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SENATE BILL 195

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

INTRODUCED BY

Daniel A. Ivey-Soto

AN ACT

RELATING TO ELECTIONS; ENACTING THE UNIFORM MILITARY AND
OVERSEAS VOTERS ACT; MAKING CORRESPONDING CHANGES TO THE
ELECTION CODE AND THE MUNICIPAL ELECTION CODE.

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

SECTION 1. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] FEDERAL QUALIFIED ELECTOR.--As used in the
Election Code, "federal qualified elector" means:

- A. a uniformed-service voter; or
- B. an overseas voter."

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

"[NEW MATERIAL] OVERSEAS VOTER.--As used in the Election
Code, "overseas voter" means an individual who is a United

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1 States citizen, who is outside the United States and who:

2 A. is temporarily absent from the individual's
3 residence in this state;

4 B. before leaving the United States, was last
5 eligible to vote in this state and, except for a state
6 residency requirement, otherwise satisfies this state's voter
7 eligibility requirements;

8 C. before leaving the United States, would have
9 been last eligible to vote in this state had the voter then
10 been of voting age and, except for a state residency
11 requirement, otherwise satisfies this state's voter eligibility
12 requirements; or

13 D. was born outside the United States, is not
14 otherwise described in this section and, except for a state
15 residency requirement, otherwise satisfies this state's voter
16 eligibility requirements, if:

17 (1) the last place where a parent or legal
18 guardian of the individual was, or would have been, eligible to
19 vote before leaving the United States is within this state; and

20 (2) the individual has not previously
21 registered to vote in any other state."

22 SECTION 3. A new section of the Election Code is enacted
23 to read:

24 "[NEW MATERIAL] SPOUSE OR DEPENDENT.--As used in the
25 Election Code, "spouse or dependent", as applied to a

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1 uniformed-service voter, means an individual recognized as a
2 spouse or dependent by:

3 A. the active and reserve components of the army,
4 navy, air force, marine corps or coast guard of the United
5 States;

6 B. the merchant marine, the commissioned corps of
7 the public health service or the commissioned corps of the
8 national oceanic and atmospheric administration of the United
9 States; or

10 C. the national guard and state militia."

11 SECTION 4. A new section of the Election Code is enacted
12 to read:

13 "[NEW MATERIAL] UNIFORMED-SERVICE VOTER.--As used in the
14 Election Code, "uniformed-service voter" means an individual
15 who is a United States citizen, whose voting residence is in
16 this state, who otherwise satisfies this state's voter
17 eligibility requirements and who is:

18 A. a member of the active or reserve components of
19 the army, navy, air force, marine corps or coast guard of the
20 United States who is on active duty and who by reason of that
21 active duty is absent from the state;

22 B. a member of the merchant marine, the
23 commissioned corps of the public health service, the astronaut
24 program of the national aeronautics and space administration or
25 the commissioned corps of the national oceanic and atmospheric

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1 administration of the United States and who by reason of that
2 service is absent from the state;

3 C. a member on activated status of the national
4 guard or state militia and who by reason of that active duty is
5 absent from the member's county of residence; or

6 D. a spouse or dependent of a member referred to in
7 Subsection A, B or C of this section and who, by reason of
8 active duty or service of the member, is absent from the
9 state."

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

12 "1-1-5. VOTER.--As used in the Election Code, "voter"
13 means any qualified elector or federal qualified elector [~~or~~
14 ~~overseas voter~~] who is registered under the provisions of the
15 Election Code."

16 SECTION 6. A new section of the Election Code is enacted
17 to read:

18 "[NEW MATERIAL] SHORT TITLE.--Sections 6 through 22 of
19 this act may be cited as the "Uniform Military and Overseas
20 Voters Act".

21 SECTION 7. A new section of the Election Code is enacted
22 to read:

23 "[NEW MATERIAL] DEFINITIONS.--As used in the Uniform
24 Military and Overseas Voters Act:

25 A. "appropriate clerk" means a county clerk for

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1 elections conducted pursuant to the Election Code and a
2 municipal clerk for elections conducted pursuant to the
3 Municipal Election Code;

4 B. "federal postcard application" means the
5 application prescribed under the federal Uniformed and Overseas
6 Citizens Absentee Voting Act;

7 C. "federal write-in absentee ballot" means the
8 ballot approved pursuant to the federal Uniformed and Overseas
9 Citizens Absentee Voting Act;

10 D. "military-overseas ballot" means:
11 (1) a federal write-in absentee ballot; or
12 (2) a ballot sent to a federal qualified
13 elector by the appropriate clerk and cast in accordance with
14 the provisions of the Uniform Military and Overseas Voters Act;

15 E. "state" means a state of the United States, the
16 District of Columbia, Puerto Rico, the United States Virgin
17 Islands or any territory or insular possession subject to the
18 jurisdiction of the United States; and

19 F. "United States", used in the territorial sense,
20 means the several states, the District of Columbia, Puerto
21 Rico, the United States Virgin Islands and any territory or
22 insular possession subject to the jurisdiction of the United
23 States."

24 SECTION 8. A new section of the Election Code is enacted
25 to read:

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1 "[NEW MATERIAL] ELECTIONS COVERED--FORM OF BALLOT AND
2 BALLOT MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS
3 VOTERS ACT.--

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

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

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

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

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

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

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1 delivery address on an absentee ballot application;

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

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

9 SECTION 9. A new section of the Election Code is enacted
10 to read:

11 "[NEW MATERIAL] ROLE OF SECRETARY OF STATE--FEDERAL
12 UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

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

17 B. The secretary of state shall establish an
18 electronic transmission system through which a federal
19 qualified elector may apply for and receive voter registration
20 materials, military-overseas ballots and other information
21 pursuant to the Uniform Military and Overseas Voters Act. The
22 secretary of state shall ensure that the electronic
23 transmission system is capable of accepting a federal postcard
24 application, any other approved electronic registration
25 application and any other approved electronic military-overseas

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1 ballot application sent to a county clerk or municipal clerk.

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

15 D. The secretary of state shall prescribe the form
16 and content of a declaration for use by a federal qualified
17 elector to swear or affirm specific representations pertaining
18 to the voter's identity, eligibility to vote, status as a
19 federal qualified elector and timely and proper completion of
20 an military-overseas ballot. The declaration shall be based on
21 the declaration prescribed to accompany a federal write-in
22 absentee ballot, as modified to be consistent with the Uniform
23 Military and Overseas Voters Act. The secretary of state shall
24 ensure that a form for the execution of the declaration,
25 including an indication of the date of execution of the

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1 declaration, is a prominent part of all balloting materials for
2 which the declaration is required.

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

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

8 (2) official mailing envelopes for use in
9 returning the official inner envelope to the appropriate clerk;
10 provided that only the official mailing envelope for absentee
11 ballots in a primary election shall contain a designation of
12 party affiliation;

13 (3) absentee ballot instructions describing
14 the proper methods for completion and return of the ballot,
15 including instructions for those federal qualified electors
16 returning a ballot electronically;

17 (4) official transmittal envelopes for use by
18 the appropriate clerk in mailing absentee ballot materials; and

19 (5) official holding envelopes for ballots
20 returned electronically by federal qualified electors."

