



# The Legislature of the State of New Mexico

53rd Legislature, 1st Session

LAWS 2017

CHAPTER 101

HOUSE BILL 98, as amended

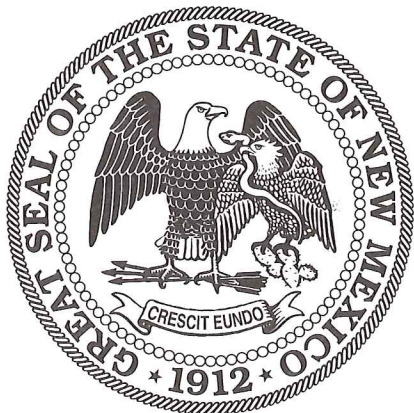
---

---

Introduced by

REPRESENTATIVE TOMÁS E. SALAZAR

SENATOR DANIEL A. IVEY-SOTO



# CHAPTER 101

## AN ACT

RELATING TO ELECTIONS; REQUIRING THE SECRETARY OF STATE TO ESTABLISH PROCEDURES BY WHICH BLIND OR VISUALLY IMPAIRED VOTERS MAY INDEPENDENTLY MARK THEIR BALLOTS; PROVIDING FOR ONLINE APPLICATION FOR ABSENTEE BALLOTS; CHANGING DEADLINES FOR BALLOT CHANGES AND MAKING CONFORMING AMENDMENTS; CHANGING REGISTRATION CLOSURE TIMES; CHANGING REQUIREMENTS FOR THE INVALIDATION OF NOMINATING PETITIONS; PROVIDING FOR REPLACEMENT BALLOTS FOR ABSENTEE VOTERS; CHANGING DEADLINES FOR TESTING OF NEW VOTING SYSTEMS.

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 application, operation and interpretation of the Election Code; and

(2) subject to the State Rules Act, make rules pursuant to the provisions of, and necessary to carry out the purposes of, the Election Code and shall furnish to

1 the county clerks copies of such rules; provided that no rule  
2 is adopted or amended within the sixty-three days before a  
3 primary or a general election.

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

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

9 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
10 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For  
11 qualified electors, the following provisions shall apply:

12 A. the county clerk shall receive certificates of  
13 registration at all times during normal working hours, except  
14 that the clerk shall close registration at the end of the  
15 twenty-eighth day immediately preceding any election at which  
16 the registration books are to be furnished to the precinct  
17 board;

18 B. registration shall be reopened on the Monday  
19 following the election;

20 C. for purposes of a municipal or school election,  
21 the registration period for those precincts within the  
22 municipality or school district is closed at the end of the  
23 twenty-eighth day immediately preceding the municipal or  
24 school election and is opened again on the Monday following  
25 the election;



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

8           E. when the twenty-eighth day prior to any  
9 election referred to in this section is a Saturday, Sunday or  
10 legal holiday, registration shall be closed at the end of the  
11 next succeeding regular business day for the office of the  
12 county clerk; and

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

16               (1) received by the county clerk by the end  
17 of the regular business day for the office of the county  
18 clerk on the Friday immediately following the close of  
19 registration;

20               (2) mailed and postmarked not less than  
21 twenty-eight days prior to any election referred to in this  
22 section; or

23               (3) accepted at a state agency designated  
24 pursuant to Section 1-4-5.2 NMSA 1978."  
25



1           **SECTION 3.** Section 1-6-4 NMSA 1978 (being Laws 1969,  
2 Chapter 240, Section 130, as amended) is amended to read:

3           "1-6-4. ABSENTEE BALLOT APPLICATION.--

4           A. Application by a voter for an absentee ballot  
5 shall be made only on a paper form or its electronic  
6 equivalent as prescribed by the secretary of state. The form  
7 shall identify the applicant and contain information to  
8 establish the applicant's qualification for issuance of an  
9 absentee ballot under the Absent Voter Act; provided that on  
10 the application form for a general election ballot there  
11 shall be no box, space or place provided for designation of  
12 the voter's political party affiliation.

