
25 easements, privileges, agreements and franchises deemed by

1 the district to be necessary or useful and convenient in
2 connection with the facilities or project, which cost, at the
3 option of the board, may include all or any part of the
4 incidental costs pertaining to the project and all other
5 expenses necessary or desirable and appertaining to any
6 project, as estimated by the board;

7 E. "director" means a member of the board of a
8 district;

9 F. "disposal" or "dispose" includes the sale,
10 destruction, razing, loan, lease, gift, grant, transfer,
11 assignment, mortgage, option to sell, other contract or other
12 disposition of facilities, other property or any project or
13 an interest in any facilities, property or project authorized
14 by the Flood Control District Act;

15 G. "district" means a flood control district
16 created pursuant to the Flood Control District Act;

17 H. "equipment" or "equip" includes the furnishing
18 of all necessary or desirable, related or appurtenant
19 facilities appertaining to any facilities, property, project
20 or interest in any facilities, property or project authorized
21 by the Flood Control District Act;

22 I. "facility" includes any of the sewer facilities
23 or other property appertaining to the flood control system of
24 any district;

25 J. "federal government" means the United States or

1 any agency, instrumentality or corporation thereof;

2 K. "federal securities" means bills, certificates
3 of indebtedness, notes, bonds or other obligations that are
4 direct obligations of, or the principal and interest of which
5 obligations are unconditionally guaranteed by, the United
6 States;

7 L. "improvement" or "improve" means the extension,
8 widening, lengthening, betterment, alteration,
9 reconstruction, repair or other improvement of facilities,
10 other property or any project, or any interest in any
11 facilities, property or project, authorized by the Flood
12 Control District Act;

13 M. "person" means an individual, association,
14 partnership, firm or corporation, excluding a public body and
15 excluding the federal government;

16 N. "president" means the president of a district
17 and the chair of the board of the district;

18 O. "project" includes any structure, facility or
19 system relating to the flood control system that a district
20 is authorized by the Flood Control District Act to acquire,
21 improve, equip, maintain or operate, which may be located
22 within and without the district's boundaries;

23 P. "publication" or "publish" means publication in
24 at least one newspaper published in the district or proposed
25 district in the English language at least once a week and of

1 general circulation in the district or proposed district or,
2 if no such newspaper is published in the district or proposed
3 district, then in a newspaper published in the state in the
4 English language at least once a week and of general
5 circulation in the district or proposed district, which
6 publication shall be at least once a week for three
7 consecutive weeks by three weekly insertions. It is not
8 necessary that publication be made on the same day of the
9 week in each of the three calendar weeks, but not less than
10 fourteen days shall intervene between the first publication
11 and the last publication;

12 Q. "public body" means the state or any agency,
13 instrumentality or corporation or any political subdivision
14 of the state, excluding districts and excluding the federal
15 government;

16 R. "revenues" means income, other than tax
17 proceeds, of a district;

18 S. "secretary" means the secretary of a district;

19 T. "securities" means any notes, warrants, bonds
20 or interim debentures or other obligations of a district
21 authorized by the Flood Control District Act;

22 U. "sewer facilities" includes any one or more of
23 the various devices used in the collection, channeling,
24 impounding or disposition of storm, flood or surface drainage
25 waters, including all inlets, collection, drainage or

1 disposal lines, canals, intercepting sewers, outfall sewers,
2 all pumping, power and other equipment and appurtenances, all
3 extensions, improvements, remodeling, additions and
4 alterations and any rights or interest in the sewer
5 facilities; and

6 V. "treasurer" means the treasurer of a district."

7 SECTION 239. Section 72-18-5 NMSA 1978 (being Laws
8 1981, Chapter 377, Section 5) is amended to read:

9 "72-18-5. PETITION.--

10 A. The organization of a district shall be
11 initiated by a petition filed in the office of the clerk of
12 the district court in a county in which all or a part of the
13 real property in the proposed district is located. The
14 petition shall be signed by qualified electors of the
15 proposed district numbering not less than ten percent of
16 those voting in the preceding general election in the state
17 in voting precincts partially or wholly included in the area
18 of the proposed district. The petition and all other
19 instruments relating to the formation of the district shall
20 be filed with the county clerk of the county in which there
21 is the court that accepted the petition. Any municipality or
22 county in which all or a portion of the proposed district is
23 located may, upon proper action of its governing body alone,
24 file the petition required by this section.

25 B. The petition shall set forth:

1 (1) the name of the proposed district,
2 consisting of a chosen name preceding the words "flood
3 control district";

4 (2) a general description of the facilities
5 to be acquired or improved within and for the district;

6 (3) a general description of the boundaries
7 of the district, with such certainty as to enable a property
8 owner to determine whether the owner's property is within the
9 proposed district; and

10 (4) a prayer for the organization of the
11 district.

12 C. No petition with the requisite number of valid
13 signatures shall be declared void on account of alleged
14 defects, but the court may at any time permit the petition to
15 be amended to conform to the facts by correcting any errors
16 in the description of the territory or in any other
17 particular. Similar petitions or duplicate copies of the
18 same petition for the organization of the same district may
19 be filed and shall together be regarded as one petition. All
20 petitions filed before the hearing on the first petition
21 filed shall be considered by the court the same as though
22 filed with the first petition."

23 SECTION 240. Section 72-18-8 NMSA 1978 (being Laws
24 1981, Chapter 377, Section 8) is amended to read:

25 "72-18-8. HEARING.--

1 A. Upon the hearing, if the court finds that no
2 petition has been signed and presented in conformity with the
3 Flood Control District Act or that the material facts are not
4 as set forth in the petition filed, it shall dismiss the
5 proceedings and adjudge the costs against the signers of the
6 petition in the proportion as it deems just and equitable.

7 B. Upon the hearing, if it appears that a valid
8 petition for the organization of the district has been signed
9 and presented in conformity with the requirements of the
10 Flood Control District Act and that the allegations of the
11 petition are true, the court shall order that the question of
12 the organization of the district be submitted to the
13 qualified electors of the proposed district at an election to
14 be held for that purpose pursuant to the provisions of the
15 Local Election Act."

16 SECTION 241. Section 72-18-9 NMSA 1978 (being Laws
17 1981, Chapter 377, Section 9) is amended to read:

18 "72-18-9. NOMINATIONS FOR INITIAL BOARD.--A nomination
19 for director may be made by petition signed by not less than
20 five qualified electors and filed with the district court
21 having jurisdiction not less than ninety days before the date
22 of the organizational election. Any petition so filed shall
23 designate the name of each nominee and shall state that the
24 petitioners and the nominee or nominees designated in the
25 petition are qualified electors of the proposed district. No

1 qualified elector shall nominate more than one person for
2 director. The name of each nominee so designated shall
3 appear on the organizational ballot."

4 SECTION 242. Section 72-18-10 NMSA 1978 (being Laws
5 1981, Chapter 377, Section 10) is amended to read:

6 "72-18-10. ORGANIZATIONAL ELECTION.--

7 A. At the election, the qualified electors may
8 vote for or against the organization of the district and for
9 up to five qualified electors of the district who shall
10 constitute the board of directors of the district.

11 B. If a majority of the votes cast at the election
12 are in favor of the organization, the district court shall
13 declare the district organized and give it a corporate name
14 by which in all proceedings it shall thereafter be known and
15 shall designate the first board of directors elected, and
16 thereupon the district shall be a political subdivision of
17 the state. The certificate shall be conclusively presumed
18 correct as to the facts stated therein."

19 SECTION 243. Section 72-18-14 NMSA 1978 (being Laws
20 1981, Chapter 377, Section 14, as amended) is amended to
21 read:

22 "72-18-14. ELECTION OF DIRECTORS.--Flood control
23 district elections shall be held pursuant to the Local
24 Election Act. At each local election after organization of
25 the district, there shall be elected by the qualified

1 electors of the district one or two members of the board to
2 serve for a term of six years. Except for the initial board
3 of directors and except for any director chosen to fill an
4 unexpired term, the term of each director runs for six years.
5 Each director shall serve until a successor has been duly
6 chosen and qualified."