21 SECTION 10. A new section of the Election Code is enacted
22 to read:

23 "[NEW MATERIAL] METHODS OF REGISTERING TO VOTE.--

24 A. A federal qualified elector may register to vote
25 using any of the following methods; provided that the document

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1 is received by the county clerk by the deadline for registering
2 to vote as provided in Section 1-4-8 NMSA 1978:

3 (1) using the procedures provided in Article 4
4 of the Election Code;

5 (2) using a federal postcard application or
6 the application's approved electronic equivalent; or

7 (3) using the declaration accompanying a
8 federal absentee write-in ballot.

9 B. A voter's certificate of registration completed
10 pursuant to the Uniform Military and Overseas Voters Act shall
11 remain valid until the voter's certificate of registration is
12 canceled in accordance with the procedures specified in Article
13 4 of the Election Code.

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

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

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

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1 SECTION 11. A new section of the Election Code is enacted
2 to read:

3 "[NEW MATERIAL] METHODS OF APPLYING FOR MILITARY-OVERSEAS
4 BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS
5 BALLOT.--

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

11 (1) using an absentee ballot application
12 pursuant to the Absent Voter Act or Municipal Election Code;

13 (2) using the federal postcard application or
14 the application's electronic equivalent; or

15 (3) using the declaration accompanying a
16 federal write-in absentee ballot as an application for a
17 military-overseas ballot simultaneously with the submission of
18 the federal write-in absentee ballot.

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

25 C. An application for a military-overseas ballot

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1 for a primary election, whether or not timely, is effective as
2 an automatic application for a military-overseas ballot for the
3 general election.

4 D. An application for a military-overseas ballot is
5 effective as an automatic application for a military-overseas
6 ballot for a runoff election necessary to conclude the election
7 for which the application was submitted."

8 SECTION 12. A new section of the Election Code is enacted
9 to read:

10 "[NEW MATERIAL] TRANSMISSION OF UNVOTED MILITARY-OVERSEAS
11 BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

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

18 B. The appropriate clerk shall transmit a ballot
19 and balloting materials as soon as practicable when the ballot
20 application from a federal qualified elector arrives after the
21 forty-fifth day before the election and before absentee ballots
22 are transmitted to other voters pursuant to the Absent Voter
23 Act or the provisions of the Municipal Election Code.

24 C. The appropriate clerk shall transmit a ballot
25 and balloting materials in accordance with the procedures for

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1 processing of all other absentee ballot applications for that
2 jurisdiction when the ballot application from a federal
3 qualified elector arrives after the appropriate clerk has begun
4 transmitting ballots and balloting materials to other voters.

5 D. A federal qualified elector may request that the
6 ballot and balloting materials be sent by facsimile
7 transmission, electronic mail delivery or other equivalent
8 electronic transmission available to the appropriate clerk
9 where the ballot and balloting materials are sent directly by
10 the clerk to the federal qualified elector. The clerk shall
11 transmit the ballot and balloting materials using the means of
12 transmission requested by the federal qualified elector. The
13 clerk shall determine the most reasonable expedited means of
14 delivery for a ballot and balloting materials for a federal
15 qualified elector who does not request a particular means of
16 transmission."

17 SECTION 13. A new section of the Election Code is enacted
18 to read:

19 "[NEW MATERIAL] RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS
20 FROM FEDERAL QUALIFIED ELECTORS.--

21 A. A military-overseas ballot shall be considered
22 timely if it is received by the appropriate clerk no later than
23 the closing of the polls on election day.

24 B. A federal qualified elector may transmit, and
25 the appropriate clerk shall accept, a military-overseas ballot

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1 by facsimile transmission, electronic mail delivery or other
2 equivalent electronic delivery available to the appropriate
3 clerk when the military-overseas ballot is sent directly by the
4 voter to that clerk; provided that, when sending a
5 military-overseas ballot utilizing any method described in this
6 subsection:

7 (1) the federal qualified elector signs an
8 affidavit waiving the right of secrecy of the federal qualified
9 elector's ballot;

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

12 (3) the appropriate clerk places the received
13 ballot in a holding envelope provided by the secretary of state
14 for this purpose and delivers the ballot to the absent precinct
15 board."

16 SECTION 14. A new section of the Election Code is enacted
17 to read:

18 "[NEW MATERIAL] EMERGENCY RESPONSE PROVIDERS.--

19 A. An emergency response provider may benefit from
20 the ability to apply for an absentee ballot and to return the
21 marked ballot in the same manner as provided in the Uniform
22 Military and Overseas Voters Act for federal qualified
23 electors; provided that the emergency response provider may not
24 use the federal postcard application or the federal write-in
25 absentee ballot.

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1 B. The appropriate clerk shall transmit to, receive
2 from and process an absentee ballot of an emergency response
3 provider in the same manner as provided in the Uniform Military
4 and Overseas Voters Act for a federal qualified elector.

5 C. As used in this section, "emergency response
6 provider" means a resident of this state who otherwise
7 satisfies this state's voter eligibility requirements and who,
8 in response to an emergency, is temporarily assigned by a
9 governmental or nongovernmental relief agency or employer to
10 provide support to the victims of the emergency or to rebuild
11 the infrastructure in the affected area and:

12 (1) the assignment is for a period beginning
13 on or after the thirty-five days immediately prior to an
14 election;

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

17 (3) the president of the United States or the
18 governor of a state has declared an emergency in the affected
19 area."

20 **SECTION 15.** A new section of the Election Code is enacted
21 to read:

22 "[NEW MATERIAL] USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
23 QUALIFICATION.--

24 A. A federal qualified elector may use a federal
25 write-in absentee ballot to vote for all offices and ballot

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1 measures in an election.

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

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

18 SECTION 16. A new section of the Election Code is enacted
19 to read:

20 "[NEW MATERIAL] CONFIRMATION OF RECEIPT OF APPLICATION AND
21 VOTED BALLOT.--The secretary of state, upon the recommendation
22 of the voting system certification committee, shall implement
23 an electronic free-access system by which a federal qualified
24 elector may determine by telephone, electronic mail or internet
25 whether the federal qualified elector's:

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1 A. federal postcard application or other
2 registration or military-overseas ballot application has been
3 received and accepted; and

4 B. military-overseas ballot has been received and
5 the current status of the ballot."

6 SECTION 17. A new section of the Election Code is enacted
7 to read:

8 "[NEW MATERIAL] USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

9 A. The county clerk shall request an electronic-
10 mail address from each federal qualified elector who registers
11 to vote. An electronic-mail address provided by a federal
12 qualified elector shall not be made available to the public and
13 is exempt from disclosure pursuant to the Inspection of Public
14 Records Act. The electronic-mail address may be used only for
15 official communication with the voter about the voting process,
16 including transmitting military-overseas ballots and ballot
17 materials if the voter has requested electronic transmission by
18 electronic mail, and verifying the voter's mailing address and
19 physical location. The request for an electronic-mail address
20 shall describe the purposes for which the electronic-mail
21 address may be used and include a statement that any other use
22 or disclosure of the electronic-mail address is prohibited.

23 B. If an absentee ballot is transmitted to a
24 federal qualified elector via electronic mail, the appropriate
25 clerk shall note in the absentee ballot register the voter's

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1 registration address, that the ballot was delivered to the
2 voter electronically and the date on which it was sent, but
3 shall not disclose the voter's electronic-mail address.