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

24           C. A person who willfully and with knowledge and  
25 intent to deceive or mislead any voter, precinct board,

1 canvassing board, county clerk or other election official and  
2 who falsifies any information on an absentee ballot request  
3 form or who affixes a signature or mark other than the  
4 person's own on an absentee ballot request form is guilty of  
5 a fourth degree felony."

6 SECTION 4. Section 1-6-16.2 NMSA 1978 (being Laws 1993,  
7 Chapter 353, Section 1, as amended) is amended to read:

8 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

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

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

23 C. Before releasing the provisional paper ballot,  
24 the county clerk shall compare the signature on the written  
25 request with the signature on the voter's affidavit of

1 registration. If the county clerk determines that the  
2 signature on the written request is not the signature of the  
3 voter, the county clerk shall reject the request for a  
4 provisional paper ballot.

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

14 SECTION 5. Section 1-6-22.1 NMSA 1978 (being Laws 2009,  
15 Chapter 251, Section 1 and Laws 2009, Chapter 274, Section 1,  
16 as amended) is amended to read:

17 "1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE  
18 VOTING IN LIEU OF POLLING PLACE.--

19 A. Notwithstanding the provisions of Sections  
20 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday  
21 in November of each odd-numbered year, a board of county  
22 commissioners may designate a precinct as a mail ballot  
23 election precinct if, upon a written request of the county  
24 clerk, it finds that the precinct has fewer than one hundred  
25 voters and the nearest polling place for an adjoining



1 precinct is more than twenty miles driving distance from the  
2 boundary for the precinct in question.

3           B. If a precinct is designated a mail ballot  
4 election precinct, in addition to the notice required  
5 pursuant to Section 1-3-8 NMSA 1978, the county clerk shall  
6 notify by mail with delivery confirmation all voters in that  
7 precinct at least forty-two days before an election that each  
8 voter will be sent an absentee ballot twenty-eight days  
9 before the election and that there will be no polling place  
10 for the precinct on election day. The county clerk shall  
11 include in the notice a card informing the voter that if the  
12 voter does not want to receive an absentee ballot for that  
13 election, the voter should return the card before the date  
14 the county clerk is scheduled to mail out absentee ballots.  
15 The notice shall also inform the voter that a voting system  
16 equipped for persons with disabilities will be available at  
17 all early voting sites before election day and in the office  
18 of the county clerk on election day in case the voter prefers  
19 to vote in person and not by mail. In addition, the notice  
20 shall inform the voter if the county is consolidating  
21 precincts on election day and, if so, the ability of the  
22 voter to cast a ballot at any consolidated precinct on  
23 election day if the voter chooses not to receive an absentee  
24 ballot, or to cast a provisional ballot at any consolidated  
25 precinct if the voter does not receive an absentee ballot,

1 which will be counted upon confirmation that the voter has  
2 not returned the absentee ballot.

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

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

14 SECTION 6. Section 1-8-4 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 154, as amended by Laws 2014, Chapter  
16 40, Section 4 and by Laws 2014, Chapter 81, Section 4) is  
17 amended to read:

18 "1-8-4. SECRETARY OF STATE--CERTIFICATION OF NOMINEES--  
19 MINOR POLITICAL PARTY.--

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

24 (1) determine whether the method of  
25 nomination used by the certifying political party complies

1 with the current rules of that party on file in the secretary  
2 of state's office;

3 (2) determine whether the number of  
4 signatures required have been submitted and all the  
5 requirements of Sections 1-8-1 through 1-8-3 NMSA 1978 have  
6 been complied with; and

7 (3) if such determinations are answered in  
8 the affirmative, mail notice to the certifying party and the  
9 candidate no later than 5:00 p.m. on the Tuesday following  
10 the filing date that the certificates of nomination and  
11 nominating petitions are in proper order and that the  
12 candidate, based on those documents, is qualified to have the  
13 candidate's name placed on the ballot.