7 SECTION 244. Section 72-18-20 NMSA 1978 (being Laws
8 1981, Chapter 377, Section 20, as amended) is amended to
9 read:

10 "72-18-20. ADDITIONAL POWERS.--The board of the
11 district may:

12 A. adopt, have and use a corporate seal and alter
13 the same at pleasure;

14 B. sue and be sued and be a party to suits,
15 actions and proceedings;

16 C. acquire, improve, equip, maintain and operate
17 any project or facility;

18 D. protect the watercourses, watersheds, public
19 highways, life and property in the district from floods or
20 storm waters;

21 E. exercise the right of eminent domain within the
22 district as provided in the Eminent Domain Code and take any
23 property necessary to carry out any of the objects or
24 purposes of the Flood Control District Act;

25 F. commence, maintain, intervene in, defend,

1 compromise, terminate by settlement or otherwise and
2 otherwise participate in and assume the cost and expense of
3 any and all actions and proceedings appertaining to the
4 district, its board, its officers, agents or employees; or
5 any of the district's duties, privileges, immunities, rights,
6 liabilities and disabilities; or the district's flood control
7 system, other property of the district or any project;

8 G. enter into contracts and agreements, including
9 contracts with the federal government and any public body;

10 H. borrow money and issue securities evidencing
11 any loan to or amount due by the district, provide for and
12 secure the payment of any securities and the rights of the
13 holders thereof and purchase, hold and dispose of securities;

14 I. refund any loan or obligation of the district
15 and issue refunding securities to evidence such loan or
16 obligation without an election;

17 J. purchase, trade, exchange, encumber and
18 otherwise acquire, maintain and dispose of real and personal
19 property and interests therein;

20 K. levy and cause to be collected a property tax
21 on all property subject to property taxation within the
22 district. The total tax levy for any fiscal year for general
23 purposes shall not exceed an aggregate total of fifty cents
24 (\$.50), or any lower maximum amount required by operation of
25 the rate limitation provisions of Section 7-37-7.1 NMSA 1978

1 upon this tax levy, on each one thousand dollars (\$1,000) of
2 net taxable value, as that term is defined in the Property
3 Tax Code, unless the qualified electors approve a greater tax
4 not to exceed two dollars (\$2.00) on each one thousand
5 dollars (\$1,000) of net taxable value; provided that any tax
6 levy approved in excess of fifty cents (\$.50) on each one
7 thousand dollars (\$1,000) of net taxable value shall be
8 subject to the rate limitation provisions of Section 7-37-7.1
9 NMSA 1978. The rate of levy for the payment of any debt of
10 the district authorized by the qualified electors of the
11 district shall be without limitation as to rate or amount.
12 The board shall certify on or before July 15 of each year in
13 which the board determines to levy a tax, to the board of
14 county commissioners of each county wherein the district has
15 any territory, the rate so fixed, with directions that at the
16 time and in the manner required by law for levying taxes for
17 other purposes, the board of county commissioners shall levy
18 a tax upon the net taxable value of all property subject to
19 property taxation within the district;

20 L. hire and retain officers, agents, employees,
21 engineers, attorneys and any other persons, permanent or
22 temporary, necessary or desirable to effect the purposes of
23 the Flood Control District Act; defray any expenses incurred
24 thereby in connection with the district; and acquire office
25 space, equipment, services, supplies, fire and extended

1 coverage insurance, use and occupancy insurance, workers'
2 compensation insurance, property damage insurance, public
3 liability insurance for the district and its officers, agents
4 and employees and other types of insurance as the board may
5 determine; provided, however, that no provision authorizing
6 the acquisition of insurance shall be construed as waiving
7 any immunity of the district or any director, officer or
8 agent of the district otherwise existing under the laws of
9 the state;

10 M. acquire, improve, equip, hold, operate,
11 maintain and dispose of a flood control system, project and
12 appurtenant works;

13 N. pay or otherwise defray the cost of any
14 project;

15 O. deposit any money of the district in any
16 banking institution within or without the state and secured
17 in such manner and subject to such terms and conditions as
18 the board may determine;

19 P. invest any surplus money in the district
20 treasury, including money in any sinking or reserve fund
21 established for the purpose of retiring any securities of the
22 district, which is not required for the immediate necessities
23 of the district in its own securities or in federal
24 securities, by direct purchase of any issue of such
25 securities, or part thereof, at the original sale of the same

1 or by the subsequent purchase of such securities;

2 Q. sell any securities purchased and held pursuant
3 to Subsection P of this section;

4 R. accept contributions or loans from the federal
5 government for the purpose of financing the planning,
6 acquisition, improvement, equipment, maintenance and
7 operation of any enterprise in which the district is
8 authorized to engage, and enter into contracts and cooperate
9 with, and accept cooperation and participation from, the
10 federal government for these purposes;

11 S. enter, without an election, into joint
12 operating or service contracts and agreements, acquisition,
13 improvement, equipment or disposal contracts or other
14 arrangements, for any term not exceeding fifty years, with
15 the federal government, any public body or any person
16 concerning sewer facilities or any project, whether acquired
17 by the district or by the federal government, any public body
18 or any person, and accept grants and contributions from the
19 federal government, any public body or any person in
20 connection therewith;

21 T. cooperate and act in conjunction with a public
22 body, the federal government or any person in the
23 acquisition, improvement or equipment of any project for the
24 controlling of flood or storm waters of the district, or for
25 the protection of life or property therein, or for any other

1 works, acts or purposes provided for in the Flood Control
2 District Act, and adopt and carry out any definite plan or
3 system of work for any such purpose; and

4 U. make all contracts, execute all instruments and
5 do all things necessary or convenient in the exercise of the
6 powers granted by the Flood Control District Act, or in the
7 performance of the district's covenants or duties, or in
8 order to secure the payment of its securities; provided no
9 encumbrance, mortgage or other pledge of property, excluding
10 any money, of the district is created thereby and provided no
11 property, excluding money, of the district is liable to be
12 forfeited or taken in payment of the securities."

13 SECTION 245. Section 72-18-30 NMSA 1978 (being Laws
14 1981, Chapter 377, Section 30) is amended to read:

15 "72-18-30. DISSOLUTION--HEARINGS--COURT POWERS.--

16 A. No application for dissolution shall be
17 declared void on account of alleged defects, but the court
18 may at any time permit the petition to be amended to conform
19 to the facts by correcting any errors in the description of
20 the territory or in any other particular.

21 B. The court shall order an election in the
22 district on the question of dissolution if it finds the
23 application for dissolution to be in order and finds that the
24 district has no outstanding securities or other financial
25 obligations or that the district's securities and other

1 financial obligations will be adequately provided for before
2 dissolution by means of escrow funds or federal securities to
3 secure payment thereof.

4 C. If the district has outstanding securities or
5 other financial obligations and no escrow plan, the court
6 shall determine whether the continuation of functions
7 provided for in the plan for dissolution adequately provides
8 for payment of the securities and other financial obligations
9 of the district. If the court determines that the
10 application and the plan for dissolution are sufficient and
11 that an agreement exists for continuation of functions, the
12 court shall order an election of the qualified electors of
13 the district pursuant to the provisions of the Local Election
14 Act on the question of dissolving the district or, if there
15 is a plan for dissolution, on the question of dissolving the
16 district in accordance with the plan for dissolution. If, at
17 any time after the filing of an application for dissolution,
18 the court determines that no agreement can be reached
19 concerning the plan for dissolution or that the other
20 requirements of Section 72-18-28 NMSA 1978 cannot be met, it
21 shall dismiss the dissolution proceedings."

22 SECTION 246. Section 72-18-32 NMSA 1978 (being Laws
23 1981, Chapter 377, Section 32) is amended to read:

24 "72-18-32. DISSOLUTION--LIMITATION ON ELECTIONS.--The
25 question of dissolution of a district may be resubmitted to

1 the qualified electors of the district after the same or
2 similar question has previously been rejected by the
3 electors, but no such question shall be submitted at any
4 election held less than twelve months after a previous
5 submission of such question."

6 SECTION 247. Section 72-18-35 NMSA 1978 (being Laws
7 1981, Chapter 377, Section 35, as amended) is amended to
8 read:

9 "72-18-35. ELECTION.--Wherever in the Flood Control
10 District Act an election of the qualified electors of a
11 district is permitted or required, the election shall be held
12 pursuant to the Local Election Act."