4 C. A federal qualified elector who provides an
5 electronic-mail address may request that the voter's
6 application for a military-overseas ballot be considered a
7 standing request for electronic delivery of a ballot for all
8 elections in the election cycle. The appropriate clerk shall
9 provide a military-overseas ballot to a voter who makes a
10 standing request for each election to which the request is
11 applicable as an automatic application for a military-overseas
12 ballot."

13 SECTION 18. A new section of the Election Code is enacted
14 to read:

15 "[NEW MATERIAL] PROHIBITION OF NONSUBSTANTIVE
16 REQUIREMENTS.--

17 A. If the intention of the voter is clearly
18 discernable in accordance with the provisions of Section
19 1-1-5.2 NMSA 1978, an abbreviation, misspelling or other minor
20 variation in the form of the name of a candidate or a political
21 party shall be accepted as a valid vote.

22 B. Failure to satisfy a nonsubstantive requirement,
23 such as using paper or envelopes of a specified size or weight,
24 does not invalidate a document submitted pursuant to the
25 Uniform Military and Overseas Voters Act.

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1 C. Notarization is not required for the execution
2 of any document required by the Uniform Military and Overseas
3 Voters Act."

4 **SECTION 19.** A new section of the Election Code is enacted
5 to read:

6 "[NEW MATERIAL] ABSENTEE BALLOTS--REPORTS.--

7 A. Within thirty days following a general election,
8 the county clerk shall report to the secretary of state the
9 number of absentee ballots transmitted in the general election
10 to uniformed-service voters and overseas voters for the
11 election and the number of those ballots returned, rejected or
12 counted.

13 B. Within ninety days following a general election,
14 the secretary of state shall report to the federal election
15 assistance commission the combined absentee ballot numbers
16 submitted by the counties pursuant to this section."

17 **SECTION 20.** A new section of the Election Code is enacted
18 to read:

19 "[NEW MATERIAL] EQUITABLE RELIEF.--A court of competent
20 jurisdiction of this state may issue an injunction or grant
21 other equitable relief appropriate to ensure substantial
22 compliance with, or enforce, the Uniform Military and Overseas
23 Voters Act on application by:

24 A. a federal qualified elector alleging a grievance
25 under the Uniform Military and Overseas Voters Act; or

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1 B. an election official in this state."

2 SECTION 21. A new section of the Election Code is enacted
3 to read:

4 "[NEW MATERIAL] UNIFORMITY OF APPLICATION AND
5 CONSTRUCTION.--In applying and construing the Uniform Military
6 and Overseas Voters Act, consideration shall be given to the
7 need to promote uniformity of the law with respect to its
8 subject matter among states that enact it."

9 SECTION 22. A new section of the Election Code is enacted
10 to read:

11 "[NEW MATERIAL] RELATION TO ELECTRONIC SIGNATURES IN
12 GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Military and
13 Overseas Voters Act modifies, limits and supersedes the federal
14 Electronic Signatures in Global and National Commerce Act, 15
15 U.S.C. Section 7001 et seq., but does not modify, limit or
16 supersede Section 101(c) of that act, 15 U.S.C. Section
17 7001(c), or authorize electronic delivery of any of the notices
18 described in Section 103(b) of that act, 15 U.S.C. Section
19 7003(b)."

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

22 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
23 REGISTRATION--CLOSE OF REGISTRATION [~~FEDERAL QUALIFIED ELECTORS~~
24 ~~AND OVERSEAS VOTERS~~]-LATE REGISTRATION.--[A.] For qualified
25 electors [~~other than federal qualified electors or overseas~~

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1 voters], the following provisions shall apply:

2 ~~[(1)]~~ A. the county clerk shall receive
3 certificates of registration at all times during normal working
4 hours, except that the clerk shall close registration at
5 5:00 p.m. on the twenty-eighth day immediately preceding any
6 election at which the registration books are to be furnished to
7 the precinct board;

8 ~~[(2)]~~ B. registration shall be reopened on the
9 Monday following the election;

10 ~~[(3)]~~ C. for purposes of a municipal or school
11 election, the registration period for those precincts within
12 the municipality or school district is closed at 5:00 p.m. on
13 the twenty-eighth day immediately preceding the municipal or
14 school election and is opened again on the Monday following the
15 election;

16 ~~[(4)]~~ D. during the period when registration is
17 closed, the county clerk shall receive certificates of
18 registration and other documents pertaining thereto but shall
19 not file ~~[the]~~ any certificate of registration in the
20 registration book until the Monday following the election, at
21 which time a voter information document shall be mailed to the
22 registrant at the address shown on the certificate of
23 registration;

24 ~~[(5)]~~ E. when the twenty-eighth day prior to any
25 election referred to in this section is a Saturday, Sunday or

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1 legal holiday, registration shall be closed at 5:00 p.m. of the
2 next succeeding regular business day for the office of the
3 county clerk; and

4 [(6)] F. the county clerk shall accept for filing
5 any certificate of registration that is subscribed and dated on
6 or before the twenty-eighth day preceding the election and:

7 [(a)] (1) received by the county clerk before
8 5:00 p.m. on the Friday immediately following the close of
9 registration;

10 [(b)] (2) mailed and postmarked not less than
11 twenty-eight days prior to any election referred to in this
12 section; or

13 [(c)] (3) accepted at a state agency
14 designated pursuant to Section 1-4-5.2 NMSA 1978.

15 [~~B. For federal qualified electors and overseas~~
16 ~~voters, the county clerk shall accept a certificate of~~
17 ~~registration by electronic transmission from a voter qualified~~
18 ~~to apply for and vote by absentee ballot in the county if the~~
19 ~~transmission is received before 5:00 p.m. on the Friday~~
20 ~~immediately preceding the election.]"~~

21 SECTION 24. Section 1-6-3 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 129, as amended) is amended to read:

23 "1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT.--[A. Any] A
24 voter may vote by absentee ballot for all candidates and on all
25 questions appearing on the ballot as if [he] the voter were

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1 able to cast [~~his~~] the ballot in person [~~at his regular polling~~
2 ~~place on election day.~~

3 ~~B. Any federal qualified elector may register~~
4 ~~absentee and vote by an absentee ballot for any federal~~
5 ~~office]."~~

6 SECTION 25. Section 1-6-4 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 130, as amended) is amended to read:

8 "1-6-4. ABSENTEE BALLOT APPLICATION [~~FEDERAL QUALIFIED~~
9 ~~ELECTOR--OVERSEAS VOTER]~~.--

10 [~~A. Application by a federal qualified elector or~~
11 ~~an overseas voter for an absentee ballot shall be made on the~~
12 ~~official postcard form prescribed or authorized by the federal~~
13 ~~government to the county clerk of the county of the applicant's~~
14 ~~residence. The form shall allow the applicant to receive an~~
15 ~~absentee ballot for all elections within an election cycle.~~

16 B.] A. Application by a voter for an absentee
17 ballot shall be made only on a form prescribed by the secretary
18 of state [~~in accordance with federal law~~]. The form shall
19 identify the applicant and contain information to establish the
20 applicant's qualification for issuance of an absentee ballot
21 under the Absent Voter Act; provided that on the application
22 form for a general election ballot there shall be no box, space
23 or place provided for designation of the voter's political
24 party affiliation.

