

NEW MEXICO SECRETARY OF STATE
ADMINISTRATIVE RULE HEARING
THURSDAY, JULY 22, 2021, 9:06 A.M.

NEW MEXICO STATE CAPITOL BUILDING
ROOM 322
SANTA FE, NEW MEXICO

A P P E A R A N C E S

SHARON PINO, Deputy Secretary, Hearing Officer

KARI FRESQUEZ, Director of Legislative and
Executive Affairs

MANDY VIGIL, State Elections Director

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REPORTED BY: KIM KAY SHOLLENBARGER, RPR
PAUL BACA PROFESSIONAL COURT REPORTING
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1 HEARING OFFICER PINO: Now we are going to go ahead
2 proceed into our formal hearing. This hearing will now come
3 to order. Today is July 22nd, 2021. The time is now 9:06
4 a.m. and we are assembled in State Capitol Building, Room 322
5 in Santa Fe, New Mexico.

6 Again, as I mentioned, I'm Sharon Pino, I'm the
7 Deputy Secretary of State and I will be acting as the Hearing
8 Officer for this Public Comment Rule Hearing. The purpose of
9 this hearing is for the Office of the New Mexico Secretary of
10 State to receive public comment, views, argument, testimony
11 and data on its proposed rule on implementation of Secured
12 Containers to be codified as Part 1.10.19 NMAC, as well as
13 amendments to the Alternative and Election Day Voting
14 Administration Rule, Part 1.10.15 NMAC.

15 This hearing is being conducted in accordance with
16 NMSA 1987 Section 1-2-2, which authorizes the Secretary of
17 State to adopt and promulgate rules and regulations to
18 implement and provide uniform effective procedures to carry
19 out the process of the Election Code. In addition, the
20 hearing procedure will comply with the State Rules Act and
21 the default procedural rule for rulemaking found at 1.24.25
22 NMAC.

23 Public notice of this hearing was provided to the
24 public and published in the New Mexico Register on June 22nd,
25 2021. The notice of the rule has also been posted and

1 provided on the New Mexico Sunshine Portal. Copies of the
2 proposed rules have been available at the Secretary of
3 State's Office and posted on its website since the notice was
4 published, and copies of the proposed rules are also
5 available to the public attending this hearing on the table
6 located near the door. So hopefully you were able to pick up
7 copies of those. This hearing is also being live-streamed on
8 the Secretary of State's website at www.sos.state.nm.us.

9 I ask all members in attendance please silence your
10 cell phones and ask that any extended conversations please be
11 held outside of the room. May I remind everyone to please,
12 again, if you have not done so already, sign in on the
13 sign-in sheet and that will later be entered as an exhibit
14 into the record for this hearing.

15 It's not too crowded, I don't think we have to do a
16 limitation on the time for your comment period; however,
17 again, if comments start to become redundant I will ask you
18 to move on and address new areas so that we can have everyone
19 -- we are scheduled for two hours, but we want everyone to
20 have the opportunity to speak and give their comment.

21 Let the record show that staff from the Secretary of
22 State's Office is present. And as I mentioned, we have our
23 State Elections Director, Mandy Vigil. We also have our
24 Director of Legislative and Executive Affairs, Kari Fresquez,
25 who is present.

1 This is a formal proceeding and a court reporter has
2 been designated to transcribe these proceedings. So again,
3 you might want to remember that when you are giving your
4 comments, please talk clearly, not too fast so we can make
5 sure that we get everything on the record. The transcript
6 from this hearing will become a part of the Rules Hearing
7 record; therefore, persons recognized to testify or offer
8 comments are asked to please identify yourself for the record
9 by name and relevant affiliation, if any, each time you
10 address the Hearing Officer. So each time you speak please,
11 because we're making a record, state your name and any
12 affiliation, if necessary. Also, again, please speak loudly
13 and clearly so the court reporter can pick up your comment.

14 This hearing will be conducted in accordance with
15 1.24.25.13 NMAC. First we will have Secretary of State staff
16 present exhibits. I, as the Hearing Officer, will rule on
17 the admissibility of those exhibits offered for admission.
18 Exhibits admitted into evidence are available for review by
19 any members of the public. At a certain point, again, we
20 will put those there and if anybody wants to come in and take
21 a look at the exhibits, you're welcome to do so.

22 After staff offers exhibits and their admission has
23 been ruled upon I will open the hearing for testimony and
24 comments from the audience. If you have indicated on the
25 sign-in sheet that you would like to testify you should have

1 signed your name on the corresponding attendance sheet. We
2 will proceed with general comments first on the proposed rule
3 on Secured Containers, after that that will be followed by
4 comments on amendments to the Alternative and Election Day
5 Voting Administration rule. I will call individuals to
6 testify in the order that they have signed up.

7 The Secretary of State does not follow the Rules of
8 Evidence and therefore the Hearing Officer may, in the
9 interests of efficiency, exclude or limit comments or
10 questions deemed irrelevant, redundant or unduly repetitious.
11 The decision as to whether such exhibits, testimony,
12 commentary or other evidence is irrelevant, redundant or
13 unduly repetitious is made by the Hearing Officer.

14 May I have a show of hands of any people who intend
15 to testify or comment on the proposed rules or amendments.
16 Again, I think because we have two hours and we don't have a
17 whole lot of people we're not going limit those. I would
18 just ask, again, please don't be repetitive.

19 After a person has testified or offered comments any
20 members of the audience wishing to question the person who
21 just offered their comment may do so after being recognized
22 by the Hearing Officer. Again, if you are asking to be
23 recognized, please state your name and your affiliation.
24 Each person recognized to speak, they identify themselves for
25 the record. Questions will be limited to only clarifying

1 questions to the person who has offered testimony.

2 In asking clarifying questions please be aware that
3 this hearing is scheduled for two hours. We need to be
4 respectful of everyone's time. This public hearing is
5 intended to provide the public with an opportunity to voice
6 opinions to the proposed rule.