14 B. If a minor political party candidate is  
15 notified by the proper filing officer that the candidate is  
16 not qualified to have the candidate's name appear on the  
17 ballot, the candidate may challenge the decision by filing a  
18 petition with the district court within ten days of the  
19 notification. The district court shall hear and render a  
20 decision on the matter within ten days after the petition is  
21 filed. The decision of the district court may be appealed to  
22 the supreme court within five days after the decision is  
23 rendered. The supreme court shall hear and render a decision  
24 no later than sixty-three days prior to the general election.

25 C. Any voter may file a court action challenging a



1 minor political party candidate's nominating petitions  
2 pursuant to the provisions of Section 1-8-35 NMSA 1978."

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

5 "1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF  
6 CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE  
7 PRIMARY.--

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

13 (1) the death of a candidate after filing of  
14 the declaration of candidacy or after certification as a  
15 convention-designated nominee and before the primary  
16 election; or

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

23 B. The vacancy may be filled subsequent to the  
24 primary election by the central committee of the state or  
25 county political party, as the case may be, as provided by

1 Subsection A of Section 1-8-8 NMSA 1978. The name of the  
2 person to fill the vacancy on the general election ballot  
3 shall be filed with the proper filing officer on a form  
4 approved by the secretary of state within fifteen days after  
5 the primary election, and when so filed, it shall be placed  
6 on the general election ballot as the political party's  
7 nominee for such office."

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

10 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING  
11 AFTER PRIMARY.--

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

25 (1) the central committee of the state

1 political party filing the name of its nominee for the office  
2 with the proper filing officer when the office is a federal  
3 office, state office, district office or multicounty  
4 legislative district office; and

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

11 B. Appointments made pursuant to Subsection A of  
12 this section shall qualify pursuant to Section 1-8-18 NMSA  
13 1978.

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

20 D. Appointments to fill vacancies in the list of a  
21 party's nominees shall be made and filed with the proper  
22 filing officer using a form approved by the secretary of  
23 state at least sixty-three days prior to the general  
24 election.

25 E. When the name of a nominee is filed as provided



1 in this section, the name shall be placed on the general  
2 election ballot as the party's candidate for that office."

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

5 "1-8-9. GENERAL ELECTION--WITHDRAWAL OF CANDIDATES.--No  
6 candidate shall withdraw from a general election unless the  
7 candidate withdraws at least seventy days prior to that  
8 election and the candidate files a signed and notarized  
9 statement of withdrawal with the proper filing officer."

10 SECTION 10. Section 1-8-31 NMSA 1978 (being Laws 1973,  
11 Chapter 228, Section 5, as amended) is amended to read:

12 "1-8-31. NOMINATING PETITION--SIGNATURES TO BE  
13 COUNTED.--

14 A. A person who signs a nominating petition shall  
15 sign only one petition for the same office unless more than  
16 one candidate is to be elected to that office, and in that  
17 case, a person may sign not more than the number of  
18 nominating petitions equal to the number of candidates to be  
19 elected to the office.

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

25 C. A signature shall be counted on a nominating

1 petition unless there is evidence presented that the person  
2 signing:

3 (1) failed to provide information required  
4 by the nominating petition;

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

8 (3) has signed more than one petition for  
9 the same office, except as provided in Subsection A of this  
10 section, or has signed one petition more than once;

11 (4) is not of the same political party as  
12 the candidate named in the nominating petition as shown by  
13 the signer's certificate of registration; or

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

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

19 (1) the party affiliation of voters signing  
20 the petition;

21 (2) the candidate's name;

22 (3) the office sought by the candidate; and

23 (4) the district of the office sought, or,  
24 if the office sought is a judicial division office within a  
25 judicial district, the judicial division number.

1           E. With or without a showing of fraud or  
2 reasonable opportunity for fraud, a nominating petition,  
3 including all signatures on the petition page, shall be  
4 invalid if any of the information required by Subsection D of  
5 this section is not listed on the petition before the  
6 petition is signed by a voter or if any of the required  
7 information is altered.