13 SECTION 248. Section 72-18-48 NMSA 1978 (being Laws
14 1981, Chapter 377, Section 48) is amended to read:

15 "72-18-48. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--A
16 district is authorized to borrow money in anticipation of
17 taxes or other revenues and to issue bonds to evidence the
18 amount so borrowed. No bonded indebtedness nor any other
19 indebtedness not payable in full within one year, except for
20 interim debentures as provided in Sections 72-18-49 and
21 72-18-63 through 72-18-65 NMSA 1978, shall be created by the
22 district without first submitting the proposition of issuing
23 the bonds to the qualified electors of the district, which
24 proposition shall be approved by a majority of the qualified
25 electors voting at an election held for that purpose in

1 accordance with Sections 72-18-35 and 72-18-35.1 NMSA 1978.
2 Bonds so authorized may be issued in one series or more and
3 may mature at such time, not exceeding forty years from their
4 issuance, as the board may determine. The total of all
5 outstanding indebtedness at any one time shall not exceed
6 four percent of the value of the taxable property in the
7 district as shown by the last preceding assessment for county
8 taxes for each county in which the district is located."

9 **SECTION 249.** Section 72-18-63 NMSA 1978 (being Laws
10 1981, Chapter 377, Section 63) is amended to read:

11 "72-18-63. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF
12 BONDS AS COLLATERAL SECURITY.--Whenever a majority of the
13 qualified electors of a district voting on a proposal to
14 issue bonds has authorized the district to issue bonds for an
15 authorized purpose, the district may borrow money without any
16 other election in anticipation of taxes, the proceeds of the
17 bonds or any other revenues of the district, and may issue
18 interim debentures to evidence the amount so borrowed.
19 Interim debentures may mature at such time not exceeding a
20 period of time equal to the estimated time needed to effect
21 the purpose for which the bonds are so authorized to be
22 issued, plus two years, as the board may determine. Except
23 as otherwise provided in this section and in Sections
24 72-18-64 and 72-18-65 NMSA 1978, interim debentures shall be
25 issued as provided for securities in Sections 72-18-49

1 through 72-18-61 NMSA 1978. Taxes, other revenues of the
2 district, including without limiting the generality of the
3 foregoing proceeds of bonds to be thereafter issued or
4 reissued or bonds issued for the purpose of securing the
5 payment of interim debentures, may be pledged for the purpose
6 of securing the payment of the interim debentures. Bonds
7 pledged as collateral security for the payment of any interim
8 debentures shall mature at such time as the board may
9 determine, not exceeding forty years from the date of either
10 any of such bonds or any such interim debentures, whichever
11 date is earlier. Any such bonds pledged as collateral
12 security shall not be issued in an aggregate principal amount
13 exceeding the aggregate principal amount of the interim
14 debentures secured by a pledge of such bonds."

15 SECTION 250. Section 72-20-8 NMSA 1978 (being Laws
16 2007, Chapter 99, Section 8, as amended) is amended to read:

17 "72-20-8. BOARD OF DIRECTORS.--

18 A. The governing body of the authority is a board
19 of directors consisting of three qualified electors of the
20 authority; provided that, after single-member districts are
21 created pursuant to Subsection B of Section 72-20-10 NMSA
22 1978 and after the expiration of the terms of any directors-
23 at-large who are serving at the time that single-member
24 districts are created:

25 (1) each director shall reside within and

1 represent a specified district; and

2 (2) if a director no longer resides within
3 the district that the director represents, the director's
4 position shall be deemed vacant and a successor shall be
5 appointed to serve the unexpired term pursuant to Section
6 72-20-12 NMSA 1978.

7 B. All powers, rights, privileges and duties
8 vested in or imposed upon the authority are exercised and
9 performed by and through the board of directors; provided
10 that the exercise of any executive, administrative and
11 ministerial powers may be, by the board, delegated and
12 redelegated to officers and employees of the authority or to
13 any officer or employee contracted by agreement to manage and
14 administer the operations of the authority. Except for the
15 first directors appointed as provided for in Section 72-20-9
16 NMSA 1978 or elected as provided in Section 72-20-10 NMSA
17 1978 and except for any director chosen to fill an unexpired
18 term, and except for the first directors serving after the
19 authority is divided into single-member districts, the term
20 of each director runs for six years. Each director, subject
21 to such exceptions, shall serve a six-year term, and each
22 director shall serve until a successor has been duly chosen
23 and qualified."

24 SECTION 251. Section 73-20-1 NMSA 1978 (being Laws
25 1957, Chapter 210, Section 1) is amended to read:

1 "73-20-1. SHORT TITLE.--Sections 73-20-1 through
2 73-20-24 NMSA 1978 may be cited as the "Watershed District
3 Act"."

4 SECTION 252. Section 73-20-9 NMSA 1978 (being Laws
5 1957, Chapter 210, Section 9, as amended) is amended to read:

6 "73-20-9. REFERENDUM.--After the board of supervisors
7 has made and recorded a determination that there is need, in
8 the interest of the public health, safety and welfare, for
9 creation of the proposed watershed district, it shall
10 consider the question whether the operation of a district
11 within the proposed boundaries with the powers conferred upon
12 such districts in Section 73-20-13 NMSA 1978 is
13 administratively practicable and feasible. To assist the
14 board of supervisors in this determination, the board shall,
15 within a reasonable time after entry of the finding that
16 there is need for the organization of the district and the
17 determination of the boundaries of the district, hold a
18 referendum within the proposed district upon the proposition
19 of the creation of the district. Due notice of the
20 referendum shall be given as provided in the Local Election
21 Act."

22 SECTION 253. Section 73-20-11 NMSA 1978 (being Laws
23 1957, Chapter 210, Section 11, as amended) is amended to
24 read:

25 "73-20-11. VOTES--RESULTS.--If a majority of the votes

1 cast favors creation of the district, the county canvassing
2 board shall certify the results to the county clerk in the
3 county involved. Upon proper recording of the action, the
4 watershed district shall be duly created. After recording,
5 the certification shall be filed with the New Mexico
6 department of agriculture."

7 SECTION 254. Section 73-20-12 NMSA 1978 (being Laws
8 1957, Chapter 210, Section 12, as amended) is amended to
9 read:

10 "73-20-12. DIRECTORS--ELECTION.--

11 A. At the next regular local election held
12 pursuant to the Local Election Act after a watershed district
13 is created, the board of supervisors of the soil and water
14 conservation district involved shall cause an election to be
15 held for the election of a board of directors of the
16 watershed district. The board shall consist of five members.
17 The first board shall determine by lot from among its
18 membership two members to serve terms of two years and three
19 members to serve terms of four years. Thereafter, as these
20 initial terms expire, their replacements shall be elected for
21 terms of four years. Vacancies occurring before the
22 expiration of a term shall be filled by the remaining members
23 of the board for the unexpired term. Two or more vacancies
24 occurring simultaneously shall be filled by appointment by
25 the board of supervisors. The board of directors shall,

1 under the supervision of the board of supervisors, be the
2 governing body of the watershed district.

3 B. If the territory embraced within a watershed
4 district lies within more than one soil and water
5 conservation district, each additional soil and water
6 conservation district having a minority of the land involved
7 in the watershed shall be entitled to elect three additional
8 directors. These additional directors after their election
9 shall determine by lot one of their number to serve a term of
10 two years and two a term of four years. Thereafter, their
11 successors shall be elected for terms of four years. The
12 representatives of each of these minority districts shall
13 fill vacancies in the district's membership for the unexpired
14 term.

15 C. The board of directors shall annually elect
16 from its membership a chair, secretary and treasurer. The
17 treasurer shall execute an official bond for the faithful
18 performance of the duties of office to be approved by the
19 board of directors. The bond shall be executed with at least
20 three solvent personal sureties whose solvency shall exceed
21 the amount of the bond, or by a surety company authorized to
22 do business in this state, and shall be in an amount
23 determined by the board of directors. If the treasurer is
24 required to execute a surety company bond, the premium of the
25 bond shall be paid by the board of directors.

1 D. The board of directors shall prepare and submit
2 to the department of finance and administration such reports
3 as it may require from among those required to be submitted
4 by other political subdivisions.

5 E. Each person desiring to be a director of a
6 watershed district shall file a nominating petition with the
7 proper filing office in accordance with the provisions of the
8 Local Election Act, signed by ten or more qualified
9 electors."

10 SECTION 255. Section 73-20-14 NMSA 1978 (being Laws
11 1957, Chapter 210, Section 14, as amended) is amended to
12 read:

13 "73-20-14. BONDS.--

14 A. Bonds authorized by Section 73-20-13 NMSA 1978
15 shall not be issued until proposed by order or resolution of
16 the board of directors, specifying the purpose for which the
17 funds are to be used, and the proposed undertaking, the
18 amount of bonds to be issued, the rate of interest they are
19 to bear and the amount of any necessary assessment levy in
20 excess of the maximum authorized in Section 73-20-17 NMSA
21 1978 to establish a sinking fund for the liquidation of bonds
22 as provided in Section 73-20-17 NMSA 1978. A copy of the
23 order or resolution shall be certified to the board of
24 supervisors.