7 So this hearing is now open. Secretary of State, do
8 you have any exhibits to introduce into evidence at this
9 time.

10 MS. FRESQUEZ: Hearing Officer Pino, I do have
11 exhibits to enter into evidence beginning with Exhibit 1, the
12 Notice of Proposed Rulemaking. This was published in the New
13 Mexico Register.

14 Exhibit 2 is the proposed rule on Secured Containers
15 to be codified as 1.10.19 NMAC.

16 Exhibit 3, proposed amendments to the Alternative
17 and Election Day Voting Administration rule codified as
18 1.10.15 NMAC.

19 Exhibit 4 is correspondence to the New Mexico
20 Legislative Council regarding Notice of Rulemaking.

21 Exhibit 5 is written public comment received during
22 the open comment period on Secured Containers.

23 Exhibit 6 is written public comment received to this
24 point on the Alternative and Election Day Administrative
25 rule.

1 Finally, Exhibit 7 is the press release issued by
2 the Office of the Secretary of State providing notice to the
3 public regarding the public hearing being held today.

4 HEARING OFFICER PINO: And the date on that, please.

5 MS. FRESQUEZ: The date is Friday, July, 16th.

6 HEARING OFFICER PINO: Exhibits 1 through 7 are
7 hereby admitted into the record.

8 Now, any person wishing to submit additional data,
9 views, argument or testimony shall do so after they are
10 recognized by the Hearing Officer. Each document shall be
11 introduced as an exhibit in the record. Upon a ruling on
12 admissibility each exhibit will be marked and numbered and
13 entered into the record.

14 The proposed rule and amendments have been
15 introduced in the record. I will now open the floor to the
16 audience for testimony and comment on these proposed rules.
17 The audience may ask clarifying questions to each person
18 after providing his or her testimony, commentary. And again,
19 we're going to allow one minute to respond to any clarifying
20 question. If the person who gave the comment is asked a
21 clarifying question they will be allowed. And, again, as
22 long as it's not repetitive and we're good on time, we will
23 extend that.

24 I will now call for testimony on the proposed rules
25 on Secured Containers. It looks like everyone signed in on

1 one sign-in sheet. We'll ask first the people who have
2 comments specifically on Secured Containers to come up. If
3 you don't and it's on the other rule, please indicate that
4 and we will call you up for the next rule, okay.

5 First on our list is Judith Nowers. You said you
6 didn't want to speak, so no comment, okay. Leticia Munoz, do
7 you have comments on Secured Containers?

8 MS. MUNOZ: Yes, I do.

9 HEARING OFFICER PINO: Please come forward right in
10 front of the mic.

11 MS. MUNOZ: My name is Leticia Munoz. I am here
12 reading the statement provided by the Republican Party
13 Election Integrity Committee. I am a volunteer on that
14 committee, and this statement is on the Secured Containers,
15 proposed Rule 1.10.19.

16 The Secretary of State misinterprets the provisions
17 of NMSA 1-6-9(E) by imposing minimum numbers of secured
18 containers according to a voting population-based formula
19 determined by the Secretary of State. The statute does not
20 require any county clerk to establish a minimum number of
21 ballot drop boxes for secured containers. The statute
22 provides, quote, the official mailing envelope may be
23 returned by depositing the official mailing envelope in a
24 secured container made available by the county clerk to
25 receive voted mail ballots for that election, quote.

1 In Subsection D just above this provision it
2 provides that the official mailing envelope may be returned
3 in person to the office of the county clerk or to an
4 alternate voting location, mobile alternate voting location
5 or election day voting day location. The word may in
6 Subsection D does not create any requirement for every county
7 to operate a minimum number of mobile alternate voting
8 locations to accommodate delivery of mailed ballots, just as
9 the use of the word may does not require a minimum number of
10 secured containers under Subsection E.

11 The proposed rule acts as an unfunded mandate on a
12 county clerk, which is not supported by the statute. The
13 county clerk should not have to seek an exemption from the
14 Secretary of State to avoid the extent of providing
15 monitoring of video surveillance for some yet to be
16 determined minimum number of containers set by the Secretary
17 of State's Office.

18 The provisions of the proposed rule suggests that
19 the permanent secured containers should be located on, quote,
20 college campuses, libraries, community centers and other
21 public buildings with adequate accessibility lighting and the
22 ability to install the required video surveillance system,
23 unquote. Permanent installation of such secured containers
24 in a location means that election area is prohibited within
25 100 feet of the container since it is considered a polling

1 place.

2 The proposed rule provides D, secured containers
3 shall be available for use by a voter 24 hours day starting
4 28 days before an election and on election day for all
5 elections conducted pursuant to the Election Code. Again,
6 there is no requirement in the statute for secured containers
7 to be available for use 24 hours a day. In fact, the statute
8 NMSA 1978 1-6-9(E)(1) specifically provides that the county
9 clerk shall post the days and times containers will be
10 available to receive ballots.

11 If the legislature had intended to require counties
12 to undertake the expense and security risks associated with
13 maintaining surveillance of the secured containers on a
14 24-hour day basis it would not have included the requirement
15 for the times to be listed. The Secretary of State does not
16 have authority to force counties to establish additional
17 polling places beyond the minimum statutory requirements.
18 Authority to establish polling places is vested in each
19 county commission under NMSA 1978 1-3-7.

20 The proposed rule the authority of the county clerk
21 and county commission to determine the appropriate number of
22 polling places in each county and establish procedures which
23 create insecurity in the election process. The county clerks
24 are responsible for the safety, security and custody of
25 mailed ballots returned by voters. The procedures of the

1 Secretary of State is attempting to mandate, impair the
2 ability of county clerks and county commissions to provide
3 for adequate, valid security measures in order to perform
4 their statutory duties. The Secretary of State seeks to
5 avoid the specter of an unfunded mandate by providing
6 1.10.19.14, Reimbursement by the Secretary of State.