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

14       **SECTION 11.** Section 1-9-7.1 NMSA 1978 (being Laws 2005,  
15 Chapter 270, Section 56, as amended) is amended to read:

16       "1-9-7.1. VOTING SYSTEM--USE OF PAPER BALLOT--ACCESS  
17 FOR BLIND OR VISUALLY IMPAIRED VOTERS.--

18           A. All voting systems used in elections covered by  
19 the Election Code shall use a paper ballot on which the voter  
20 physically or electronically marks the voter's choices on the  
21 ballot itself.

22           B. The secretary of state shall purchase the paper  
23 ballots for all counties to use for primary and general  
24 elections. If a system designed to print ballots at a  
25 polling location is certified and the voting system



1 certification committee finds that its use in a polling place  
2 would result in cost savings, the secretary of state shall  
3 acquire such systems and paper ballot stock in lieu of fully  
4 preprinted paper ballots for those polling places where cost  
5 savings would be realized.

6 C. The paper ballot shall be used in a recount  
7 proceeding, and in case of a discrepancy, the paper ballot  
8 shall be considered the true and correct record of the  
9 voter's choices.

10 D. The secretary of state shall establish by rule  
11 procedures to enable blind or visually impaired voters to  
12 independently mark a paper ballot using nonvisual access or  
13 low vision access technology, whether voting in a polling  
14 place or by absentee ballot."

15 SECTION 12. Section 1-9-7.2 NMSA 1978 (being Laws 2005,  
16 Chapter 270, Section 57, as amended) is amended to read:

17 "1-9-7.2. VOTING SYSTEMS--TESTING OF PREVIOUSLY  
18 CERTIFIED SYSTEMS.--The secretary of state may voluntarily  
19 test and certify voting systems without an application by the  
20 manufacturer if the system has been previously certified by  
21 the United States election assistance commission. Tests and  
22 inspections conducted pursuant to this section shall follow  
23 the procedures in Section 1-9-14 NMSA 1978; provided,  
24 however, if the manufacturer has not applied for  
25 certification of that voting system, the manufacturer shall

1 not be required to pay for the costs of testing and  
2 certification."

3       **SECTION 13.** Section 1-9-14 NMSA 1978 (being Laws 1983,  
4 Chapter 226, Section 1, as amended) is amended to read:

5       "1-9-14. VOTING SYSTEMS--AUTHORITY OF THE SECRETARY OF  
6 STATE TO TEST--CERTIFICATION.--

7           A. The secretary of state shall provide for the  
8 testing and evaluation of voting systems designed for the  
9 purpose of recording and tabulating votes within polling  
10 places in New Mexico. All voting systems certified for use  
11 in the state shall be tested by an independent authority and  
12 shall comply with all requirements in the Election Code and  
13 the most recent voluntary voting system guidelines adopted by  
14 the United States election assistance commission.

15           B. Any person who has a voting system that is  
16 designed for the purpose of recording and tabulating votes  
17 within a polling place may apply on or before June 1 of any  
18 odd-numbered year to the secretary of state to have the  
19 equipment examined and tested for certification. At the time  
20 application is made for initial certification, the applicant  
21 shall pay for testing each system in an amount that reflects  
22 the actual cost of such test. Upon receipt of the  
23 application, the secretary of state shall examine and study  
24 the voting system to ensure that it complies with all  
25 requirements in the Election Code and the most recent

1 voluntary voting system guidelines adopted by the United  
2 States election assistance commission. As part of the  
3 examination, the secretary of state shall require the system  
4 to be independently inspected by persons or testing  
5 laboratories technically qualified to evaluate and test the  
6 operation and component parts of voting systems and shall  
7 require a written report on the results of such testing. The  
8 secretary of state may authorize field testing of the  
9 equipment in one or more polling places in any state or local  
10 government election; provided that such field tests shall be  
11 conducted at no cost to the state or any local government.