25 B. The board of supervisors shall conduct a

1 hearing on the proposal after notice given pursuant to
2 Section 73-20-8 NMSA 1978. If it appears that the proposal
3 is within the scope and purpose of the Watershed District Act
4 and meets all other requirements of the law, the proposal
5 shall be submitted to the qualified electors of the district
6 at an election held pursuant to the Local Election Act.

7 C. If two-thirds of the qualified electors voting
8 on the ballot question favor the proposal, the bonds may be
9 issued."

10 SECTION 256. Section 73-20-21 NMSA 1978 (being Laws
11 1957, Chapter 210, Section 20, as amended) is amended to
12 read:

13 "73-20-21. ADDITION OF LAND.--

14 A. Any one or more owners of land may petition the
15 board of supervisors to have their lands added to a watershed
16 district. The petition shall define the boundaries of the
17 land desired to be annexed, the number of acres of land
18 involved and other information pertinent to the proposal.
19 When the boundary described embraces lands of others than the
20 petitioners, the petition shall so state and shall be signed
21 by twenty-five or more of the landowners in the territory
22 described, if fifty or more such owners are involved, or by a
23 majority if fewer than fifty landowners are involved.

24 B. Within thirty days after the petition is filed,
25 the board shall cause due notice to be given as provided in

1 Section 73-20-8 NMSA 1978 of a hearing on the petition. All
2 interested parties shall have a right to attend the hearing
3 and be heard. The board shall determine whether the lands
4 described in the petition or any portion of them shall be
5 included in the district. If all the landowners in the
6 territory involved are not petitioners, a referendum shall be
7 held within the territory in accordance with the provisions
8 of the Local Election Act. If it is determined by the
9 qualified electors of the district that the land should be
10 added, this fact shall be certified by the board of
11 supervisors to the county clerk in the county involved.
12 After recording, the certification shall be filed with the
13 New Mexico department of agriculture."

14 SECTION 257. Section 73-20-23 NMSA 1978 (being Laws
15 1957, Chapter 210, Section 22, as amended by Laws 2013,
16 Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section
17 2) is amended to read:

18 "73-20-23. DISCONTINUANCE OF DISTRICTS.--

19 A. At any time after five years from the
20 organization of a watershed district, a majority of the
21 landowners in the district may file a petition with the board
22 of supervisors and the board of directors requesting that the
23 existence of the district be discontinued if all obligations
24 of the district have been met. The petition shall state the
25 reasons for discontinuance and demonstrate that all

1 obligations of the district have been met.

2 B. After giving notice as defined in Section
3 73-20-8 NMSA 1978, the board of supervisors may conduct
4 hearings on the petition as may be necessary to assist it in
5 making a determination.

6 C. Within ninety days after petition is filed, an
7 election shall be held pursuant to the provisions of the
8 Local Election Act; provided that the date of the election is
9 not in conflict with the provisions of Section 1-24-1 NMSA
10 1978.

11 D. If a majority of the votes cast in the
12 referendum favors the discontinuance of the district and it
13 is found that all obligations have been met, the board of
14 supervisors shall make a determination that the watershed
15 district shall be discontinued. A copy of the determination
16 shall be certified by the clerk of the county involved for
17 recording. After recording, the certification shall be filed
18 with the New Mexico department of agriculture."

19 SECTION 258. A new section of the Soil and Water
20 Conservation District Act is enacted to read:

21 "ASSESSMENTS--LIMITATIONS.--A levy approved by the
22 voters of a district and authorized by the commission
23 pursuant to Section 73-20-46 NMSA 1978 prior to July 1, 2018
24 shall continue to be assessed pursuant to the laws in effect
25 at the time the levy was initially approved; provided that

1 the aggregate of all levies in a district approved prior to
2 July 1, 2018 that continue in effect and any levies in the
3 same district approved on or after July 1, 2018 shall not
4 exceed the maximum allowable levy in a district pursuant to
5 Subsection A of Section 73-20-46 NMSA 1978."

6 SECTION 259. Section 73-21-4 NMSA 1978 (being Laws
7 1943, Chapter 80, Section 3, as amended) is amended to read:

8 "73-21-4. DEFINITIONS.--As used in the Water and
9 Sanitation District Act:

10 A. "board" means the board of directors of a
11 district;

12 B. "district" means a water and sanitation
13 district that is established pursuant to the Water and
14 Sanitation District Act and that is either entirely within or
15 partly within and partly without one or more counties;
16 provided those parts or parcels of the district lying in two
17 or more counties are contiguous with one another, and further
18 provided, a district created pursuant to a petition signed by
19 the board of county commissioners of a county shall be
20 entirely within that county;

21 C. "fee-for-service system" means a garbage or
22 refuse collection system established by a district to fully
23 implement the purposes for which the district is created and
24 for which a service is offered, a fee is established by the
25 board and the fee is paid by the customers of the district;

1 D. "proponents and opponents" means residents or
2 nonresidents of a district who pay or are liable for paying
3 rates, tolls, fees and charges assessed by that district;

4 E. "publication" means giving notice once a week
5 for three consecutive weeks in at least one newspaper of
6 general circulation in the county in which all or the major
7 portion of the district is located; however, it is not
8 necessary that publication be made on the same day of the
9 week in each of the three weeks, but not less than fourteen
10 days, excluding the day of first publication, shall intervene
11 between the first publication and the last publication, and
12 publication shall be complete on the date of the last
13 publication;

14 F. "sewage system" includes all constructions for
15 collection, transportation, pumping, treatment and final
16 disposition of sewage; and

17 G. "utility" means a water system, sewer system or
18 other fee-for-service system implemented by the district."

19 SECTION 260. Section 73-21-6 NMSA 1978 (being Laws
20 1943, Chapter 80, Section 5, as amended) is amended to read:

21 "73-21-6. PETITION.--

22 A. The organization of a district shall be
23 initiated by a petition filed in the office of the clerk of
24 the court vested with jurisdiction in a county in which all
25 or part of the real property in the proposed district is

1 situated. The petition shall be signed by not less than
2 twenty-five percent of the qualified electors of the
3 district, none of whom shall be an officer, director or
4 shareholder of any business entity with an economic interest
5 in the subdivision and sale of land within the district;
6 provided that at the option of a county and, after adoption
7 of a resolution by the county authorizing the filing of a
8 petition, that county may file a petition that shall be
9 signed by the chair of the board of county commissioners.
10 The petition and all other instruments relating to the
11 formation of such districts shall be filed in the office of
12 the county clerk of the county or counties in which the
13 proposed district is located.

14 B. The petition shall set forth:

15 (1) the name of the proposed district
16 consisting of a chosen name preceding the words "water and
17 sanitation district";

18 (2) a general description of the
19 improvements to be constructed or installed within and for
20 the district;

21 (3) the estimated overall cost of the
22 proposed improvements to be constructed or installed within
23 and for the district;

24 (4) an estimated time table for the
25 completion of all intended improvements;

1 (5) the need for the creation of the
2 district and the construction or installation of
3 improvements, stating the nature and extent of the
4 anticipated use of the improvements by persons presently
5 residing on land within the district and the nature and
6 extent of the anticipated use of the improvements due to
7 future development;

8 (6) a general description of the boundaries
9 of the district or the territory to be included in it, with
10 such certainty as to enable a property owner to determine
11 whether or not the owner's property is within the district;

12 (7) the salary, if any, that the members of
13 the board shall receive for their services; and

14 (8) a request for the organization of the
15 district.

16 C. No petition with the requisite signatures shall
17 be declared void on account of alleged defects, but the court
18 may at any time permit the petition to be amended to conform
19 to the facts by correcting any errors in the description of
20 the territory or in any other particular. Similar petitions
21 or duplicate copies of the same petition for the organization
22 of the same district may be filed and shall together be
23 regarded as one petition."

24 **SECTION 261.** Section 73-21-9 NMSA 1978 (being Laws
25 1943, Chapter 80, Section 8, as amended) is amended to read:

1 "73-21-9. HEARING ON PETITIONS--ELECTION FOR
2 ORGANIZATION AND OFFICERS.--

3 A. At any time after the filing of the petition
4 for the organization of a district and before the day fixed
5 for the hearing on it, the owner of any taxable property
6 within the proposed district may file a petition with the
7 court stating reasons why the property should not be included
8 in the district and requesting that the property be excluded
9 from it. The petition shall be verified and shall describe
10 the property sought to be excluded. The court shall hear the
11 petition and all objections to it at the time of the hearing
12 on the petition for organization and shall determine whether
13 the property should be excluded or included in the district.

14 B. In determining whether or not the petition for
15 the creation of a water and sanitation district shall be
16 granted, the district court shall consult and request an
17 opinion from:

18 (1) the state engineer to determine whether
19 the proposed district has adequate water rights to implement
20 the proposed improvements; and

21 (2) the environmental improvement division
22 of the department of environment to determine, as to the
23 technological feasibility of the proposed improvements,
24 whether the water proposed to be supplied is of an acceptable
25 quality to conform with the state regulations and whether the

1 liquid and solid waste disposal proposals can conform with
2 state regulations.

3 C. The court may deny the petition or may order
4 the petition to be modified if the court, after hearing on
5 the petition, finds that:

6 (1) the proposed water and sewage
7 improvements cannot conform with the state regulations;

8 (2) the water and sewage improvements cannot
9 be implemented within a reasonable time taking into
10 consideration applications for state and federal grants;

11 (3) there is lacking an actual or impending
12 need for the water and sewage improvements proposed; or

13 (4) the boundaries of the proposed district
14 contain land that has no actual or impending need for the
15 water and sewage improvements or cannot be reasonably
16 expected to utilize the water and sewage improvements, unless
17 the land is otherwise required to be included in the proposed
18 district by rule or regulation of a federal agency.

19 D. Upon the hearing, if it appears that a petition
20 for the organization of a district has been properly signed
21 and presented and that the allegations of the petition are
22 true, the court shall order that the question of the
23 organization of the district be submitted to the qualified
24 electors of the district as set forth in the petition, as the
25 boundaries were modified by the court in determining that

1 only property to be benefited by the proposed improvements
2 should be included within the boundaries of the district, at
3 an election to be held for that purpose and conducted
4 pursuant to the provisions of the Local Election Act. The
5 election shall be held in the district not less than ninety
6 days after the order is entered in accordance with the Local
7 Election Act; provided that the date does not conflict with
8 the provisions of Section 1-24-1 NMSA 1978.

9 E. At the election, the qualified electors of the
10 district shall vote for or against the organization of the
11 district. If a majority of the votes cast at the election
12 are in favor of the organization, the district court shall
13 declare the district organized and give it a corporate name
14 by which in all proceedings it shall thereafter be known.
15 Thereupon the district shall be a governmental subdivision of
16 the state, except a district created pursuant to a petition
17 signed by the chair of the board of county commissioners of a
18 county, which district shall be a subdivision of the county.
19 Every district shall be a body corporate with all the powers
20 of a public or quasi-municipal corporation."

21 SECTION 262. Section 73-21-13 NMSA 1978 (being Laws
22 1943, Chapter 80, Section 12, as amended) is amended to read:

23 "73-21-13. MEETINGS.--The board shall meet once each
24 month at a time and place to be designated by the board.

25 Special meetings may be held as often as the needs of the

1 district require on notice to each member of the board. A
2 majority of the board shall constitute a quorum at any
3 meeting. Any vacancy on a board elected by qualified
4 electors of the district shall be filled by the remaining
5 members or member of the board, the appointee to act until
6 the next biennial election when the vacancy shall be filled
7 by election. Any vacancy on a board appointed by a board of
8 county commissioners shall be filled in the same manner as
9 original appointments, in accordance with Section 73-21-15.1
10 NMSA 1978, the appointee to act until the end of the term of
11 the member creating the vacancy. If the board or a board of
12 county commissioners fails to fill any vacancy within thirty
13 days after it occurs, the court having jurisdiction shall
14 fill the vacancy."

15 SECTION 263. Section 73-21-15 NMSA 1978 (being Laws
16 1977, Chapter 326, Section 2, as amended) is repealed and a
17 new Section 73-21-15 NMSA 1978 is enacted to read:

18 "73-21-15. BOARD INCREASE--APPOINTED MEMBERS.--

19 A. In every district, three members of the board
20 shall be elected by the qualified electors pursuant to the
21 provisions of the Local Election Act.

22 B. In those districts that have five board
23 members, the board may by resolution designate two board
24 members to serve by appointment. In those districts that
25 have three board members, the board may by resolution expand

1 the board to include two appointed board members. A
2 resolution adopted pursuant to this subsection shall not be
3 rescinded until two regular local elections have passed after
4 adoption of the resolution.

5 C. The appointment of board members serving
6 pursuant to a resolution adopted pursuant to Subsection B of
7 this section shall be for a term of two years beginning July
8 1 of each even-numbered year and ending June 30 of the
9 following even-numbered year. Appointed members of the board
10 are not required to be qualified electors nor residents of
11 the district.

12 D. Appointed board members are authorized to vote
13 on all matters except for a tax or assessment of any kind
14 proposed or approved pursuant to authority granted by Article
15 8, Section 9 of the constitution of New Mexico, which is
16 limited to a vote of the elected members only."

17 SECTION 264. Section 73-21-15.1 NMSA 1978 (being Laws
18 1985, Chapter 155, Section 8, as amended) is amended to read:

19 "73-21-15.1. APPOINTMENT OF FIRST BOARD.--Members of
20 the first board of any district shall be appointed by the
21 board of county commissioners. In a district consisting of
22 multiple counties, the district judge shall designate how
23 many members of the board will be appointed by each board of
24 county commissioners. The first board shall consist of five
25 directors who are qualified electors of the district

1 appointed for staggered terms so that the terms of two
2 directors expire within two years and the terms of three
3 directors expire within four years. Thereafter, all
4 directors shall be elected to terms of office pursuant to the
5 provisions of the Water and Sanitation District Act. Any
6 director appointed by any board of county commissioners shall
7 be eligible for election; provided that no member of a board
8 shall serve more than two consecutive terms."

9 SECTION 265. Section 73-21-26 NMSA 1978 (being Laws
10 1943, Chapter 80, Section 24, as amended) is amended to read:

11 "73-21-26. BONDS--INTEREST--FORM.--To carry out the
12 purposes of the Water and Sanitation District Act, the board
13 may issue bonds of the district upon approval of the majority
14 of the qualified electors of the district voting on the
15 question pursuant to the provisions of the Local Election
16 Act. Bonds shall bear interest payable semiannually and
17 shall be due and payable serially, either annually or
18 semiannually, commencing not later than three years and
19 extending not more than twenty years from date. The form and
20 terms of the bonds, including provisions for their payment
21 and redemption, shall be determined by the board. If the
22 board so determines, the bonds may be redeemable prior to
23 maturity upon payment of a premium, not exceeding three
24 percent of the principal thereof. The bonds, except for
25 bonds issued in book entry or similar form without the

1 delivery of physical securities, shall be executed in the
2 name of and on behalf of the district and signed by the chair
3 of the board, with the seal of the district affixed thereto,
4 and attested to by the secretary of the board. The bonds
5 shall be sold and shall be in such denominations as the board
6 determines, and the bonds and the attached coupons, if any,
7 shall be payable to the bearer or registered as to principal
8 or as to principal and interest. Interest coupons, if any,
9 shall bear the original or facsimile signature of the chair
10 of the board."

11 **SECTION 266.** Section 73-21-28 NMSA 1978 (being Laws
12 1943, Chapter 80, Section 25, as amended) is amended to read:

13 "73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--
14 Whenever the board shall, by resolution, determine that the
15 interest of the district and the public interest or necessity
16 demand the acquisition, construction, installation or
17 completion of any works or other improvements or facilities,
18 or the making of any contract with the United States or other
19 persons or corporations, to carry out the objects or purposes
20 of the district, requiring the creation of a general
21 obligation indebtedness of five thousand dollars (\$5,000) or
22 more, secured by property tax revenue from within the
23 district, the board shall order the submission of the
24 proposition of issuing the obligations or bonds or creating
25 other indebtedness to the qualified electors of the district

1 at a district election held in accordance with the provisions
2 of the Local Election Act. The declaration of public
3 interest or necessity required in this section and the
4 provision for the holding of the election may be included
5 within one and the same resolution. The resolution, in
6 addition to the declaration of public interest or necessity,
7 shall recite the objects and purposes for which the
8 indebtedness is proposed to be incurred, the estimated cost
9 of the works or improvements, as the case may be, the amount
10 of principal of the indebtedness to be incurred and the
11 maximum rate of interest to be paid on the indebtedness. The
12 resolution shall also announce the date upon which the
13 election shall be held; provided that the date is not in
14 conflict with the provisions of Section 1-24-1 NMSA 1978."

15 SECTION 267. Section 73-21-31 NMSA 1978 (being Laws
16 1943, Chapter 80, Section 28) is amended to read:

17 "73-21-31. EFFECT OF ELECTION--SUBSEQUENT ELECTIONS.--
18 In the event that it appears from the returns that a majority
19 of the qualified electors of the district have voted in favor
20 of the ballot question, the district shall then be authorized
21 to incur the indebtedness or the obligations, enter into the
22 contract or issue and sell the bonds of the district, as the
23 case may be, for the purpose and object provided for in the
24 proposition submitted under the provisions of the Water and
25 Sanitation District Act and in the resolution for them and in

1 the amount so provided and at a rate of interest not
2 exceeding the rate of interest recited in the resolution.
3 Submission of the proposition of incurring such obligations
4 or bonded or other indebtedness at an election shall not
5 prevent or prohibit submission of it or other propositions at
6 subsequent elections called for that purpose."

7 SECTION 268. Section 73-26-1 NMSA 1978 (being Laws
8 2009, Chapter 100, Section 1, as amended) is amended to read:

9 "73-26-1. LOWER RIO GRANDE PUBLIC WATER WORKS
10 AUTHORITY.--

11 A. The "Lower Rio Grande public water works
12 authority" is created. The authority is a political
13 subdivision of the state and shall be an independent public
14 body. The authority is composed of Berino mutual domestic
15 water consumers and mutual sewage works association, Desert
16 Sands mutual domestic water consumers association, La Mesa
17 mutual domestic water consumers association, Mesquite mutual
18 domestic water consumers and mutual sewage works association
19 and Vado mutual domestic water consumers association, all
20 serving unincorporated communities within Dona Ana county.
21 The voting community membership of the five founding entities
22 has approved by resolution the development of the authority.

23 B. The authority may adopt rules and resolutions,
24 governance policies and procedures necessary to exercise the
25 powers conferred pursuant to this section.

1 C. All functions, appropriations, money, records
2 and equipment and all personal property and real property,
3 including water rights, easements, permits and
4 infrastructure, as well as all encumbrances, debts and
5 liabilities pertaining to or owned by the founding entities
6 shall be transferred to the authority.

7 D. The authority's service area shall consist of
8 the founding entities' existing place of use on file with and
9 approved by the state engineer and shall be filed in the
10 public records of Dona Ana county. An application shall be
11 filed with the state engineer to combine and commingle water
12 rights and to combine the existing entities' place of use
13 into the authority's service area. In the event that another
14 entity elects to merge into the authority, the authority's
15 service area shall be amended to include that entity's place
16 of use and shall be filed with the state engineer. The
17 authority's initial service area and any subsequent
18 amendments to its service area shall be designated in a plat
19 filed in the public records of Dona Ana county. If the
20 service area of the merging entity is contiguous with the
21 service area of the authority, the merger shall include the
22 combining and commingling of water rights with the authority
23 by application filed with the state engineer.

24 E. The authority may provide for water and
25 wastewater services, road improvements for the protection of

1 the authority's infrastructure or renewable energy projects
2 that are integral to the operation and maintenance of the
3 authority's facilities or any combination or parts thereof.

4 F. The authority shall exercise all powers allowed
5 pursuant to law, including:

6 (1) regulating, supervising and operating
7 the authority's facilities;

8 (2) establishing rates and imposing
9 assessments, fees and charges and taking action necessary for
10 the enforcement thereof;

11 (3) assessing a standby charge for the
12 privilege of connection into the authority's service at some
13 date in the future if the property line is within three
14 hundred feet of the authority's service lines and the
15 property line is located within the boundaries of the
16 authority. This section applies to new connections after the
17 enactment of this act;

18 (4) acquiring, from a willing seller only,
19 holding and using water rights in an amount necessary to meet
20 its reasonable needs not to exceed forty years pursuant to
21 Section 72-1-9 NMSA 1978;

22 (5) shutting off, after notice, unauthorized
23 connections, illegal connections or a connection for which
24 charges are delinquent in payment;

25 (6) entering into contracts for services

1 with private entities, the state, municipalities, counties
2 and the federal government and other public bodies to further
3 its public purposes;

4 (7) entering into joint powers agreements
5 with other governmental entities;

6 (8) acquiring and disposing of real
7 property, personal property and rights of way;

8 (9) condemning property pursuant to the
9 Eminent Domain Code as the last resort and only for the
10 purposes of construction, maintenance and operations of the
11 authority's infrastructure;

12 (10) hiring and retaining agents, employees
13 and consultants, as needed;

14 (11) adopting and using a governmental seal;

15 (12) placing a lien on property for unpaid
16 assessments, charges and fees and enforcing the lien in a
17 manner pursuant to this section;

18 (13) suing and being sued and being a party
19 to suits, actions and proceedings; and

20 (14) having and exercising all rights and
21 powers necessary, incidental to or implied from the specific
22 powers granted in this section.

23 G. As a political subdivision of the state and a
24 member-owned community water system, the authority shall be
25 subject to the:

1 (1) applicable rules and regulations of the
2 department of environment, and in its discretion the
3 department may:

4 (a) conduct periodic reviews of the
5 operation of the authority;

6 (b) require the authority to submit
7 information to the department;

8 (c) upon department of environment
9 discretion or upon a petition of twenty-five percent of the
10 members of the authority, conduct an investigation as it
11 deems necessary to ensure the authority's compliance with all
12 applicable statutes, rules, regulations and reporting
13 requirements; and

14 (d) after a hearing, set and collect
15 rates and fees and use the same for the proper operation and
16 management of the authority;

17 (2) applicable rules and regulations of the
18 department of finance and administration, local government
19 division and budget and finance bureau;

20 (3) Open Meetings Act;

21 (4) Inspection of Public Records Act;

22 (5) Audit Act;

23 (6) Procurement Code;

24 (7) Governmental Conduct Act;

25 (8) Chapter 72 NMSA 1978; and

1 (9) applicable rules and regulations of the
2 state engineer.

3 H. The authority is a political subdivision of the
4 state and a member-owned community water system and shall not
5 be subject to the jurisdiction of the public regulation
6 commission or the provisions of the Public Utility Act.

7 I. The authority may issue utility system revenue
8 bonds and obligations for acquiring real and personal
9 property needed for the utility system and for extending,
10 enlarging, renovating, repairing or otherwise improving its
11 facilities. The authority may issue revenue anticipation
12 notes with maturities and terms to be approved by the board
13 of directors of the authority. The authority may pledge
14 irrevocably net revenues from the operation of the utility
15 system for payment of the principal, premiums and interest on
16 the bonds. The utility system revenue bonds:

17 (1) may have interest, appreciated principal
18 value or any part thereof payable at intervals or at maturity
19 as the authority determines;

20 (2) may be subject to prior redemption at
21 the authority's option at such time and upon such terms and
22 conditions, with or without the payment of a premium, as
23 determined by the authority;

24 (3) may mature at any time not exceeding
25 forty years after the date of issuance;

1 (4) may be serial in form and maturity, may
2 consist of one bond payable at one time or in installments or
3 may be in another form as determined by the authority;

4 (5) shall be sold for cash at, above or
5 below par and at a price that results in a net effective
6 interest rate that does not exceed the maximum permitted by
7 the Public Securities Act; and

8 (6) may be sold at a public or negotiated
9 sale.

10 J. The authority's board of directors may adopt a
11 resolution declaring the necessity for the issuance of
12 utility system revenue bonds or other obligations and may
13 authorize the issuance of utility system revenue bonds or
14 other obligations by an affirmative vote of a majority of all
15 members of the authority's board of directors. Utility
16 revenue bonds and the resolution authorizing their issuance
17 shall be subject to voter approval with oversight from the
18 department of finance and administration and the New Mexico
19 finance authority. The bonds authorized by the authority and
20 their income shall be exempt from taxation by the state and
21 its political subdivisions.

22 K. Except for the purpose of refunding previous
23 utility system revenue bond issues, the authority shall not
24 sell utility system revenue bonds payable from pledged
25 revenues after the expiration of three years from the date of

1 the resolution authorizing their issuance. Any period of
2 time during which a utility system revenue bond is in
3 litigation shall not count toward the determination of the
4 expiration date of that issue.

5 L. The authority shall be governed by a board of
6 directors. The board of directors shall be elected by
7 districts from a minimum of five and a maximum of seven
8 electoral districts. Each director shall reside within and
9 be a qualified elector of the electoral district of the
10 authority from which that member is elected. The boundaries
11 and the number of electoral districts shall be established by
12 the initial board within two years of the creation of the
13 authority. The board may in its governance document provide
14 for redistricting upon any change in the authority's boundary
15 and following each decennial census. The elected board of
16 directors shall serve staggered terms to be established in
17 the governance document developed by the board.

18 M. All elections of the authority shall be
19 conducted pursuant to the provisions of the Local Election
20 Act and voted upon by the qualified electors registered to
21 vote within the boundaries of the authority. Board members
22 shall be elected at the regular local election. Vacancies on
23 the board shall be filled by the remaining board members and
24 a person appointed to fill a vacancy shall serve until the
25 next regular local election. A person appointed to fill a

1 vacancy shall be a qualified elector of the districted area
2 the person is appointed to represent.

3 N. If the authority places a lien on property for
4 nonpayment of money owed, the authority shall file in the
5 office of the county clerk of the county or counties in which
6 the property is located a notice of lien, which shall
7 include:

8 (1) identification of the outstanding debt
9 to the authority;

10 (2) the fact that a lien is established;

11 (3) the general purpose of the lien;

12 (4) the name of the owner of the property
13 against which the lien is established as determined from the
14 records of the county assessor;

15 (5) a description of the property against
16 which the lien is established;

17 (6) the amount of the lien; and

18 (7) if the lien is for more than one period
19 of time, the date for which the lien is established.

20 O. A lien for multiple charges or assessments on a
21 property owner may be included in the same notice of lien,
22 and it shall not be necessary to file separate liens against
23 the separate properties. The lien shall be attested in the
24 name of the authority. The principal amount of any lien
25 imposed for a charge or assessment shall bear interest at the

1 rate of twelve percent per year from the date of filing the
2 notice of lien unless otherwise provided by law.

3 P. After the filing of the notice of lien in the
4 office of the county clerk, the authority shall have a lien
5 upon the property described in the notice of lien. The
6 filing of the notice of lien shall be notice to all the world
7 of the existence of the lien and of the contents of the
8 notice of lien. No such lien shall affect the title or
9 rights to or in any real estate, of any purchaser, mortgagee
10 in good faith or judgment lien creditor, without knowledge of
11 the existence of such lien, unless the notice of lien is
12 filed in accordance with this section in the office of the
13 county clerk of the county in which the real estate is
14 situated. All authority liens shall be first and prior liens
15 on the property subject only to the lien of federal, state
16 and county taxes. The authority may release a lien against
17 any specific property by:

18 (1) entering and signing a receipt of
19 payment upon the notice of lien filed in the office of the
20 county clerk; or

21 (2) issuing a separate receipt that recites
22 that payment of the lien with any accrued interest and
23 penalty has been made.

24 Q. The authority may, in a single suit, foreclose
25 the liens against all persons named in the notice of liens or

1 against the property if the owners are unknown. The
2 complaint filed shall:

- 3 (1) expressly name each defendant, if known;
- 4 (2) describe the property against which the
5 lien is established; and
- 6 (3) set forth the amount of the lien.

7 R. The judgment or decree rendered in said cause
8 shall be several against the named defendants and against the
9 several properties for the amounts decreed to be due by each.
10 A lien against real estate may be foreclosed in the same
11 manner that mortgages or other liens against real estate are
12 foreclosed with like rights of redemption. In the
13 foreclosure of any lien created by the authority, reasonable
14 attorney fees may be ordered by the court as part of the
15 costs in favor of the prevailing party.

16 S. The authority shall prepare and sign a notice
17 of foreclosure, which shall also bear the signature and
18 mailing address of an attorney representing the authority.
19 The proceeds of the sale of the property by the authority
20 pursuant to a foreclosure sale on a lien shall be applied as
21 follows:

22 (1) first, to the payment of costs in giving
23 notice of the sale and of conducting the sale;

24 (2) second, to the indebtedness claimed
25 under a lien on the property for federal, state, county,

1 municipal or ad valorem taxes;

2 (3) third, to the indebtedness claimed under
3 the lien of the authority;

4 (4) fourth, to all other special assessments
5 having a lien on the property; and

6 (5) fifth, after all such costs, liens,
7 assessments and taxes are paid, to the former owner, mortgage
8 holder or parties having an interest in the tract or parcel,
9 upon such persons providing satisfactory proof to the court
10 of such interest and upon approval of the court.

11 T. As used in this section, "public water works
12 authority" means a utility organized as a political
13 subdivision of the state for the purposes of constructing
14 infrastructure and furnishing water and wastewater services
15 for domestic, commercial or industrial uses, road
16 improvements for the protection of the authority's
17 infrastructure and renewable energy projects; and entering
18 into agreements with other entities for the provision of
19 other services, including water conservation and reclamation,
20 source water protection, drainage, flood control, solid
21 waste, planning and zoning."

22 **SECTION 269.** Section 74-10-12 NMSA 1978 (being Laws
23 1993, Chapter 319, Section 12) is amended to read:

24 "74-10-12. BOARD OF DIRECTORS.--The governing body of
25 the authority is a board of directors consisting of seven

1 qualified electors of the authority. All powers, rights,
2 privileges and duties vested in or imposed upon the authority
3 are exercised and performed by and through the board of
4 directors; provided that the exercise of any executive,
5 administrative and ministerial powers may be, by the board,
6 delegated and redelegated to officers and employees of the
7 authority. Except for the first directors appointed as
8 provided for in Section 74-10-5 NMSA 1978, the term of each
9 director commences on the first day of January next following
10 a regular local election in the state and runs for six
11 years."

12 SECTION 270. Section 74-10-13 NMSA 1978 (being Laws
13 1993, Chapter 319, Section 13) is amended to read:

14 "74-10-13. ELECTION OF DIRECTORS.--Each biennial
15 nonpartisan election of directors shall be conducted at the
16 time of the regular local election under the direction of the
17 county clerk and in accordance with the election laws of New
18 Mexico. Any other election of the authority, including an
19 election to seek approval for the issuance of bonds; shall be
20 conducted pursuant to the provisions of the Local Election
21 Act."

22 SECTION 271. Section 74-10-14 NMSA 1978 (being Laws
23 1993, Chapter 319, Section 14) is amended to read:

24 "74-10-14. ELECTION RESOLUTION.--The board shall call
25 any election by resolution as prescribed in the Local

1 Election Act. The resolution shall recite the objects and
2 purposes of the election and indicate the general or regular
3 local election on which the ballot question shall appear or
4 specify the date a special election will be held."

5 SECTION 272. Section 74-10-15 NMSA 1978 (being Laws
6 1993, Chapter 319, Section 15) is amended to read:

7 "74-10-15. CONDUCT OF ELECTION.--An election held
8 pursuant to the Solid Waste Authority Act shall be conducted
9 pursuant to the provisions of the Local Election Act."

10 SECTION 273. Section 74-10-19 NMSA 1978 (being Laws
11 1993, Chapter 319, Section 19) is amended to read:

12 "74-10-19. APPROVAL OF PROPOSALS AT ELECTION.--
13 Except as otherwise provided, any proposal submitted at any
14 election held pursuant to the Solid Waste Authority Act shall
15 not carry unless the proposal has been approved by a majority
16 of the qualified electors of the authority voting on the
17 proposal."

18 SECTION 274. A new section of the Public Improvement
19 District Act is enacted to read:

20 "POSTING OF NOTICES.--For any election conducted
21 pursuant to the Public Improvement District Act, in addition
22 to the notice requirements set forth in Section 5-11-7 NMSA
23 1978, the owners shall ensure that notices shall be posted in
24 three conspicuous public places within the boundaries of the
25 district not less than twenty days before the first day for

1 voting in the election."
2

3 SECTION 275. A new section of the Tax Increment for
4 Development Act is enacted to read:

5 "POSTING OF NOTICES.--For any election conducted
6 pursuant to the Tax Increment for Development Act, in
7 addition to the notice requirements set forth in Section 5-
8 15-8 NMSA 1978, the owners shall ensure that notices shall be
9 posted in three conspicuous public places within the
10 boundaries of the district not less than twenty days before
11 the first day for voting in the election."

12 SECTION 276. TEMPORARY PROVISION--COMPILER'S
13 INSTRUCTION.--The New Mexico compilation commission shall
14 rename in tables of contents and headings:

15 A. Chapter 1, Article 16 NMSA 1978 as "Ballot
16 Questions"; and

17 B. Chapter 1, Article 24 NMSA 1978 as "Special
18 Elections".

19 SECTION 277. TEMPORARY PROVISION--POLLING PLACES FOR
20 2019 REGULAR LOCAL ELECTION.--Polling places for the 2019
21 regular local election shall be the same polling places that
22 were used in the 2018 general election, unless the board of
23 county commissioners amends the 2017 polling place resolution
24 no later than July 1, 2019.

25 SECTION 278. TEMPORARY PROVISION--DISTRICTS--EXPIRATION

1 OF MEMBER TERMS.--

2 A. The term of a branch community college
3 district, special hospital district, solid waste authority
4 district, lower Rio Grande public water works authority or
5 watershed district board member that was set to expire on or
6 before June 30, 2020 shall expire on December 31, 2019, and
7 that member's successor shall be elected in the regular local
8 election held on the first Tuesday after the first Monday of
9 November 2019 for a term beginning on January 1, 2020.

10 B. The term of a branch community college
11 district, special hospital district, solid waste authority
12 district, lower Rio Grande public water works authority or
13 watershed district board member that was set to expire on or
14 after July 1, 2020 but on or before June 30, 2022 shall
15 expire on December 31, 2021, and that member's successor
16 shall be elected in the local election held on the first
17 Tuesday after the first Monday of November 2021 for a term
18 beginning on January 1, 2022.

19 C. The term of a special hospital district or
20 watershed district board member that was set to expire on or
21 after July 1, 2022 shall expire on December 31, 2023, and
22 that member's successor shall be elected in the local
23 election held on the first Tuesday after the first Monday of
24 November 2023 for a term beginning on January 1, 2024.

25 SECTION 279. TEMPORARY PROVISION--EXPIRATION OF

1 DISTRICT COURT JUDGE TERMS.--

2 A. The term of a district court judge in any
3 judicial district serving in a division numbered 2 or every
4 third number thereafter that was set to expire on December
5 31, 2020 shall expire on December 31, 2022, subject to the
6 provisions of the Nonpartisan Judicial Retention Act and
7 Article 6 of the constitution of New Mexico.

8 B. The term of a district court judge in any
9 judicial district serving in a division numbered 3 or every
10 third number thereafter that was set to expire on December
11 31, 2020 shall expire on December 31, 2024, subject to the
12 provisions of the Nonpartisan Judicial Retention Act and
13 Article 6 of the constitution of New Mexico.

14 SECTION 280. TEMPORARY PROVISION--EXPIRATION OF
15 METROPOLITAN COURT JUDGE TERMS.--The term of a metropolitan
16 court judge serving in a division numbered 2 or every second
17 number thereafter that was set to expire on December 31, 2022
18 shall expire on December 31, 2024, subject to the provisions
19 of the Nonpartisan Judicial Retention Act and Article 6 of
20 the constitution of New Mexico.

21 SECTION 281. TEMPORARY PROVISION--SECRETARY OF STATE.--
22 The secretary of state shall ensure that the public
23 regulation commission, public education commission,
24 magistrate judges and county officers are aligned with the
25 offices listed for election in Section 1-10-8 NMSA 1978. The

1 secretary of state shall provide a process to renumber
2 district numbers so that offices are aligned with the offices
3 listed for election in Section 1-10-8 NMSA 1978 and, where
4 necessary, shall provide for an extended term to the general
5 election in 2022 or 2024 only as required to align offices
6 and positions to the offices listed for election in Section
7 1-10-8 NMSA 1978; provided that where one member of a local
8 governing body must receive an extended term pursuant to this
9 section, the secretary of state shall have the members whose
10 terms expire the same year draw lots to make the
11 determination.

12 SECTION 282. TEMPORARY PROVISION--ELECTION FUND.--In
13 fiscal years 2019 and 2020, if sufficient funding is deemed
14 available by the secretary of state no later than May 1, 2019
15 and May 1, 2020, money in the election fund may be expended
16 to reimburse local governments for transitional costs
17 associated with implementation of the Local Election Act,
18 based on written guidance provided by the secretary of state
19 and posted on the secretary's website no later than May 1,
20 2019 and May 1, 2020.

21 SECTION 283. TEMPORARY PROVISION--ELECTION BOARD.--
22 References in the Election Code to "precinct board", shall be
23 deemed to be references to "election board", as that term is
24 defined in Section 1-1-13 NMSA 1978."

25 SECTION 284. REPEAL.--

1 A. Sections 1-2-8, 1-2-10, 1-3-3, 1-4-26, 1-4-33,
2 1-6-5.4, 1-8-9, 1-8-10, 1-8-25, 1-8-43, 1-12-71, 1-13-3,
3 1-16-5, 1-16-6, 1-16-10 through 1-16-13, 1-22-9, 1-22-10.1
4 through 1-22-15, 3-30-1 through 3-30-4, 4-38-20 through
5 4-38-23, 4-44-36 through 4-44-45, 6-15-23 through 6-15-28,
6 22-4A-1 through 22-4A-3, 22-7-2, 22-7-15, 22-7-16, 73-20-10,
7 73-21-15 and 74-10-16 through 74-10-18 NMSA 1978 (being Laws
8 1975, Chapter 255, Sections 14 and 16, Laws 1969, Chapter
9 240, Sections 52, 82 and 89, Laws 1999, Chapter 267, Section
10 3, Laws 1975, Chapter 255, Section 104, Laws 1969, Chapter
11 240, Sections 159, 170 and 180, Laws 1977, Chapter 222,
12 Section 7, Laws 1969, Chapter 240, Sections 305, 378, 379,
13 383 and 384, Laws 1975, Chapter 287, Section 1, Laws 2018,
14 Chapter 79, Sections 23 and 25 through 28, Laws 1965, Chapter
15 300, Sections 14-29-1, 14-29-2, 14-29-3 and 14-29-4, Laws
16 1969, Chapter 90, Section 1, Laws 1876, Chapter 1, Sections
17 15, 28 and 32, Laws 1953, Chapter 167, Sections 1 through 8,
18 11 and 12, Laws 1970, Chapter 6, Sections 1 through 3, Laws
19 1971, Chapter 132, Section 3, Laws 1970, Chapter 6, Sections
20 5 and 6, Laws 1987, Chapter 191, Sections 1 through 3, Laws
21 1977, Chapter 308, Sections 2, 15 and 16, Laws 1957, Chapter
22 210, Section 10, Laws 1977, Chapter 326, Section 2 and Laws
23 1993, Chapter 319, Sections 16 through 18, as amended) are
24 repealed.

25 B. Laws 2018, Chapter 79, Sections 160, 161 and

1 163 through 165 are repealed.

2 **SECTION 285. EFFECTIVE DATE.--**

3 A. The effective date of the provisions of Section
4 141 of this act is July 1, 2022.

5 B. The effective date of the provisions of Section
6 145 of this act is January 1, 2020.


7 **SECTION 286. EMERGENCY.--**It is necessary for the public
8 peace, health and safety that this act take effect
9 immediately. _____

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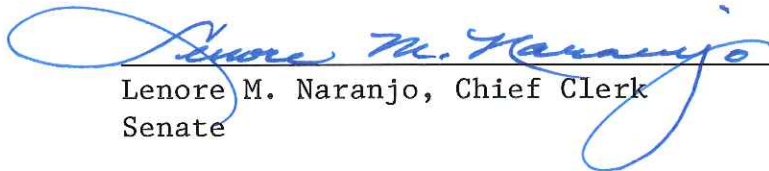


Brian Egolf, Speaker
House of Representatives


Lisa M. Ortiz McCutcheon, Chief Clerk
House of Representatives



Howie C. Morales, President
Senate


Lenore M. Naranjo, Chief Clerk
Senate

Approved by me this 3rd day of April, 2019


Michelle Lujan Grisham, Governor
State of New Mexico