7 May I continue?

8 HEARING OFFICER PINO: Sure, is it a new comment?

9 MS. MUNOZ: It continues based on 1.10.19.14, it's
10 kind of a continuation of the Secured Containers.

11 HEARING OFFICER PINO: Okay.

12 MS. MUNOZ: A, county clerks may request
13 reimbursement from the Secretary of State for the cost of
14 hiring additional staff necessary for monitoring secured
15 container video surveillance, installing and maintaining
16 secured containers and collecting ballots from permanent and
17 temporary ballot drop boxes.

18 B, county clerks may request reimbursement from
19 Secretary of State for purchasing approved containers and
20 supplies related to maintaining permanent temporary ballot
21 boxes. Request for reimbursement made of the Secretary of
22 State are required to be submitted in a manner prescribed by
23 the Secretary of State no later than 45 days after election
24 day.

25 In the 2021 regular legislative session there was

1 testimony from the Secretary of State and county clerks
2 regarding reimbursement to the counties for election
3 expenses. At that time the testimony indicated that none of
4 the 33 counties had been fully reimbursed for the
5 expenditures currently required to be funded by the Secretary
6 of State's Office. Now the Secretary seeks to impose a
7 mandatory requirement on the counties with the provisions
8 that they may or may not receive reimbursement.

9 That's all. Thank you.

10 HEARING OFFICER PINO: Thank you. Does anyone in
11 the audience wish to ask clarifying questions of this
12 speaker? Thank you for your comment.

13 MS. MUNOZ: Thank you.

14 HEARING OFFICER PINO: Would the next person please
15 come forward, Leanna Derrick. Please state your name and
16 affiliation, if any.

17 MS. DERRICK: My name is Leanna Derrick and I am
18 affiliated with Call to Action New Mexico. I'm also a
19 volunteer and registrar for the State of New Mexico.

20 HEARING OFFICER PINO: Thank you. And you have
21 comments related to the Secured Containers?

22 MS. DERRICK: I do, and it comes from my personal
23 experience and my concerns are ballot harvesting, put in
24 plain terminology. I don't have legal experience or a legal
25 body of knowledge, but I am very concerned about the way that

1 the new rule proposes, is that permanent ballot boxes will be
2 available 24 hours day for anyone to access. I don't believe
3 that videotaping will secure every ballot, that's my concern,
4 because we cannot verify the person without a valid
5 verification, photo I.D., to ensure that that is the person
6 dropping them off. We can't verify the person dropping off
7 are close family member, that will not be verifiable by
8 videotape. We also can't ask the Secretary of State and the
9 county persons to verify how many times that individual has
10 dropped off ballots, that is a great concern because the
11 voter integrity of the State of New Mexico is in question to
12 the point where advocates -- I advocate for people and the
13 people I advocate for have expressed their greatest concern
14 that their ballots and their voting rights are being not
15 listened to and that is one of the biggest parts of this
16 security 24 hours a day if it's not being monitored in person
17 and they're not being monitored every hour by an actual live
18 person looking at every one of these voting receptacles to
19 ensure it's just one ballot being dropped off per person,
20 there's no way to verify that.

21 I see it's a huge problem for New Mexico and I am
22 asking that that be not included in this rule. I know it's
23 not on the laws, but asking for voter identification is
24 critical. My child can't go to a doctor unless they have
25 voter identification. Any of us here cannot do many

1 activities and function without a voter identification, and
2 ballot boxes that don't require that is impersonal, it
3 retracts from the very right of voting. Our Civil Right and
4 our duty should not be handled in a mechanical nature. It
5 should be allowable that we have actual persons to do this.

6 This is asking the Secretary of State to look at the
7 fact that you can't afford to have that many people 24 hours
8 a day and that's, in my mind, cheating. It's cheating the
9 public of the opportunity to actually vote in place and to
10 carry out the business of voting and their right to vote in a
11 humane manner, and this new rule will take that away.

12 The shutdown made this temporary law during a
13 shutdown emergency situation. Now the sunset law has
14 precluded that. However, we are not in the same state that
15 we were when this initial temporary law was put in place, and
16 therefore it needs to be thought out more carefully, and this
17 is what I'm asking.

18 That's really all I have to say about receptacles.

19 HEARING OFFICER PINO: Thank you, Ms. Derrick. Does
20 anybody in the audience have any questions of this witness?
21 Thank you so much. Marcie May, do you have comments related
22 to Secured Containers?

23 MS. MAY: Yes, ma'am.

24 HEARING OFFICER PINO: Please come forward. Please
25 identify yourself for the record and any affiliation.

1 MS. MAY: My name is Marcie May. I'm part of Call
2 to Action New Mexico. I was also a part of the Voter
3 Integrity Project, going to verify addresses of voters or
4 voters that either were not there or missing addresses that
5 people had voter registration. I was also a poll challenger
6 that was kicked out during this last election. I was one of
7 many people that were kicked out, which is an illegal
8 activity. I don't know the statute of that number, but a
9 poll challenger is not supposed to be kicked out.

10 HEARING OFFICER PINO: Ms. May, I would ask that you
11 confine your comments to the actual Secured Containers.

12 MS. MAY: I will do that, but you asked for my
13 credentials and what groups I have been a part of.

14 HEARING OFFICER PINO: Thank you.

15 MS. MAY: My problem with these insecure ballot
16 boxes has several concerns. We had a person that actually
17 took pictures of ballot boxes that were being sold at a
18 surplus store on Central Avenue in Albuquerque. Whether or
19 not they were old or current, this is a grave concern. And
20 we do have photographs of them.

21 The fact that even in the picture on the site that
22 talks about the ballot drop box, there was one person that
23 was there, and everybody knows that when you have a voting
24 polling place you need to have people of two different
25 parties and to have a ballot box that is unmanned, even

1 though you're saying it's by video, everybody knows that
2 videos can be clipped, propped, they can do things with that.
3 This is not just -- this is a very grave concern, because we
4 are talking about the most sacred right that we have as
5 Americans.