25 [~~C.~~] B. Each application for an absentee ballot

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1 shall be signed by the applicant and shall require the
2 applicant's printed name, registration address and year of
3 birth to be supplied by the applicant, which shall constitute
4 the required form of identification, except for new registrants
5 who have registered by mail and at that time did not provide
6 acceptable identification. The secretary of state shall issue
7 rules to exempt voters from submitting identification only as
8 required by federal law and shall review and, if necessary,
9 update these rules no later than March 15 of even-numbered
10 years.

11 ~~[D. An application for an absentee ballot by a~~
12 ~~federal qualified elector or an overseas voter shall be~~
13 ~~accepted at any time preceding the general election.]~~

14 E.] C. A person who willfully and with knowledge
15 and intent to deceive or mislead any voter, precinct board,
16 canvassing board, county clerk or other election official and
17 who falsifies any information on an absentee ballot request
18 form or who affixes a signature or mark other than the person's
19 own on an absentee ballot request form is guilty of a fourth
20 degree felony."

21 **SECTION 26.** Section 1-6-5 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 131, as amended) is amended to read:

23 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

24 A. The county clerk shall mark each completed
25 absentee ballot application with the date and time of receipt

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1 in the clerk's office and enter the required information in the
2 absentee ballot register. The county clerk shall then
3 determine if the applicant is a voter, [~~an absent uniformed~~
4 ~~services~~] and if the voter is a uniformed-service voter or an
5 overseas voter. If the applicant is a uniformed-service voter
6 or overseas voter, the application shall be processed pursuant
7 to the Uniform Military and Overseas Voters Act.

8 B. If the applicant does not have a valid
9 certificate of registration on file in the county [~~and is not a~~
10 ~~federal qualified elector or if the applicant states that the~~
11 ~~applicant is a federal qualified elector but the application~~
12 ~~indicates the applicant is not a federal qualified elector~~], an
13 absentee ballot shall not be issued and the county clerk shall
14 mark the application "rejected" and file the application in a
15 separate file from those accepted.

16 C. The county clerk shall notify in writing each
17 applicant of the fact of acceptance or rejection of the
18 application and, if rejected, shall explain why the application
19 was rejected.

20 D. If the applicant has on file with the county a
21 valid certificate of registration that indicates that the
22 applicant is a voter who is a new registrant and who registered
23 by mail without submitting the required voter identification,
24 the county clerk shall notify the voter that the voter must
25 submit with the absentee ballot the required physical form of

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1 identification. The county clerk shall note on the absentee
2 ballot register and signature roster that the applicant's
3 absentee ballot must be returned with the required
4 identification.

5 E. If the ~~[county clerk finds that the applicant is~~
6 ~~a voter other than a federal qualified elector or overseas~~
7 ~~voter]~~ applicant has on file with the county a valid
8 certificate of registration, the county clerk shall mark the
9 application "accepted" and, beginning twenty-eight days before
10 the election, deliver an absentee ballot to the voter in the
11 county clerk's office or mail to the applicant an absentee
12 ballot and the required envelopes for use in returning the
13 ballot. ~~[If the county clerk finds that the applicant is a~~
14 ~~federal qualified elector or overseas voter, the county clerk~~
15 ~~shall mark the application "accepted" and beginning forty-five~~
16 ~~days before the election, mail to the applicant an absentee~~
17 ~~ballot and the required envelopes for use in returning the~~
18 ~~ballot. Acceptance of an application of a federal qualified~~
19 ~~elector constitutes registration for the election in which the~~
20 ~~ballot is to be cast. Acceptance of an application from an~~
21 ~~overseas voter who is not an absent uniformed services voter~~
22 ~~constitutes a request for changing information on the~~
23 ~~certificate of registration of any such voter.]~~ An absent voter
24 shall not be permitted to change party affiliation during those
25 periods when change of party affiliation is prohibited by the

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1 Election Code. Upon delivery of an absentee ballot to a voter
2 in the county clerk's office or mailing of an absentee ballot
3 to an applicant who is a voter, an appropriate designation
4 shall be made on the signature line of the signature roster
5 next to the name of the voter who has been provided or mailed
6 an absentee ballot.

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

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

16 H. Absentee ballots shall be sent to applicants not
17 later than on the Friday immediately prior to the date of the
18 election.

19 I. An absentee ballot shall not be delivered or
20 mailed by the county clerk to any person other than the
21 applicant for such ballot.

22 J. The secretary of state and each county clerk
23 shall make reasonable efforts to publicize and inform voters of
24 the times and locations for absentee voting; provided, however,
25 that notice is provided at least ten days before early voting

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1 begins.

2 K. The secretary of state shall establish
3 procedures for the submittal, when required by federal law, of
4 required voter identification with mailed-in absentee ballots.

5 L. It is unlawful to electioneer in the county
6 clerk's office or in any alternate voting location."

7 SECTION 27. Section 1-6-6 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 132, as amended) is amended to read:

9 "1-6-6. ABSENTEE BALLOT REGISTER.--

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

13 (1) the name and address of each absentee
14 ballot applicant;

15 (2) the date and time of receipt of the
16 application;

17 (3) whether the application was accepted or
18 rejected;

19 (4) the date of issue of an absentee ballot in
20 the county clerk's office or at an alternate location or the
21 mailing of an absentee ballot to the applicant;

22 (5) the applicant's precinct;

23 (6) whether the applicant is a voter [~~a~~
24 ~~federal qualified elector~~] and whether the voter is a
25 uniformed-service voter or an overseas voter;

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

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

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

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

23 D. The county clerk shall deliver to the absent
24 voter precinct on election day a complete list of all absentee
25 ballot applicants and early voters with applicable information

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1 shown in the absentee ballot register for each applicant and
2 early voter up to 6:00 p.m. on the Saturday preceding the
3 election. The county clerk shall deliver a signature roster
4 containing the same information as the lists to the absent
5 voter precinct board.

6 E. Upon request, the county clerk shall transmit to
7 the county chair of each of the major political parties in the
8 county a complete copy of entries made in the absentee ballot
9 register. Such transmissions shall be made once each week
10 beginning four weeks immediately prior to the election. A
11 final copy shall be transmitted on the Saturday immediately
12 following the election.

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

20 SECTION 28. Section 1-6-8 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 134, as amended) is amended to read:

22 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

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

25 (1) official inner envelopes for use in

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1 sealing the completed absentee ballot;

2 (2) official mailing envelopes for use in
3 returning the official inner envelope to the county clerk;
4 provided the official mailing envelope for absentee ballots in
5 a general election shall contain no designation of party
6 affiliation;

7 (3) absentee ballot instructions, describing
8 proper methods for completion of the ballot and returning it;
9 and

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

12 B. ~~[Official transmittal envelopes and official~~
13 ~~mailing envelopes for transmission of absentee ballot materials~~
14 ~~to and from the county clerk and federal qualified electors~~
15 ~~shall be printed in the form prescribed by the federal~~
16 ~~Uniformed and Overseas Citizens Absentee Voting Act.]~~ Official
17 transmittal envelopes and official mailing envelopes for
18 transmission of absentee ballot materials to and from the
19 county clerk and voters shall be printed in black in
20 substantially similar form. All official inner envelopes shall
21 be printed in black.

22 C. The reverse of each official mailing envelope
23 shall contain a form to be executed by the voter completing the
24 absentee ballot. The form shall identify the voter and shall
25 contain the following statement: "I will not vote in this

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1 election other than by the enclosed ballot. I will not receive
2 or offer any compensation or reward for giving or withholding
3 any vote."

4 D. The official mailing envelope shall contain a
5 space for the voter to record the voter's name, registration
6 address and year of birth. The envelope shall have a security
7 flap to cover this information."

8 SECTION 29. Section 1-6-9 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 135, as amended) is amended to read:

10 "1-6-9. MANNER OF VOTING--ALTERNATE DELIVERY METHODS.--
11 [~~A.~~] Except as provided in [~~Subsection B of this~~] Section 1-6-5
12 or Section 1-6-5.7 NMSA 1978, a person voting pursuant to the
13 Absent Voter Act shall secretly mark the absentee ballot in the
14 manner provided in the Election Code for marking paper ballots,
15 place it in the official inner envelope and securely seal the
16 envelope. The voter shall then place the official inner
17 envelope inside the official mailing envelope and securely seal
18 the envelope. The voter shall then complete the form on the
19 reverse of the official mailing envelope, which shall include a
20 statement by the voter under penalty of perjury that the facts
21 stated in the form are true and the voter's name, registration
22 address and year of birth. Voters shall either deliver or mail
23 the official mailing envelope to the county clerk of their
24 county of residence.

25 [~~B. Federal qualified electors and overseas voters~~

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1 ~~shall either deliver or mail the official mailing envelope or,~~
2 ~~in accordance with Subsection C of this section, electronically~~
3 ~~transmit the absentee ballot to the county clerk of their~~
4 ~~county of residence or deliver it to a person designated by~~
5 ~~federal authority to receive executed ballots for transmission~~
6 ~~to the county clerk of the county of residence or former~~
7 ~~residence as the case may be.~~

8 G. ~~A federal qualified elector or overseas voter~~
9 ~~may return an absentee ballot by electronic transmission if:~~

10 (1) ~~the voter signs a statement under penalty~~
11 ~~of perjury waiving the right of secrecy of the voter's ballot;~~

12 (2) ~~the voter transmits the statement with the~~
13 ~~absentee ballot; and~~

14 (3) ~~the transmission of the absentee ballot~~
15 ~~and statement are received by the county clerk no later than~~
16 ~~7:00 p.m. on election day.]"~~

17 SECTION 30. Section 1-6-10 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 136, as amended) is amended to read:

19 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

20 A. The county clerk shall mark on each completed
21 official mailing envelope the date and time of receipt in the
22 clerk's office, record this information in the absentee ballot
23 register and safely keep the official mailing envelope unopened
24 in a locked and number-sealed ballot box until it is delivered
25 to the absent voter precinct board or until it is canceled and

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1 destroyed in accordance with law.

2 B. Completed official mailing envelopes shall be
3 accepted until 7:00 p.m. on election day. Any completed
4 official mailing envelope received after that time shall not be
5 delivered to the absent voter precinct board but shall be
6 preserved by the county clerk until the time for election
7 contests has expired. In the absence of a restraining order
8 after expiration of the time for election contests, the county
9 clerk shall destroy all late official mailing envelopes without
10 opening or permitting the contents to be examined, cast,
11 counted or canvassed. Before their destruction, the county
12 clerk shall count the numbers of late ballots from voters,
13 uniformed-service voters and overseas voters [~~and federal~~
14 ~~qualified electors~~] and report the number from each category to
15 the secretary of state.

16 C. No later than 5:00 p.m. on the Monday
17 immediately preceding the date of election, the county clerk
18 shall record the numbers of unused ballots and shall publicly
19 destroy in the county clerk's office all such unused ballots or
20 prepare the unused ballots for delivery to precinct boards.
21 The county clerk shall execute a certificate of destruction,
22 which shall include the numbers on the ballots destroyed. A
23 copy of the certificate of destruction shall be sent to the
24 secretary of state."

25 SECTION 31. Section 1-10-5 NMSA 1978 (being Laws 1977,

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1 Chapter 222, Section 28, as amended) is amended to read:

2 "1-10-5. BALLOTS--PRINTING.--The county clerk shall have
3 access to sufficient ballots to send to federal qualified
4 electors [~~and overseas voters~~] no later than the last business
5 day before the forty-fifth day prior to [~~a primary or general~~]
6 an election [~~as required by federal law~~]. All other ballots
7 shall be printed and in the possession of the county clerk at
8 least forty days before the election. When a county is using a
9 system that is designed to print ballots at a polling location,
10 the system shall be programmed and capable of operation at
11 least forty days before the election."

12 SECTION 32. Section 3-9-1 NMSA 1978 (being Laws 1973,
13 Chapter 375, Section 2, as amended) is amended to read:

14 "3-9-1. DEFINITIONS.--As used in Chapter 3, Article 9
15 NMSA 1978:

16 [A. ~~"absent uniformed services voter" means:~~

17 (1) ~~a member of a uniformed service on active~~
18 ~~duty who, by reason of such active duty, is absent from the~~
19 ~~place of residence where the member is otherwise qualified to~~
20 ~~vote;~~

21 (2) ~~a member of the merchant marine who, by~~
22 ~~reason of service in the merchant marine, is absent from the~~
23 ~~place of residence where the member is otherwise qualified to~~
24 ~~vote; or~~

25 (3) ~~a spouse or dependent of a member~~

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1 ~~described in Paragraph (1) or (2) of this subsection who, by~~
2 ~~reason of the active duty or service of the member, is absent~~
3 ~~from the place of residence where the spouse or dependent is~~
4 ~~otherwise qualified to vote;~~

5 B.] A. "absentee voting" means the casting of a
6 vote by a qualified elector for any candidate or question prior
7 to election day;

8 [G.] B. "early voter" means a voter who votes in
9 person before election day, and not by mail;

10 [D.] C. "election" means a regular or special
11 municipal election;

12 [E.] D. "federal qualified elector" means:

13 (1) [~~an absent uniformed services~~] a
14 uniformed-service voter; or

15 (2) an [~~absent uniformed services~~] overseas
16 voter; [~~who, by reason of active duty or service, is absent~~
17 ~~from the United States on the date of the election involved;~~

18 F.] E. "immediate family" means a person's spouse,
19 children, parents, brothers and sisters;

20 [G. "~~member of the merchant marine~~" means an
21 ~~individual other than a member of a uniformed service or an~~
22 ~~individual employed, enrolled or maintained on the great lakes~~
23 ~~or the inland waterways who:~~

24 (1) ~~is employed as an officer or crew member~~
25 ~~of a vessel documented under the laws of the United States, a~~

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1 ~~vessel owned by the United States or a vessel of a foreign-flag~~
2 ~~registry under charter to or control of the United States; or~~

3 ~~(2) is enrolled with the United States for~~
4 ~~employment or training for employment or is maintained by the~~
5 ~~United States for emergency relief service as an officer or~~
6 ~~crew member of a vessel described in Paragraph (1) of this~~
7 ~~subsection;~~