12 C. Upon completion of all tests and examination of  
13 all written test reports, the secretary of state shall make a  
14 written report of the result of the findings and shall file  
15 that report, together with the written test reports, in the  
16 office of the secretary of state and post them on the  
17 secretary of state's website. The secretary of state shall  
18 accept public comment during the twenty-one days following  
19 the filing of the written report.

20 D. Following the period of public comment, the  
21 secretary of state shall submit the filed reports and any  
22 public comments for consideration by the voting system  
23 certification committee. The voting system certification  
24 committee shall make recommendations regarding the  
25 suitability and reliability of the use of such equipment in



1 the conduct of elections under the Election Code.

2 E. The voting system certification committee shall  
3 recommend that a voting system be certified for use in the  
4 state only if it complies with all requirements in the  
5 Election Code and the most recent voluntary voting system  
6 guidelines adopted by the United States election assistance  
7 commission.

8 F. If the voting system certification committee  
9 report finds that the voting system does not comply with all  
10 requirements in the Election Code or does not meet federal  
11 election standards, the secretary of state shall allow thirty  
12 days for an appeal of the findings to be filed or for the  
13 deficiencies to be corrected, following which the secretary  
14 of state shall report back to the voting system certification  
15 committee with a written final report.

16 G. The voting system certification committee shall  
17 reconvene to consider the final report of the secretary of  
18 state and shall make final recommendations regarding the  
19 suitability and reliability of the use of such equipment in  
20 the conduct of elections under the Election Code.

21 H. If the voting system certification committee  
22 recommends that the voting system is suitable for use in  
23 elections in New Mexico, within thirty days of receiving the  
24 recommendation, the secretary of state shall certify or  
25 recertify the equipment for use in elections in this state.

1 I. If the voting system certification committee  
2 does not recommend that the voting system for recording and  
3 tabulating votes is suitable for use in elections in New  
4 Mexico, within thirty days of receiving the recommendation,  
5 the secretary of state shall deny the application or  
6 decertify the equipment for use in elections in this state."

7 SECTION 14. Section 1-10-4 NMSA 1978 (being Laws 1977,  
8 Chapter 222, Section 27, as amended) is amended to read:

9 "1-10-4. BALLOTS--PREPARATION.--

10 A. Not less than sixty-three days before the  
11 primary election, each proper filing officer shall group all  
12 candidates for each party by themselves and prepare in  
13 writing a separate ballot for each party and certify the  
14 candidates for each ballot position to the printer.

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

24 C. Upon request of the county chair of a political  
25 party participating in the election, the county clerk shall

1 furnish proof sheets or a copy of the proof sheets of the  
2 ballot as soon as they become available."

3 SECTION 15. Section 1-12-25.2 NMSA 1978 (being Laws  
4 2003, Chapter 356, Section 3, as amended) is amended to read:

5 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--  
6 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

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

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

22 C. Beginning with the closing of the polls on  
23 election day through the tenth day following the election,  
24 the county clerk shall notify by mail each person whose  
25 provisional paper ballot was not counted of the reason the



1 ballot was not counted. The voter shall have until the  
2 Friday prior to the meeting of the state canvassing board to  
3 appeal to the county clerk a decision to reject the voter's  
4 ballot."

5 SECTION 16. Section 1-15-3 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 353, as amended) is amended to read:

7 "1-15-3. PRESIDENTIAL ELECTORS--NOMINATION.--

8 A. Any qualified political party in New Mexico  
9 desiring to have candidates for president and vice president  
10 on the general election ballot in a presidential election  
11 year shall, at a state party convention held in the year of  
12 such election, choose from the voters of the party the number  
13 of presidential electors required by law and no more.

14 B. The presidential electors shall be nominated by  
15 the state convention according to the rules of that party on  
16 file with the secretary of state.

17 C. Upon the nomination of presidential electors,  
18 the chair and secretary of the convention shall certify the  
19 names and addresses of the nominees not less than sixty-three  
20 days prior to the election to the secretary of state. The  
21 secretary of state shall record the nominees' names in the  
22 secretary's office as the presidential elector nominees of  
23 that party."