6 I have heard of ballot boxes that have been
7 transported and then they suddenly drop off the back of a
8 pickup truck and nobody knows the tracking of what happened.
9 Having ballot boxes open 24/7 may have the appearance of, we
10 want to make as many people be able to vote as possible, but
11 nobody has any problems when you need to go to the bank, but
12 they have banker's hours. Nobody has any qualms when they
13 want to go to the store, but the store is closed at 11. Our
14 stores were closed at 11. Many of the Wal-Mart's went from
15 being 24 hours down to a certain amount of hours because of
16 the crime, and even over in Albuquerque at the Wyoming
17 Wal-Mart there was someone who was beheaded behind there.
18 They closed the shop down because they needed safety, they
19 needed security.

20 How much more should we have our democratic process
21 to protect the constitutional republic. I agree with
22 Ms. Derrick where she said that we have -- there's problems
23 with the sunshine law that was given a certain time to be
24 enacted and now the Secretary of State is trying to make this
25 a permanent law that has no business doing that.

1 I think we are all adults here. Adults are able to
2 have a cognizance of when they can go vote. It's not a
3 free-for-all. It does not bring more possibilities for
4 people to vote, it brings more opportunities for fraud and
5 nobody benefits from fraud. No one benefits when someone
6 steals from a store and no ones benefits when our votes are
7 stolen or stuffed and there is no accountability.

8 We had one of the candidates from HD28 that actually
9 encouraged people to go ballot harvesting, how is that going
10 to monitored? You cannot do that. No one is going to go
11 into the video and say, "well, I saw this person drop off two
12 ballots here, this person dropped two ballots here." Only
13 people from their families are able to do that, but there is
14 no way to check that.

15 Voter integrity is everything, and I think when we
16 have seen just the audits that's happening in Arizona, that's
17 showing that we have a lot of problems. I am against this
18 insecured ballot, multiple ballots unaccounted for, ballot
19 boxes that can have no integrity on there. This is a
20 problem. It's a problem for everyone.

21 HEARING OFFICER PINO: Thank you, Ms. May. Does
22 anybody have any clarifying questions for this speaker?
23 Thank you for your comments.

24 MS. MAY: I did want to say that 1.10.15 is not on
25 this thing, unless I missed it. I didn't see that on here.

1 It only goes up to 1.10.19.13. I don't see that on there.
2 Up to 14.

3 HEARING OFFICER PINO: It's the second rule, and we
4 will take separate comments on that.

5 MS. MAY: Thank you.

6 HEARING OFFICER PINO: Thank you. Next on the list
7 is Dale Stockard, do you have comments related to the Secured
8 Containers?

9 MR. STOCKARD: Yes.

10 HEARING OFFICER PINO: Please come forward. Please
11 state your name and affiliation, if any.

12 MR. STOCKARD: My name is Dale Stockard and I'm also
13 with the Call to Action New Mexico. And I just want to
14 comment on our security for the ballots.

15 Our voting procedure and privilege should be
16 honored. If you can't make it to the polls, they're open a
17 month before the actual voting day, all over the city, all
18 over the state. I don't think the secured ballot boxes are
19 necessary. I agree with Marcie, we're adults. You know when
20 the polls are open. You know where the places are. They're
21 all over in the papers, on the news, on the radio, on
22 everything. Please make sure you do that.

23 My son and I both received absentee ballot requests.
24 I never turned them in. I never requested absentee ballots.
25 I got two of them and he got two of them. I ultimately

1 shredded them because we weren't going to use them and I knew
2 that. I just think the secured ballot boxes are ridiculous.
3 You can't secure them unless you have a guard 24/7, and
4 you're not going to do that. A visual recording can be
5 messed up. It needs to be, go to the polls or do a
6 legitimate absentee ballot.

7 Thank you.

8 HEARING OFFICER PINO: Thank you for your comments,
9 Ms. Stockard. Does anybody have any clarifying questions for
10 this speaker? Thank you so much. Next on our list is Audrey
11 Trujillo. Ms. Trujillo, do you have comments related to the
12 Secured Containers?

13 MS. TRUJILLO: Yes.

14 HEARING OFFICER PINO: Please come forward and state
15 your name and affiliation, if any.

16 MS. TRUJILLO: My name is Audrey Trujillo and I'm
17 here as a concerned citizen and a voter of New Mexico. I
18 have a problem with the unsecured ballots because -- I'm from
19 Rio Rancho and we saw many of those ballot boxes out there
20 and they were never being monitored. There was surveillance
21 on them, but no one monitored the surveillance. So these are
22 not secured boxes. I don't think they are necessary anymore.
23 I think they were temporary and they were put into place
24 because of this pandemic. Now that we are hopefully out of
25 this, I don't believe that -- I think this is just putting a

1 lot of burden on the state itself as well, because now we
2 have to come up with more people to work and monitor and be
3 there and I don't think we have the ability to do that at
4 this time.

5 It also promotes ballot harvesting. Especially now
6 the ones that still continue to wear masks, they can go and
7 drop off their ballots and numerous ballots and there's no
8 security behind that. So overall I think it's a bad idea.
9 It does put burden on the state again and also a burden on
10 the people to have to monitor those things and come up with
11 the money and the funds to do that. Do we have that?

12 That's all I have to say. Thank you.

13 HEARING OFFICER PINO: Thank you, Ms. Trujillo.
14 Does anybody have any clarifying questions for Ms. Trujillo?
15 Thank you for your comments. Next on the list and didn't
16 indicate if they wanted to speak or not, but I'll go ahead
17 and ask, Harry Montoya.

18 MR. MONTOYA: I just have a couple of questions.
19 Could I ask questions?

20 HEARING OFFICER PINO: A clarifying question of the
21 speaker?

22 MR. MONTOYA: You mentioned that HB407 was passed in
23 2019 and these are the rules being proposed for this. So
24 this is happening, right?

25 HEARING OFFICER PINO: Yes.

1 MR. MONTOYA: Thank you.

2 HEARING OFFICER PINO: So no other comments?

3 MR. MONTOYA: The only other clarifying question is,
4 is this mandatory for all counties to have to implement?

5 HEARING OFFICER PINO: I would state that the
6 clarifying questions are for whoever provides any commentary.
7 This is a hearing that is intended to get comments from the
8 public. If you have additional questions you're welcome to
9 contact our office and we will be happy to provide any
10 information that we are able to.

11 MR. MONTOYA: Thank you.

12 HEARING OFFICER PINO: Next on the list is Anthony,
13 and I can't read the last name.

14 MR. AEMISEGGER: Aemisegger.

15 HEARING OFFICER PINO: Do you have comments on the
16 Secured Containers?

17 MR. AEMISEGGER: Yes, ma'am.

18 HEARING OFFICER PINO: Please state your name and
19 affiliation, if any.

20 MR. AEMISEGGER: My name is Anthony Aemisegger, I am
21 a concerned voter. A lot of people have already covered a
22 lot of things I wanted to talk about. I am concerned about
23 the ballot harvesting and people being able to drop off
24 multiple ballots. One of the big things for me is the
25 security of these drop boxes.

1 First of all, the Secretary of State had to be sued
2 to even install any kind of basic security guidelines,
3 getting security cameras in there for the 2020 election. And
4 even security cameras, it's a reactive way to secure the
5 election boxes. In reality you should have somebody there
6 actually monitoring the boxes to make sure that there's one
7 person, one vote going into the box, asking them what
8 precinct they are in, if it's the right box they should be
9 dropping off in, just basic questions that you would get
10 normally at a polling place when you go to vote in person.

11 Nobody is going to look at the videotape until
12 something happens or somebody alleges fraud or something like
13 that. As was stated previously, videotapes can be
14 manipulated. They can be changed and go missing. I think
15 it's better to have a live person. If you want to have the
16 ballot boxes I think that the ballot boxes should go in
17 polling places for those people that choose to drop off their
18 absentee ballot rather than go stand in line.

19 I would also like to put forth some things to think
20 about, on the record. Especially like the 2016 election, one
21 side had some voter issues, they were concerned about the
22 election integrity. Now 2020 the other side has issues with
23 election integrity. By opening up and loosening the
24 guidelines, is this a good time to do this right now with
25 everybody being so distrustful of the process, do we want to

1 loosen up the rules like that.

2 My concern to you, how much will it cost to hire new
3 employees, to purchase the boxes and also the security
4 cameras to watch them and who is going to be paying for that,
5 how is this going to be funded. I don't know if that was
6 called out necessarily in the legislation.

7 As a final question, off the topic, for the record,
8 when do you plan on providing open source access to the
9 Dominion software so that we can regulate the votes and see
10 what's going on in the back end?

11 That's all I have.

12 HEARING OFFICER PINO: Thank you so much for your
13 comments. Does anybody have any clarifying questions for
14 this speaker? Ma'am, please identify yourself.

15 MS. MAY: This is Marcie May. The question
16 regarding the security of the ballot boxes, what do you think
17 might be a problem with an overnight ballot box maybe in a
18 high crime area, how would that also be a problem?

19 MR. AEMISEGGER: Well --

20 MS. MAY: So I had a picture of the ballot box that
21 was over on Central and by Tijeras right in downtown.

22 MR. AEMISEGGER: There is potential for the box
23 actually to be broken into, ballots destroyed. Of course
24 there's the option of stuffing ballots from who knows where,
25 so it's -- I don't see where a camera is going to help you

1 proactively secure the site. It's going to be reactive only
2 when somebody identifies there's a problem.

3 MS. MAY: If I can ask another question. My
4 assumption is that the Secretary of State is wanting to have
5 ballot boxes where maybe people who have lower income, not
6 that having lower income is anything wrong, everybody's had
7 times where you don't have everything that you would like or
8 want or even need, but if this is in an insecure area, what
9 would be some of the issues for someone, a poll worker first
10 of all, would they be able to get as many poll workers in an
11 area that may have more crime, higher crimes rates, or is the
12 security of that person that might be working that poll, what
13 do you think could be done to ensure that person's safety?

14 MR. AEMISEGGER: Well, maybe if we put the ballot
15 boxes inside the polling stations. We could use the money
16 for hiring extra employees to hire a security person for the
17 door. I don't know if that would intimidate voters or not, I
18 don't think it would. I mean, if anything, it should help
19 them feel more secure, but I have no idea. That would be my
20 guess.

21 MS. MAY: Thank you.

22 HEARING OFFICER PINO: Thank you so much. Thank for
23 your comment.

24 MR. AEMISEGGER: Thank you.

25 HEARING OFFICER PINO: Our last speaker on the

1 sign-up list, Daniel Ivey-Soto. Do you have comments related
2 to the Secured Containers?

3 MR. IVEY-SOTO: I do.

4 HEARING OFFICER PINO: Please state your name and
5 affiliation.

6 MR. IVEY-SOTO: Thank you very much. Good morning,
7 thank you all for holding this hearing. I am Daniel
8 Ivey-Soto, I am the Executive Director of Vandelay Solutions
9 providing technical assistance and training to county clerks
10 throughout New Mexico.

11 1.10.19.7, Definitions. I appreciate what you're
12 trying to do in terms of permanent versus temporary on the
13 drop boxes between the ones from Subsection D and Subsection
14 E, but I don't really know that definition A is necessary
15 seeing as how in most of the rule you continue to use the
16 word secured container, which is the word from the statute.

17 In addition to that, with Subsection C instead of
18 calling it a temporary ballot box, I would call it a
19 supervised ballot drop box so that you would actually denote
20 between a secured container, which is under Subsection E of
21 1-6-9, versus the supervised ballot drop box, which is under
22 Subsection D of 1-6-9. And I think that provides the
23 position that I think you're looking for as you're writing
24 this without creating a term.

25 Second of all, on the capacity requirements,

1 1.10.19.8, and this actually goes to a question that
2 Mr. Montoya asked. So there are two ways to read Subsection
3 E of 1-6-9. One is that one can be read if there are secured
4 containers deployed in that county, the county clerk shall
5 accept ballots deposited in there. The other way to read it
6 is, every county clerk shall have secured containers in their
7 county and shall accept ballots deposited within there.

8 Subsection A of 1.10.19.8, the use of the word shall
9 in the first sentence where you say, "county clerk shall
10 provide a minimum of secured containers, the Secretary of
11 State's Office is opting for the latter of those two readings
12 of Subsection A of 1-6-9.

13 And I would just suggest that the needs in different
14 counties are distinct and whether or not you may want to
15 prefer the former definition of 1-6-9, which is to say if
16 secured containers are deployed, the county clerk shall
17 accept, which can be accomplished simply by changing the word
18 shall to the word may after the word county clerks and before
19 the word provide in the first sentence of 1.10.19.8(A).

20 Moving further down into that rule. Again, the
21 situation in every county is not the same and the situation
22 throughout different parts of a county are not the same and I
23 think that we give up an opportunity of where secured
24 containers may be able to help voters in somewhat remote
25 areas by requiring that they be available for use by voter 24

1 hours a day. And if I could suggest that you preface that
2 sentence with, wherever possible, coma, secured containers
3 shall be available for use by a voter 24 hours a day starting
4 28 days before an election and on election day before
5 election, period, they shall be available for use by a voter
6 on election day pursuant to the Election Code. And then,
7 secured containers that are not available for use by a voter
8 24 hours a day or less than 24 hours a day shall be approved
9 by the Secretary of State, something along those lines so
10 that there is still some communication between the county
11 clerk and the Secretary of the State, but you give an option.
12 It does occur to me that there may be some village offices or
13 community centers where it may be appropriate to have a
14 secured container permanently located on the inside, but not
15 on the outside of particular facilities.

16 And then in Subsection F, and this is really just a
17 matter of construction, but where you state in Subsection F,
18 only ballots secured in official mailing envelope shall be
19 placed inside of a temporary or permanent ballot box, which
20 might turn out to be a secured container or supervised ballot
21 box drop. You can't really regulate what gets placed inside.
22 I could walk up with my water bill and put it in. So perhaps
23 along the lines of where I think you're trying to go there
24 is, only ballots secured in the official mailing envelope
25 that are placed inside these drop boxes shall be counted.

1 And then you have the prohibition against the
2 provisional ballots, the hand tally ballots. Although, I
3 would be careful about hand tally ballots under the
4 prohibition, because if somebody puts in a properly sealed
5 within the inner envelope, the outer envelope, ballot, it
6 might still have to be hand tallied depending upon what
7 spaghetti or coffee they were consuming at the time that they
8 were filling out their ballot. So I would strike that from
9 the prohibition, but certainly I do think a prohibition
10 against ballots that were not placed in the official mailing
11 envelope from being counted since you wouldn't be able to
12 match it up to the voter, is appropriate to have there.

13 Under 1.6.19.9 under Subsection D, and this needs to
14 be finessed, I'm not really sure how to finesse it correctly,
15 but when secured containers are not in use and at 7 p.m. on
16 election day it will not be possible for county clerks to
17 have somebody deployed at every single secured container at 7
18 p.m. on election day to put the slot closer and lock it at
19 that exact time. So how that is phrased needs to be finessed
20 so that upon the close of voting on election day the county
21 clerk shall deploy somebody to the secured containers as soon
22 as practical or something like that in order to be able to
23 prevent that further access.

24 Under 1.10.19.10, which is video surveillance record
25 retention, I guess I have a couple of questions on this. In

1 Subsection B when you say they shall be maintained pursuant
2 to the provisions of 1.12.69, so there are actually three
3 different standards in 1.12.69. The first is the standard in
4 Subsection A, which is voter ballots and records related to
5 voting in an election where there's a federal officer on the
6 ballot.

7 Subsection B, voter ballots and records related to
8 voting when there is no federal officer on the ballot, but
9 then in Subsection G, the IPRA provisions in it are actually
10 in a subtle way. For example, neither Subsections A nor B
11 require ballot images to be maintained for the 22 months or
12 the 45 days.

13 However, under Subsection G, the ballot images are
14 from IPRA request until the latter of, but it's not required
15 to be maintained for that period of time. And so because of
16 that it is within 1-12-69, are video recordings where there's
17 a federal officer on the ballot required to be maintained for
18 22 months without maintained for 45 days, or is it that they
19 are not subject to IPRA in the 45 days following the election
20 or until 45 days following the later of contest recount, et
21 cetera.

22 The other thing is that it does concern me that this
23 is written in the language of IPRA, because I think you are
24 creating a tremendous burden upon county clerks in terms of
25 IPRA requests that may or may not come in, particularly if

1 it's a 22-month retention period. An IPRA request that may
2 come in, the amount of time that the county clerk's office is
3 going to have to absorb in terms of looking for specific
4 things that may be requested in an IPRA, that might come in
5 as much as a year after the election. And so given that this
6 is a security mechanism, I would invite you actually to
7 exempt this from IPRA and that it be made available upon good
8 cause shown, by a judge, upon order by the Secretary of
9 State, or something along these lines as opposed to having it
10 quite as freewheeling in terms of security video as we have
11 here.

12 Looking at 1.10.19.12, Subsection A, the supervised
13 ballot drop box should be under the direct supervision of not
14 only either county staff, and specific to county clerk staff,
15 not just any county staff, but also where you said, "an
16 election board member," it actually should be specifically
17 either election judges on the election board or the presiding
18 judge, who they should be under the supervision of, not the
19 election clerks.

20 Under 1.10.19.13(A), ballot retrieval procedures,
21 you have a requirement that these be full-time deputy county
22 clerks, even though they would be hired on a temporary basis.
23 For a lot of the smaller counties that is not going to be
24 feasible, but the issue of capacity will, in fact, be an
25 issue in terms of, I'm thinking, for example, in Colfax

1 County trying to have somebody get all the way out to Angel
2 Fire every day and then come back if they were to have a
3 secured container there. So I'd invite you to rethink on
4 requiring that these deputy county clerks have to be full
5 time.

6 In addition to that, I would also invite you to
7 consider, and whether it could go in under .13 or under .14,
8 probably under .13, and that is, allow adjoining counties to
9 collaborate on the hiring of a deputy clerk to perform this
10 function so that, again continuing with the northeastern side
11 of the state, Union County, Harding County, Clay County,
12 might hire somebody who would go do their retrieval
13 throughout the day in the various counties and if they were
14 to do that, I would think that there would also be a
15 stipulation that you would want to include in here that they
16 complete their business with the county before going to the
17 next county so you don't have ballot boxes being transported
18 across county lines, but nonetheless. I think allowing that
19 collaboration to take place would be helpful under these
20 circumstances. It would also save the state money in terms
21 of the requirements under 14. Although, I do note that --
22 well, I'll get to 14 in a second.

23 In 1.10.19.13(C), I don't know that you really need
24 the explanatory comments so as to not to drop or otherwise
25 misplace the ballot. I think that you can just simply have

1 the instruction that they will be transported in a secured
2 ballot transport container and approved by the Secretary of
3 State. So the container in which they're transported would
4 be approved by the Secretary of State.

5 In Subsection H, I don't know that in all cases be
6 the secured ballot drop box itself that gets returned to the
7 county clerk's office as opposed to a collection of ballots
8 that get returned to the county clerk's office with the chain
9 of custody log. And the way that 1.10.19.13(H) is written is
10 that it would be the actual physical drop box itself returned
11 at the end of a voting day. Again, take a look at that just
12 in terms of business logic on that.

13 Finally, on 1.10.19.14, while it's always nice to
14 invite people to request reimbursement, there's nothing here
15 that states that the Secretary of State will reimburse. And
16 to bolster your argument before the State Board of Finance,
17 the LFC, the HAFC and FCC, I would invite you to require
18 yourselves to have to reimburse so that it's a requirement of
19 the law.

20 With that, I'll be happy to stand for questions.

21 HEARING OFFICER PINO: Does anyone in the audience
22 have any clarifying questions for this speaker? Yes, ma'am,
23 please stand and identify yourself.

24 MS. May: Marcie May. I had a couple of questions.
25 One, you mentioned about how you could even just put a water

1 bottle inside a ballot box, that really brought up a very big
2 concern, because if someone put a water bottle or just the
3 contents of the water bottle, those ballots are then
4 invalidated, which leads me to ask you, why you would even
5 consider the possibility of removing IPRA from these? It
6 seems that we should be demanding more integrity. IPRA is
7 there to demand integrity, and when you say that these people
8 are exempt from IPRA, you are violating a very, very
9 important part of our society, part of our law that demands
10 accountability. Why would you even consider demanding or
11 allowing an exemption from IPRA from any part of the voting
12 integrity process, sir?

13 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am.
14 First of all, what I commented was, I could put my water
15 bill, not a water bottle. Actually the slots on the secured
16 containers are fairly close together, the top and the bottom,
17 so that you can only really get in an envelope with maybe the
18 equivalent of five or six sheets stacked on top of each other
19 through the slot. So you would not be able to get a water
20 bottle in physically.

21 The second thing is, is that when it comes to -- if
22 you look through the exemptions that exist in IPRA that are
23 provided exclusively within IPRA, which is 12-2-6, I believe.
24 No, I'm sorry, 1 is where the exemption is. The security is
25 something that is actually where there are security plans or

1 reveal security issues, these sorts of things are actually
2 routinely exempted from IPRA. That doesn't mean that they're
3 not maintain, achievable and available when a question comes
4 up. This already has in here a requirement that if a concern
5 is raised with the county clerk, the county clerk shall go
6 and review the tape if it is provided for, good cause shown,
7 then that would allow any judge to say, yeah, I think there's
8 enough here to say that we need to publicize. But to have
9 the tapes themselves be subject to the Inspection of the
10 Public Records Act is -- first of all, it's a poor practice
11 in terms of potentially revealing security mechanisms and how
12 security is maintained.

13 Second of all, it reveals exactly what the angle of
14 the camera is, which invites people then to work to get
15 around the security that is being provided. Third of all, it
16 doesn't go to whether or not that ballot, in particular --
17 the essential question is whether or not any particular
18 ballot was filled out by the voter who it was intended to
19 have that voter fill out that ballot. That's the essential
20 question.

21 In New Mexico we historically don't play games in
22 terms of ballots. The question we ask ourselves is, this
23 ballot is returned by J. Garcia, whether it was received and
24 filled out by J. Garcia, that's the question we ask. That is
25 not enhanced by making the videos subject to IPRA. That

1 question is not resolved in that manner.

2 And then the other thing is, is that again when you
3 look at a cost benefit ratio in terms of the amount of time
4 that county clerk's office is going to have to spend
5 searching for exactly what somebody is asking for, I want to
6 know when Uncle Pedro went and voted and dropped this off.
7 Well, I don't know, it's 28 days, 24 hours a day. Do you
8 expect me to go sit there and watch 28 days, 24 hours a day
9 to find out when Uncle Pedro showed up to put in his ballot,
10 that's not a good use of anybody's time and it doesn't go to
11 the essential question of whether or not Uncle Pedro filled
12 out his own ballot and that ballot was received by the county
13 clerk, that's the essential question.

14 MS. MAY: The question I have is, if you are
15 removing videotape from IPRA, why are we even doing this?
16 Why? Have you ever sent out an IPRA, and what was your
17 response?