8 H.] F. "overseas voter" means

9 ~~[(1) an absent uniformed services voter who,~~
10 ~~by reason of active duty or service, is absent from the United~~
11 ~~States on the date of the election involved;~~

12 ~~(2) a person who resides outside the United~~
13 ~~States and is qualified to vote in the last place in which the~~
14 ~~person was domiciled before leaving the United States; or~~

15 ~~(3) a person who resides outside the United~~
16 ~~States and, but for such residence, would be qualified to vote~~
17 ~~in the last place in which the person was domiciled before~~
18 ~~leaving the United States;~~

19 ~~I. "uniformed services" means the army, navy, air~~
20 ~~force, marine corps and coast guard and the commissioned corps~~
21 ~~of the national oceanic and atmospheric administration;] an~~
22 ~~individual who is a United States citizen, who is outside the~~
23 ~~United States and who:~~

24 ~~(1) is temporarily absent from the~~
25 ~~individual's residence in this state;~~

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1 (2) before leaving the United States, was last
2 eligible to vote in this state and, except for a state
3 residency requirement, otherwise satisfies this state's voter
4 eligibility requirements;

5 (3) before leaving the United States, would
6 have been last eligible to vote in this state had the voter
7 then been of voting age and, except for a state residency
8 requirement, otherwise satisfies this state's voter eligibility
9 requirements; or

10 (4) was born outside the United States, is not
11 otherwise described in this subsection and, except for a state
12 residency requirement, otherwise satisfies this state's voter
13 eligibility requirements, if:

14 (a) the last place where a parent or
15 legal guardian of the individual was, or under the Municipal
16 Election Code would have been, eligible to vote before leaving
17 the United States is within this state; and

18 (b) the individual has not previously
19 registered to vote in any other state;

20 G. "spouse or dependent" means an individual
21 recognized as a spouse or dependent by:

22 (1) the active and reserve components of the
23 army, navy, air force, marine corps or coast guard of the
24 United States;

25 (2) the merchant marine, the commissioned

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1 corps of the United States public health service or the
2 commissioned corps of the national oceanic and atmospheric
3 administration of the United States; or

4 (3) the national guard and state militia;

5 H. "uniformed-service voter" means an individual
6 whose voting residence is in this state, who otherwise
7 satisfies this state's voter eligibility requirements and who
8 is:

9 (1) a member of the active or reserve
10 components of the army, navy, air force, marine corps or coast
11 guard of the United States who is on active duty and who by
12 reason of that active duty is absent from the state;

13 (2) a member of the merchant marine, the
14 commissioned corps of the United States public health service,
15 the astronaut program of the national aeronautics and space
16 administration or the commissioned corps of the national
17 oceanic and atmospheric administration of the United States and
18 who by reason of that service is absent from the state;

19 (3) a member on activated status of the
20 national guard or state militia and who by reason of that
21 active duty is absent from the member's county of residence; or

22 (4) a spouse or dependent of a member referred
23 to in Paragraph (1), (2) or (3) of this subsection and who, by
24 reason of active duty or service of the member, is absent from
25 the state; and

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1 ~~[J-]~~ I. "voter" means a qualified elector of the
2 municipality."

3 SECTION 33. Section 3-9-3 NMSA 1978 (being Laws 1973,
4 Chapter 375, Section 1, as amended) is amended to read:

5 "3-9-3. ABSENTEE VOTING--REGULAR OR SPECIAL MUNICIPAL
6 ELECTIONS--RIGHT TO VOTE.--

7 A. Any voter ~~[or any overseas voter or federal~~
8 ~~qualified elector]~~ entitled to vote in the municipal election
9 may vote by absentee ballot for all candidates and on all
10 questions appearing on the ballot at such regular or special
11 election at the voter's assigned polling place, as if the voter
12 were able to cast a ballot in person at such polling place.

13 B. A federal qualified elector entitled to vote in
14 the municipal election may vote in a municipal election
15 pursuant to the provisions of the Uniform Military and Overseas
16 Voters Act.

17 ~~[B-]~~ C. The provisions of this section shall also
18 apply to a regular or special municipal election held in
19 conjunction with any other political subdivision."

20 SECTION 34. Section 3-9-4 NMSA 1978 (being Laws 1973,
21 Chapter 375, Section 3, as amended) is amended to read:

22 "3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--
23 ACCEPTANCE--ISSUANCE OF ABSENTEE BALLOT.--

24 ~~[A. Application by a federal qualified elector or~~
25 ~~overseas voter shall be made on the federal postcard~~

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1 ~~application form to the municipal clerk.~~

2 ~~B.]~~ A. The municipal clerk shall prescribe the form
3 of the absentee ballot application.

4 ~~[G.]~~ B. An application for an absentee ballot may
5 be obtained from the municipal clerk.

6 ~~[D.]~~ C. Upon receipt of a properly completed and
7 delivered application for an absentee ballot, the municipal
8 clerk shall contact the county clerk to determine if the
9 applicant is a qualified elector of the municipality.

10 ~~[E.]~~ D. The municipal clerk shall reject an
11 absentee ballot application for any of the following reasons:

12 (1) the application is not made on the form
13 provided by the municipal clerk;

14 (2) the application does not set forth the
15 applicant's full name and address;

16 (3) the application does not set forth the
17 applicant's date of birth;

18 (4) the application is not signed by the
19 applicant; or

20 (5) the applicant:

21 (a) has no valid affidavit of
22 registration on file with the county clerk [~~and is not a~~
23 ~~federal qualified elector or overseas voter~~]; or

24 (b) has a valid affidavit of
25 registration on file with the county clerk, but is not a

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1 resident of the municipality; [~~or~~

2 ~~(c) is a federal qualified elector or~~
3 ~~overseas voter, but is not entitled to vote in the municipal~~
4 ~~election;~~] and

5 [~~(d)~~] (c) cannot comply with
6 Subparagraph (a) or (b) [~~or (c)~~] of this paragraph pursuant to
7 Subsection B of Section 3-8-40 NMSA 1978.

8 [~~F.~~] E. If the municipal clerk rejects an absentee
9 ballot application pursuant to Subsection [~~E~~] D of this
10 section, the municipal clerk shall mark the application
11 "rejected", enter "rejected" in the absentee ballot register
12 and file the application in a separate file. The municipal
13 clerk shall, within twenty-four hours of rejection of the
14 application, notify the applicant in writing of the reasons for
15 rejection of the application. If the application is
16 incomplete, the municipal clerk shall immediately mail a new
17 application for an absentee ballot.

18 [~~G.~~] F. If the application for absentee ballot is
19 accepted, the municipal clerk shall:

- 20 (1) mark the application "accepted";
21 (2) enter the required information in the
22 absentee ballot register; and
23 (3) issue to the applicant an absentee ballot.

24 [~~H.~~] G. The municipal clerk shall deliver the
25 absentee ballot to the applicant in the office of the municipal

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1 clerk if the application for absentee ballot has been accepted
2 and if the application is submitted in person by the applicant
3 or mail an absentee ballot to any qualified elector [~~federal~~
4 ~~qualified elector or overseas voter~~] whose application for an
5 absentee ballot was received by mail and has been accepted.
6 The municipal clerk shall notify the county clerk who shall
7 write "absentee ballot" on the signature line of the signature
8 roster next to the name of the person who has been sent an
9 absentee ballot. Names of individuals that have been labeled
10 "absentee ballot" shall appear on a separate list called the
11 "absentee voter list". This list shall be submitted to the
12 municipal clerk by the county clerk in the same manner as
13 provided in Subsection B of Section 3-8-7 NMSA 1978.

14 [~~F.~~] H. It is the duty of the municipal clerk to
15 verify the signature roster and absentee voter list to ensure
16 that all names of individuals who have been issued absentee
17 ballots have been labeled "absentee ballot" on the signature
18 roster and their names listed on the absentee voter list. If
19 not, the municipal clerk shall write "absentee ballot" on the
20 signature line of the signature roster next to the name of the
21 person who has been sent an absentee ballot. The municipal
22 clerk shall then enter the name and all required information on
23 the absentee voter list.

24 [~~J.~~] I. If the application for an absentee ballot
25 is delivered in person to the municipal clerk during regular

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1 hours and days of business and is accepted, the municipal clerk
2 shall issue the voter the absentee ballot and it shall be
3 marked by the applicant in a voting booth in the municipal
4 clerk's office, sealed in the proper envelopes and otherwise
5 properly executed and returned to the municipal clerk or the
6 clerk's authorized representative before the applicant leaves
7 the office of the municipal clerk.

8 [K.] J. The act of marking the absentee ballot in
9 the office of the municipal clerk shall be a convenience to the
10 voter in the delivery of the absentee ballot and does not make
11 the office of the municipal clerk a polling place subject to
12 the requirements of a polling place in the Municipal Election
13 Code other than as provided in this subsection. During the
14 period of time between the date a person may first apply in
15 person for an absentee ballot and the final date for such
16 application and marking of the ballot in the office of the
17 municipal clerk, it is unlawful to solicit votes or display or
18 otherwise make accessible any posters, signs or other forms of
19 campaign literature whatsoever in the clerk's office.

20 [~~L.~~ ~~Absentee ballots shall be mailed to federal~~
21 ~~qualified electors and overseas voters whose applications have~~
22 ~~been accepted not earlier than thirty-five days prior to the~~
23 ~~election and not later than 5:00 p.m. on the Friday immediately~~
24 ~~prior to the date of the election.~~

25 M.] K. Absentee ballots shall be issued to voters

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1 whose applications have been approved not earlier than thirty-
2 five days prior to the election and not later than 5:00 p.m. on
3 the Friday immediately prior to the date of the election.

4 ~~[N.]~~ L. No absentee ballot shall be delivered or
5 mailed by the municipal clerk to any person other than the
6 applicant for such ballot."

7 **SECTION 35.** Section 3-9-5 NMSA 1978 (being Laws 1973,
8 Chapter 375, Section 6, as amended) is amended to read:

9 "3-9-5. ABSENTEE BALLOT REGISTER.--

10 A. For each election, the municipal clerk shall
11 keep an "absentee ballot register" in which the clerk shall
12 enter:

13 (1) in numerical sequence, the name and
14 municipal address of each absentee ballot applicant;

15 (2) the date and time of receipt of the
16 application;

17 (3) whether the application was accepted or
18 rejected;

19 (4) the date of delivery to the voter in
20 person in the office of the municipal clerk, or mailing of an
21 absentee ballot to the applicant, the method of delivery and,
22 if mailed, the address to which the ballot was mailed;

23 (5) the applicant's precinct and district
24 number, if applicable;

25 (6) whether the applicant is a voter, and

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1 whether the voter is a uniformed-service voter or an overseas
2 voter [~~or a federal qualified elector~~];

3 (7) affidavits of voters who did not receive
4 absentee ballots; and

5 (8) the date and time the completed ballot was
6 received from the applicant by the municipal clerk.

7 B. The absentee ballot register is a public record
8 open to public inspection in the municipal clerk's office
9 during regular office hours and shall be preserved for two
10 years after the date of the election. The municipal clerk
11 shall have an updated absentee ballot register available for
12 public inspection Monday through Friday during regular office
13 hours."

14 SECTION 36. Section 3-9-6 NMSA 1978 (being Laws 1973,
15 Chapter 375, Section 7, as amended) is amended to read:

16 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE BALLOT
17 ENVELOPES.--

18 A. The form of the absentee ballot shall be, as
19 nearly as practicable, in the same form as prescribed by the
20 municipal clerk for other ballots. However, to reduce weight
21 and bulk for transport of absentee ballots, the size and weight
22 of the paper for envelopes, ballots and instructions shall be
23 reduced as much as is practicable. The ballots shall provide
24 for sequential numbering.

25 B. Absentee ballots and envelopes shall be

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1 delivered by the printer to the municipal clerk not later than
2 thirty-five days prior to the date of the election to be held.

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

4 (1) official inner envelopes for use in
5 sealing the completed absentee ballot;

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

8 (3) absentee ballot instructions, describing
9 proper methods for completion of the ballot and returning it;
10 and

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

13 D. Official transmittal envelopes and official
14 mailing envelopes for transmission of absentee ballot materials
15 to and from the municipal clerk [~~and overseas voters~~] and
16 federal qualified electors shall be [~~printed in black in the~~
17 ~~form prescribed by postal regulations and the federal Uniformed~~
18 ~~and Overseas Citizens Absentee Voting~~] as prescribed in the
19 Uniform Military and Overseas Voters Act. Official transmittal
20 envelopes and official mailing envelopes for transmission of
21 absentee ballot materials to and from the municipal clerk shall
22 be printed in green in substantially similar form. All
23 official inner envelopes shall be printed in green.

24 E. The reverse of each official mailing envelope
25 shall contain a form to be signed by the person completing the

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1 absentee ballot. The form shall identify the person and shall
2 contain the following statement: "I will not vote in this
3 election other than by the enclosed ballot. I will not receive
4 or offer any compensation or reward for giving or withholding
5 any vote."."

6 SECTION 37. Section 3-9-7 NMSA 1978 (being Laws 1973,
7 Chapter 375, Section 8, as amended) is amended to read:

8 "3-9-7. MANNER OF VOTING--USE OF AN ELECTRONIC VOTING
9 DEVICE.--

10 A. Any person voting an absentee ballot under the
11 provisions of the Municipal Election Code shall secretly mark
12 the ballot as instructed on the ballot, place the marked ballot
13 in the official inner envelope and securely seal the envelope.
14 The voter shall then place the official inner envelope inside
15 the official mailing envelope and securely seal the envelope.
16 The voter shall then complete the form on the reverse of the
17 official mailing envelope.

18 B. ~~[Overseas voters and federal qualified electors~~
19 ~~shall either deliver their ballots in person or mail the~~
20 ~~official mailing envelope to the municipal clerk of their~~
21 ~~municipality of residence or deliver it to a person designated~~
22 ~~by federal authority to receive executed ballots for~~
23 ~~transmission to the municipal clerk of the municipality of~~
24 ~~residence.]~~ A voter, caregiver to that voter or member of that
25 voter's immediate family may deliver that voter's absentee

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1 ballot to the municipal clerk in person or by mail, provided
2 that the voter has subscribed the outer envelope of the
3 absentee ballot.

4 C. When an electronic voting device is used by the
5 voter to cast an absentee vote, the municipal clerk shall
6 ensure that each absentee voting machine is located within the
7 office of the municipal clerk. The area shall be secured by
8 lock and key. Each day during the time the absentee voting
9 machine is used for absentee voting, the municipal clerk shall,
10 in the presence of one other employee of the municipality,
11 unlock the office where the voting machine is located. Each
12 day, at the close of regular office hours, the municipal clerk
13 shall, in the presence of one other municipal employee, secure
14 the office where the voting machine is located. Each day
15 immediately after unlocking or locking the office where the
16 voting machine is located, the municipal clerk and the employee
17 present shall sign or initial the absentee voting daily report.
18 The municipal clerk shall prescribe the form of the absentee
19 voting daily report, which shall include the following
20 information:

- 21 (1) the voting machine serial number;
22 (2) the beginning and ending public counter
23 number for the day;
24 (3) the beginning and ending protective
25 counter number for the day;

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- 1 (4) the closing seal number, if any;
2 (5) the total number of voters for the day;
3 and
4 (6) a place for the date and signature of the
5 municipal clerk and the municipal employee.

6 D. Voting shall be conducted substantially in the
7 manner provided in the Municipal Election Code. The absentee
8 voting daily report shall be submitted to the absent voter
9 precinct on election day, along with any voting machines used."

10 SECTION 38. Section 3-9-8 NMSA 1978 (being Laws 1973,
11 Chapter 375, Section 9, as amended) is amended to read:

12 "3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED
13 BALLOTS BY MUNICIPAL CLERK.--

14 A. The municipal clerk shall mark on each completed
15 official outer envelope the date and time of receipt in the
16 municipal clerk's office, record this information in the
17 absentee ballot register and safely and securely keep the
18 official outer envelope unopened until it is delivered on
19 election day to the proper precinct board or until it is
20 canceled and destroyed in accordance with law. Once a ballot
21 is officially accepted by the municipal clerk and recorded in
22 the absentee ballot register, it cannot be returned to the
23 voter for any reason.

24 B. The municipal clerk shall accept completed
25 official outer envelopes received by mail or delivered in

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1 person to the municipal clerk's office by the voter signing the
2 official outer envelope, by a member of the voter's immediate
3 family or by the caregiver to the voter until 7:00 p.m. on
4 election day. Any completed outer envelope received after that
5 time and date shall be marked as to the time and date received,
6 shall not be delivered to the precinct board and shall be
7 preserved until the time for election contests has expired. In
8 the absence of a court order, after the expiration of the time
9 for election contests, the municipal clerk shall destroy all
10 late official mailing envelopes without opening or permitting
11 the contents to be examined, cast, counted or canvassed.

12 Before their destruction, the municipal clerk shall count the
13 numbers of late ballots from voters, uniformed-service voters
14 and overseas voters [~~and federal qualified electors~~] and record
15 the number from each category in the absentee ballot register.

16 C. After 5:00 p.m. and not later than 8:00 p.m. on
17 the Friday immediately preceding the date of the election, the
18 municipal clerk shall record the numbers of the unused absentee
19 ballots and shall publicly destroy in the municipal clerk's
20 office all unused ballots. The municipal clerk shall execute a
21 certificate of such destruction, which shall include the
22 numbers on the ballots destroyed, and the certificate shall be
23 placed within the absentee ballot register.

24 D. At 7:00 p.m. on the day of the election, the
25 municipal clerk shall determine the number of ballots that were

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1 mailed and have not been received and execute a "certificate of
2 unreceived absentee ballots". The certificate shall be placed
3 in the absentee ballot register and shall become an official
4 part of the register. The municipal clerk shall determine the
5 form of the certificate of unreceived absentee ballots."

6 SECTION 39. Section 3-9-11 NMSA 1978 (being Laws 1985,
7 Chapter 208, Section 99, as amended) is amended to read:

8 "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
9 PRECINCT BOARDS.--

10 A. Before opening any official mailing envelope, an
11 election judge shall determine that the required signature has
12 been executed on the reverse side of the official mailing
13 envelope.

14 B. If the signature is missing, an election judge
15 shall write "rejected" on the front of the official mailing
16 envelope. The election clerks shall write the notation
17 "rejected -- missing signature" in the "notations" column on
18 the absentee voter list. An election judge shall place the
19 official mailing envelope unopened in an envelope provided for
20 rejected ballots, seal the envelope, write the voter's name on
21 the front of the envelope and deposit it in the locked ballot
22 box.

23 C. Declared challengers certified by the municipal
24 clerk may examine the official mailing envelope and may
25 challenge the ballot of any absent voter for the following

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1 reasons:

2 (1) the official mailing envelope has been
3 opened prior to being received by the absent voter precinct
4 board; [~~or~~]

5 (2) the person offering to vote is not [~~an~~
6 ~~overseas voter, federal qualified elector or~~] a voter as
7 provided in the Municipal Election Code; or

8 (3) the person offering to vote is not a
9 federal qualified elector authorized to vote in a municipal
10 election.

11 Upon the challenge of an absentee ballot, an election
12 judge shall generally follow the same procedure as when ballots
13 are challenged when a person offers to vote in person. If a
14 challenged ballot is not to be counted, it shall not be opened
15 and shall be placed in an envelope provided for challenged
16 ballots.

17 D. If the official mailing envelopes have properly
18 executed signatures and the voters have not been challenged:

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

22 (2) the election clerks shall mark the
23 notation "AB" opposite the voter's name in the "notations"
24 column of the absentee voter list.

25 E. Prior to the closing of the polls, an election

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1 judge may remove the absentee ballots from the official inner
2 envelopes and either count and tally the results of absentee
3 balloting by hand or register the results of each absentee
4 ballot on a voting machine the same as if the absent voter had
5 been present and voted in person. It shall be unlawful for any
6 person to disclose the results of such count and tally or such
7 registration on a voting machine of absentee ballots prior to
8 the closing of the polls.

9 F. The municipal clerk shall, prior to the opening
10 of the polls on election day, notify the absent voter precinct
11 board in writing whether absentee ballots are to be counted and
12 tallied or registered on a voting machine. The procedures
13 shall be such as to ensure the secrecy of the ballot.

14 G. Absent voter precinct polls shall be closed at
15 7:00 p.m. on the day of the election by the absent voter
16 precinct board."

17 SECTION 40. TEMPORARY PROVISION.--The Uniform Military
18 and Overseas Voters Act shall be compiled as a separate article
19 in the Election Code.

20 SECTION 41. REPEAL.--Sections 1-6-2, 1-6-4.1, 1-6-4.2,
21 1-6-5.1, 1-6-18.1 and 3-9-2 NMSA 1978 (being Laws 1987, Chapter
22 327, Sections 6 and 9, Laws 2003, Chapter 355, Section 1, Laws
23 1991, Chapter 105, Section 10, Laws 2003, Chapter 356, Section
24 8 and Laws 1973, Chapter 375, Section 4, as amended) are
25 repealed.

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SECTION 42. APPLICABILITY.--The Uniform Military and Overseas Voters Act is applicable to any federal postcard application received as of the first day of the current election cycle.

SECTION 43. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.