24 SECTION 17. Section 1-15A-7 NMSA 1978 (being Laws 1977,  
25 Chapter 230, Section 6, as amended by Laws 1980, Chapter 13,

1 Section 2 and also by Laws 1980, Chapter 43, Section 2) is  
2 amended to read:

3 "1-15A-7. NOTIFICATION TO CANDIDATES.--The secretary of  
4 state shall contact each person who has been nominated by the  
5 committee or by petition and notify the person in writing by  
6 certified mail, with return receipt requested, that the  
7 person's name will be printed as a candidate on the New  
8 Mexico presidential primary ballot unless the person requests  
9 in writing otherwise at least sixty-three days prior to the  
10 election."

11 SECTION 18. Section 1-16-3 NMSA 1978 (being Laws 1969,  
12 Chapter 240, Section 376, as amended) is amended to read:

13 "1-16-3. STATE CONSTITUTIONAL AMENDMENTS--  
14 CERTIFICATION.--Whenever a proposed constitutional amendment  
15 or other question is to be submitted to the voters of the  
16 entire state, the secretary of state, not less than sixty-  
17 three days before the election at which it is to be  
18 submitted, shall certify the proposed constitutional  
19 amendment or question to the county clerk of each county."

20 SECTION 19. Section 1-24-2 NMSA 1978 (being Laws 1989,  
21 Chapter 295, Section 2, as amended) is amended to read:

22 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--  
23 PUBLICATION.--

24 A. Whenever a local government special election is  
25 to be called or is required by law, the governing body shall

1 by resolution issue a public proclamation calling the  
2 election. The proclamation shall forthwith be filed with the  
3 county clerk. The proclamation shall specify:

4 (1) the date on which the special election  
5 will be held;

6 (2) the purpose for which the special  
7 election is called;

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

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

13 (5) the precincts in each county in which  
14 the election is to be held and the location of each polling  
15 place in the precinct;

16 (6) the hours that each polling place will  
17 be open; and

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

20 B. After filing with the county clerk the  
21 proclamation issued pursuant to Subsection A of this section,  
22 and not less than sixty-three days before the date of the  
23 election, the governing body shall publish the proclamation  
24 once each week for two consecutive weeks in a newspaper of  
25 general circulation within the boundaries of the local



1 government or special district. The proclamation shall  
2 conform to the requirements of the federal Voting Rights Act  
3 of 1965, as amended.

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

14 (1) the date on which the special election  
15 will be held;

16 (2) the purpose for which the special  
17 election is called;

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

21 (4) if a question is to be voted upon, the  
22 text of that question; and

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

25 D. After the proclamation issued pursuant to

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

HB 98  
Page 26

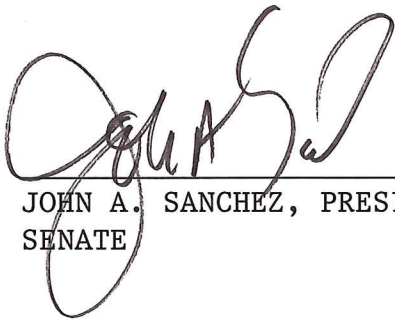
House of Representatives



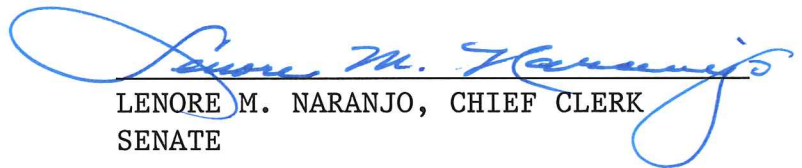
BRIAN EGOLF, SPEAKER  
HOUSE OF REPRESENTATIVES



LISA M. ORTIZ McCUTCHEON, CHIEF CLERK  
HOUSE OF REPRESENTATIVES



JOHN A. SANCHEZ, PRESIDENT  
SENATE



LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 6<sup>th</sup> day of April, 2017



SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO