

HOUSE BILL 455

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

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AN ACT

RELATING TO ELECTIONS; CHANGING DEADLINES FOR BALLOT CHANGES
AND MAKING CONFORMING AMENDMENTS; CHANGING REGISTRATION CLOSURE
TIMES; MODIFYING NOMINATING PETITION FORMS; CHANGING
REQUIREMENTS FOR THE INVALIDATION OF NOMINATING PETITIONS;
AMENDING SECTIONS OF THE ELECTION CODE.

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

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

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

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

B. The secretary of state shall:

(1) obtain and maintain uniformity in the

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1 application, operation and interpretation of the Election Code;
2 and

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

9 C. No forms or procedures shall be used in any
10 election held pursuant to the Election Code without prior
11 approval of the secretary of state."

12 SECTION 2. Section 1-4-8 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 66, as amended) is amended to read:

14 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
15 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For
16 qualified electors, the following provisions shall apply:

17 A. the county clerk shall receive certificates of
18 registration at all times during normal working hours, except
19 that the clerk shall close registration at [~~5:00 p.m. on~~] the
20 end of the twenty-eighth day immediately preceding any election
21 at which the registration books are to be furnished to the
22 precinct board;

23 B. registration shall be reopened on the Monday
24 following the election;

25 C. for purposes of a municipal or school election,

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1 the registration period for those precincts within the
2 municipality or school district is closed at [~~5:00 p.m. on~~] the
3 end of the twenty-eighth day immediately preceding the
4 municipal or school election and is opened again on the Monday
5 following the election;

6 D. during the period when registration is closed,
7 the county clerk shall receive certificates of registration and
8 other documents pertaining thereto but shall not file any
9 certificate of registration in the registration book until the
10 Monday following the election, at which time a voter
11 information document shall be mailed to the registrant at the
12 address shown on the certificate of registration;

13 E. when the twenty-eighth day prior to any election
14 referred to in this section is a Saturday, Sunday or legal
15 holiday, registration shall be closed at [~~5:00 p.m.~~] the end of
16 the next succeeding regular business day for the office of the
17 county clerk; and

18 F. the county clerk shall accept for filing any
19 certificate of registration that is subscribed and dated on or
20 before the twenty-eighth day preceding the election and:

21 (1) received by the county clerk before
22 5:00 p.m. on the Friday immediately following the close of
23 registration;

24 (2) mailed and postmarked not less than
25 twenty-eight days prior to any election referred to in this

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1 section; or

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

4 SECTION 3. Section 1-8-4 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 154, as amended by Laws 2014, Chapter 40,
6 Section 4 and by Laws 2014, Chapter 81, Section 4) is amended
7 to read:

8 "1-8-4. SECRETARY OF STATE--CERTIFICATION OF NOMINEES--
9 MINOR POLITICAL PARTY.--

10 A. Upon receipt of certificates of nomination of
11 any minor political party and nominating petitions, and no
12 later than 5:00 p.m. on the first Tuesday following the filing
13 date, the proper filing officer shall:

14 (1) determine whether the method of nomination
15 used by the certifying political party complies with the
16 current rules of that party on file in the secretary of state's
17 office;

18 (2) determine whether the number of signatures
19 required have been submitted and all the requirements of
20 Sections 1-8-1 through 1-8-3 NMSA 1978 have been complied with;
21 and

22 (3) if such determinations are answered in the
23 affirmative, mail notice to the certifying party and the
24 candidate no later than 5:00 p.m. on the Tuesday following the
25 filing date that the certificates of nomination and nominating

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1 petitions are in proper order and that the candidate, based on
2 those documents, is qualified to have the candidate's name
3 placed on the ballot.

4 B. If a minor political party candidate is notified
5 by the proper filing officer that the candidate is not
6 qualified to have the candidate's name appear on the ballot,
7 the candidate may challenge the decision by filing a petition
8 with the district court within ten days of the notification.
9 The district court shall hear and render a decision on the
10 matter within ten days after the petition is filed. The
11 decision of the district court may be appealed to the supreme
12 court within five days after the decision is rendered. The
13 supreme court shall hear and render a decision no later than
14 [~~fifty-six~~] sixty-three days prior to the general election.

15 C. Any voter may file a court action challenging a
16 minor political party candidate's nominating petitions pursuant
17 to the provisions of Section 1-8-35 NMSA 1978."

18 SECTION 4. Section 1-8-8 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 158, as amended) is amended to read:

20 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
21 AFTER PRIMARY.--

22 A. If after a primary election, but seventy or more
23 days before the general election, a vacancy occurs, for any
24 cause, in the list of the nominees of a qualified political
25 party for any public office to be filled in the general

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1 election, or a vacancy occurs because of the resignation or
2 death of a person holding a public office not included in the
3 governor's proclamation and which office is required by law to
4 be filled at the next succeeding general election, or a vacancy
5 occurs because a new public office is created and was not
6 included in the governor's proclamation but is capable by law
7 of being filled at the next succeeding general election, the
8 vacancy on the general election ballot may be filled by:

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

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

19 B. Appointments made pursuant to Subsection A of
20 this section shall qualify pursuant to Section 1-8-18 NMSA
21 1978.

22 C. The county or state central committee members
23 making the appointment pursuant to Subsection A of this section
24 shall be as provided for in the rules of the respective party;
25 provided that, at a minimum, the committee shall include those

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1 members residing within the boundaries of the area to be
2 represented by the public office.

3 D. Appointments to fill vacancies in the list of a
4 party's nominees shall be made and filed at least [~~fifty-six~~
5 sixty-three days prior to the general election.

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

9 SECTION 5. Section 1-8-9 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 104, as amended) is amended to read:

11 "1-8-9. GENERAL ELECTION--WITHDRAWAL OF CANDIDATES.--No
12 candidate shall withdraw from a general election unless the
13 candidate withdraws at least [~~sixty-three~~] seventy days prior
14 to that election and the candidate files a signed and notarized
15 statement of withdrawal with the proper filing officer."

16 SECTION 6. Section 1-8-30 NMSA 1978 (being Laws 1973,
17 Chapter 228, Section 4, as amended) is amended to read:

18 "1-8-30. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
19 NOMINATING PETITION--FILING AND FORM.--

20 A. As used in the Primary Election Law, "nominating
21 petition" means the authorized form used for obtaining the
22 required number of signatures of voters, which is signed on
23 behalf of the person wishing to become a candidate for a
24 political office in the primary election requiring a nominating
25 petition.

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

4 C. The nominating petition shall be on paper
5 approximately eight and one-half inches wide and eleven inches
6 long with numbered lines for signatures spaced approximately
7 three-eighths of an inch apart and shall be in the following
8 form:

9 "I confirm that I collected the signatures on this
10 nominating petition.
11 _____
12 (signature) (printed name) (address) (city or
13 zip code)

14 NOMINATING PETITION

15 I, the undersigned, a registered voter of New Mexico, and
16 a member of the _____ party, hereby nominate
17 _____, [~~who resides at _____ in the~~
18 ~~county of _____, New Mexico~~] for the party nomination
19 for the office of _____ in the district or
20 division number ___(if any), to be voted for at the next
21 primary election [to be held on _____], and I declare that I am
22 a registered voter of the [~~state, district, county or~~] area to
23 be represented by the office for which the person being
24 nominated is a candidate. I also declare that I have not
25 signed, and will not sign, any nominating petition for more

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1 persons than the number of candidates necessary to fill such
2 office at the next ensuing general election.

3 1. _____
4 (usual (name printed (address as (city or
5 signature) as registered) registered) zip code)

6 2. _____
7 (usual (name printed (address as (city or
8 signature) as registered) registered) zip code).".

9 D. In October of odd-numbered years, the secretary
10 of state shall post on the secretary of state's [~~web site~~]
11 website and shall furnish to each county clerk a sample of a
12 nominating petition form, a copy of which shall be made
13 available by the county clerk upon request of any candidate.

14 [~~E. When more than one sheet is required for a~~
15 ~~petition, each of the sheets shall be in the form prescribed by~~
16 ~~this section and all sheets shall be firmly secured by a staple~~
17 ~~or other suitable fastening.]"~~

18 SECTION 7. Section 1-8-31 NMSA 1978 (being Laws 1973,
19 Chapter 228, Section 5, as amended) is amended to read:

20 "1-8-31. [~~PRIMARY ELECTION LAW~~] NOMINATING PETITION--
21 SIGNATURES TO BE COUNTED.--

22 A. A person who signs a nominating petition shall
23 sign only one petition for the same office unless more than one
24 candidate is to be elected to that office, and in that case, a
25 person may sign not more than the number of nominating

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1 petitions equal to the number of candidates to be elected to
2 the office.

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

8 C. A signature shall be counted on a nominating
9 petition unless there is evidence presented that the person
10 signing:

11 [~~(1)~~] ~~was not a registered member of the~~
12 ~~candidate's political party ten days prior to the filing of the~~
13 ~~nominating petition;~~

14 ~~(2)~~] (1) failed to provide information
15 required by the nominating petition;

16 [~~(3)~~] (2) is not a voter of the state,
17 district, county or area to be represented by the office for
18 which the person seeking the nomination is a candidate;

19 [~~(4)~~] (3) has signed more than one petition
20 for the same office, except as provided in Subsection A of this
21 section, or has signed one petition more than once;

22 [~~(5)~~] (4) is not of the same political party
23 as the candidate named in the nominating petition as shown by
24 the signer's certificate of registration; or

25 [~~(6)~~] (5) is not the person whose name appears

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1 on the nominating petition.

2 D. The following information shall be listed in the
3 appropriate space at the top of the nominating petition before
4 the petition has been signed by any voter:

5 (1) the signature of the person collecting
6 signatures on the petition, along with the person's printed
7 name, address and city or zip code;

8 (2) the party affiliation of voters signing
9 the petition;

10 (3) the candidate's name [~~the candidate's~~
11 ~~address, the candidate's county of residence and~~];

12 (4) the office sought by the candidate [~~which~~
13 ~~shall include~~]; and

14 (5) the district [~~or division~~] of the office
15 sought, or if [applicable] the office sought is a judicial
16 division office within a judicial district, the judicial
17 division number.

18 E. With or without a showing of bad faith, fraud or
19 reasonable opportunity for fraud, a nominating petition,
20 including all signatures on the petition page, shall be invalid
21 if any of the [preceding] information required by Subsection D
22 of this section is not listed on the petition before the
23 petition is signed by a voter or if any of the [preceding]
24 required information is altered.

25 [~~E.~~] F. The procedures set forth in this section

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1 shall be used to validate signatures on any petition required
2 by the Election Code, except that [~~Paragraphs (1) and (5)~~]
3 Paragraph (4) of Subsection C of this section shall not apply
4 to petitions filed by unaffiliated candidates or petitions
5 filed by candidates of minor political parties."

6 SECTION 8. Section 1-8-50 NMSA 1978 (being Laws 1977,
7 Chapter 322, Section 6, as amended) is amended to read:

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

11 A. As used in Sections 1-8-45 through 1-8-52 NMSA
12 1978, "nominating petition" means the authorized form used for
13 obtaining the required number of signatures of voters that is
14 signed on behalf of the person wishing to become an independent
15 candidate for a political office in a general or United States
16 representative special election requiring a nominating
17 petition.

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

21 C. The nominating petition for an independent
22 candidate for any office except United States representative in
23 a special election or president of the United States shall be
24 on paper approximately eight and one-half inches wide and
25 eleven inches long with numbered lines for signatures spaced

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1 approximately three-eighths of an inch apart and shall be in
2 the following form:

3 "I confirm that I collected the signatures on this
4 nominating petition.

5 _____
6 (signature) (printed name) (address) (city or
7 zip code)

8 NOMINATING PETITION FOR INDEPENDENT CANDIDACY

9 I, the undersigned, a registered voter of New Mexico, hereby
10 nominate _____, [~~who resides at~~
11 _____ ~~in the county of~~ _____, ~~New~~
12 ~~Mexico~~] as an independent candidate for the office of
13 _____ in the district or division number _____
14 (if any), to be voted for at the next general election, [~~or~~
15 ~~United States representative special election to be held on~~
16 _____,

17 ~~(Month)~~ _____ ~~(Day)~~ _____ ~~(Year)~~ _____] and I declare that I am a
18 registered voter of the state, district, county or area to be
19 represented by the office for which the person being nominated
20 is a candidate. I also declare that I have not signed, and
21 will not sign, any nominating petition for more persons than
22 the number of candidates necessary to fill the office at the
23 next ensuing general election [~~or at a United States~~
24 ~~representative special election~~].

25 1. _____

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1 (usual (name printed (address as (city or zip
2 signature) as registered) registered) code)

3 2. _____

4 (usual (name printed (address as (city or zip
5 signature) as registered) registered) code).".

6 D. The nominating petition for an independent
7 candidate for United States representative in a special
8 election shall be on paper approximately eight and one-half
9 inches wide and eleven inches long with numbered lines for
10 signatures spaced approximately three-eighths of an inch apart
11 and shall be in the following form:

12 "I confirm that I collected the signatures on this
13 nominating petition.

14 _____
15 (signature) (printed name) (address) (city or
16 zip code)

17 NOMINATING PETITION FOR INDEPENDENT CANDIDACY FOR
18 UNITED STATES REPRESENTATIVE IN A SPECIAL ELECTION

19 I, the undersigned, a registered voter of New Mexico,
20 hereby nominate _____ as an independent
21 candidate for the office of United States representative, to be
22 voted for at the United States representative special election
23 to be held on _____ (month/day/year), and I
24 declare that I am a registered voter of the district to be
25 represented by the office for which the person being nominated

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1 is a candidate. I also declare that I have not signed, and
2 will not sign, any nominating petition for more persons than
3 the number of candidates necessary to fill the office at the
4 next ensuing United States representative special election.

5 1. _____
6 (usual (name printed (address as (city or
7 signature) as registered) registered) zip code)

8 2. _____
9 (usual (name printed (address as (city or
10 signature) as registered) registered) zip code)."

11 [D-] E. The nominating petition for an independent
12 candidate for the office of president and vice president of the
13 United States shall be on paper approximately eight and one-
14 half inches wide and eleven inches long with numbered lines for
15 signatures spaced approximately three-eighths of an inch apart
16 and shall be in the following form:

17 "I confirm that I collected the signatures on this
18 nominating petition.

19 _____
20 (signature) (printed name) (address) (city or
21 zip code)

22 NOMINATING PETITION FOR INDEPENDENT CANDIDACY
23 FOR THE OFFICE OF PRESIDENT AND VICE PRESIDENT OF THE
24 UNITED STATES

25 I, the undersigned, a registered voter of New Mexico, by

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

- 11 1. _____
12 (usual (name printed (address as (city or
13 signature) as registered) registered) zip code)
14 2. _____
15 (usual (name printed (address as (city or
16 signature) as registered) registered) zip code)."

17 [~~E.~~] F. In March of even-numbered years, the
18 secretary of state shall post on the secretary of state's [~~web~~
19 site] website and shall furnish to each county clerk a sample of
20 the nominating petition form, a copy of which shall be made
21 available by the county clerk upon request of any candidate as
22 provided by the Election Code.

23 [~~F.~~ ~~When more than one sheet is required for a~~
24 ~~petition, each of the sheets shall be in the form prescribed by~~
25 ~~this section, and all sheets shall be firmly secured by a staple~~

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1 ~~or other suitable fastening.]"~~

2 SECTION 9. Section 1-10-4 NMSA 1978 (being Laws 1977,
3 Chapter 222, Section 27, as amended) is amended to read:

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

5 A. Not less than [~~fifty-six~~] sixty-three days before
6 the primary election, each proper filing officer shall group all
7 candidates for each party by themselves and prepare in writing a
8 separate ballot for each party and certify the candidates for
9 each ballot position to the printer.

10 B. Not less than [~~fifty-six~~] sixty-three days before
11 the general election, each proper filing officer shall prepare in
12 writing the ballot containing the name of each candidate that has
13 been certified and filed as the nominee of a party and any
14 constitutional amendments, questions or other propositions that
15 are to be voted on and certify all such information to the ballot
16 printer. A copy of each certification shall be kept on file in
17 the office of the secretary of state.

18 C. Upon request of the county chair of a political
19 party participating in the election, the county clerk shall
20 furnish proof sheets or a copy of the proof sheets of the ballot
21 as soon as they become available."

22 SECTION 10. Section 1-15-3 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 353, as amended) is amended to read:

24 "1-15-3. PRESIDENTIAL ELECTORS--NOMINATION.--

25 A. Any qualified political party in New Mexico

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1 desiring to have candidates for president and vice president on
2 the general election ballot in a presidential election year
3 shall, at a state party convention held in the year of such
4 election, choose from the voters of [~~such~~] the party the number
5 of presidential electors required by law and no more.

6 B. The presidential electors shall be nominated by
7 the state convention according to the rules of that party on file
8 with the secretary of state.

9 C. Upon the nomination of presidential electors, the
10 [~~chairman~~] chair and secretary of the convention shall certify
11 the names and addresses of [~~such~~] the nominees not less than
12 [~~fifty-six~~] sixty-three days prior to the election to the
13 secretary of state. The secretary of state shall record the
14 nominees' names in [~~his~~] the secretary's office as the
15 presidential elector nominees of that party."

16 SECTION 11. Section 1-16-3 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 376, as amended) is amended to read:

18 "1-16-3. STATE CONSTITUTIONAL AMENDMENTS--CERTIFICATION.--
19 Whenever a proposed constitutional amendment or other question is
20 to be submitted to the voters of the entire state, the secretary
21 of state, not less than [~~fifty-six~~] sixty-three days before the
22 election at which it is to be submitted, shall certify the
23 proposed constitutional amendment or question to the county clerk
24 of each county."

25 SECTION 12. Section 1-24-2 NMSA 1978 (being Laws 1989,

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1 Chapter 295, Section 2, as amended) is amended to read:

2 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--
3 PUBLICATION.--

4 A. Whenever a local government special election is to
5 be called or is required by law, the governing body shall by
6 resolution issue a public proclamation calling the election. The
7 proclamation shall forthwith be filed with the county clerk. The
8 proclamation shall specify:

9 (1) the date on which the special election will
10 be held;

11 (2) the purpose for which the special election
12 is called;

13 (3) if officers are to be elected or positions
14 on the governing body are to be filled, the date on which
15 declarations of candidacy are to be filed;

16 (4) if a question is to be voted upon, the text
17 of that question;

18 (5) the precincts in each county in which the
19 election is to be held and the location of each polling place in
20 the precinct;

21 (6) the hours that each polling place will be
22 open; and

23 (7) the date and time of closing the
24 registration books by the county clerk as required by law.

25 B. After filing with the county clerk the

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1 proclamation issued pursuant to Subsection A of this section, and
2 not less than [~~fifty-six~~] sixty-three days before the date of the
3 election, the governing body shall publish the proclamation once
4 each week for two consecutive weeks in a newspaper of general
5 circulation within the boundaries of the local government or
6 special district. The proclamation shall conform to the
7 requirements of the federal Voting Rights Act of 1965, as
8 amended.

9 C. Whenever a statewide special election is to be
10 called or is required by law, the governor shall by resolution
11 issue a public proclamation calling the election. Whenever an
12 election to fill a vacancy in the office of United States
13 representative is to be called or is required by law, the
14 governor shall by resolution issue a public proclamation calling
15 the election pursuant to the requirements of Section 1-15-18.1
16 NMSA 1978. The proclamation shall forthwith be filed with the
17 secretary of state. The proclamation shall specify:

18 (1) the date on which the special election will
19 be held;

20 (2) the purpose for which the special election
21 is called;

22 (3) if a vacancy in the office of United States
23 representative is to be filled, the date on which declarations of
24 candidacy are to be filed;

25 (4) if a question is to be voted upon, the text

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1 of that question; and

2 (5) the date and time of closing the
3 registration books by the county clerk as required by law.

4 D. After the proclamation issued pursuant to
5 Subsection C of this section is filed with the secretary of
6 state, the secretary of state shall within five days certify the
7 proclamation to each county clerk in the state. Not less than
8 [~~fifty-six~~] sixty-three days before the date of the election, the
9 county clerk shall publish the proclamation once each week for
10 two consecutive weeks in a newspaper of general circulation,
11 which shall include the precincts in the county in which the
12 election is to be held and the location of each polling place in
13 the precinct and the hours that each polling place will be open.
14 For an election called pursuant to Subsection F of Section
15 1-15-18.1 NMSA 1978, the proclamation shall be published
16 consistent with this subsection not less than thirty-six days
17 before the date of the election. The proclamation shall conform
18 to the requirements of the federal Voting Rights Act of 1965, as
19 amended."