18 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am. I
19 have sent out IPRAs and it depends upon how artfully they're
20 written as to the response that you get. I also have been a
21 bureau head and have had to be responsible for responding to
22 IPRAs, and again it depends upon how artfully they are
23 written in terms of the response that is sent out. And by
24 removing them from the guise of IPRA you're not saying that
25 this is not available, it's still available if it's necessary

1 for investigation, it's absolutely available. It's still
2 available if there's a question that comes up, to be able to
3 then go and resolve that question, it's still available for
4 that. And we should have it exactly for that reason and
5 that's why -- I'm not saying we shouldn't have the video,
6 that is actually a requirement of the statute anyway, but
7 it's a question of what is done with the video.

8 MS. MAY: One other question.

9 HEARING OFFICER PINO: I'll allow you to ask one
10 more clarifying question and we will limit the response.

11 MS. MAY: I know you clarified saying you were
12 talking about a water bill. How would cameras or the lack of
13 cameras or IPRA, how would that be able to protect the
14 public's vote if there was vandalism that happens to these
15 ballot boxes that are unmanned or vandalized or have water
16 poured into them or maybe you didn't -- maybe there's a
17 certain group that didn't want a certain precinct votes to be
18 counted, how would that be affected and how would these
19 videotapes be able to protect votes? They can't really
20 protect the votes, because we don't know who put their
21 ballots in at that point. Where is the protection of the
22 votes when there is no person that's there?

23 MR. IVEY-SOTO: Madam Hearing Officer, Ma'am. First
24 of all, I do recognize the Secretary of State's Office didn't
25 come up with this concept, this is a requirement of the

1 statute that has to be addressed one way or the other. So
2 because the Statute 1-6-9(E) does talk about secured
3 containers and does require the Secretary of the State's
4 Office to issue rules related to secured containers, these
5 proposed rules are not being done in an issue that was
6 started by the Secretary of State's Office, it's a
7 legislative mandate.

8 Second of all, the requirement of having a video is
9 a requirement so that if there is attempts at vandalism, and
10 I indicate attempts at vandalism because I have seen these
11 containers in other locations and they're fairly sturdy. So
12 the ability of someone to do something, that's going to be
13 significantly hampered. But the fact that there is videotape
14 will allow a start at least in terms of any investigation
15 that would take place against that person, whoever did it, so
16 that people can be held accountable for doing that. And I'm
17 personally one of these folks that believe that if you mess
18 with our elections, you should do prison time.

19 MS. MAY: Yes, they should. Thank you.

20 HEARING OFFICER PINO: Any other clarifying
21 questions for this speaker?

22 MR. MONTOYA: Yes. Harry Montoya. Mr. Ivey-Soto,
23 you recommended on 1.10.19.13 the potential of counties
24 hiring a deputy clerk. Would that be for the election season
25 or would that be permanent, like full time?

1 MR. IVEY-SOTO: Thank you for the question. Madam
2 Hearing Officer, Sir. The specific place that I was
3 referring to, which is 1.10.19.13(A), specifically provides
4 that they may be hired by the county clerk on a temporary
5 basis to fulfill this requirement. It's a may. I'm assuming
6 that means if you need to increase your capacity in your
7 office, this is an option to increase capacity. So it would
8 be these temporary people that my recommendation would be
9 that we allow the counties to collaborate together.

10 MR. MONTOYA: Thank you.

11 HEARING OFFICER PINO: Thank you for your comment.

12 MR. MONTOYA: Can I make a comment now?

13 UNIDENTIFIED SPEAKER: I have one more question. My
14 only question was, are we going to have photo challengers
15 just like we have poll challengers?

16 HEARING OFFICER PINO: Does that relate to the
17 comments that were provided by the speaker?

18 UNIDENTIFIED SPEAKER: Yes.

19 MR. IVEY-SOTO: I'm sorry, if I may. Are we going
20 to have what?

21 UNIDENTIFIED SPEAKER: Photo challengers just like
22 we have poll challengers, just to have some kind of committee
23 to be able -- if there is a challenge for a photo or
24 something in a ballot box, that something has happened to it,
25 are we going to have photo challengers or some kind of other

1 thing to secure the vote and to make sure that people are --
2 once they put their ballot in that box that their vote is
3 secure?

4 HEARING OFFICER PINO: I don't believe that this
5 speaker actually gave comments related to that, but I'll
6 allow him, if he's able and willing, to respond.

7 MR. IVEY-SOTO: Certainly, Madam Hearing Officer and
8 Ma'am. No, we actually would not specifically have photo
9 challengers. This video under any circumstances of how
10 1.10.19.10 is written would not be available during the
11 voting time to the public and so it would not be available to
12 be used for challenges. It would be available to be used if
13 there was a concern that was raised in terms of a specific
14 incident that would take place.

15 The other thing is that photo challengers would be
16 inconsistent with other parts of the Election Code because
17 under 1-6-10.1, my daughter can return my absentee ballot for
18 me. If I were still married my spouse could return my
19 absentee ballot for me. I can return my parents absentee
20 ballots on their behalf, that is provided for in the Election
21 Code. So to try to do some kind of a photo challenge would
22 conflict with that provision of the Election Code, because if
23 you see me putting in three ballots, that doesn't mean that
24 I'm ballot harvesting, that's a completely legitimate
25 activity if the other ballots that I'm putting in are from

1 immediately family members as defined in 1-6-10.1.

2 UNIDENTIFIED SPEAKER: Thank you.

3 HEARING OFFICER PINO: Do you have one more
4 clarifying question for this speaker?

5 MR. AEMISEGGER: Anthony Aemisegger, Hearing
6 Officer, Mr. Ivey-Soto. Who's going to determine if the
7 ballots being placed in the box are a family member or not?

8 MR. IVEY-SOTO: Madam Hearing Officer and Sir, the
9 same way that it's determined when somebody drops it off in
10 the mail. You don't know who dropped off -- the law
11 prohibits me from dropping off your ballot in the mail. Who
12 determines who dropped your ballot in the mail, was it me or
13 was it you?

14 The essential question, again this goes to the fact
15 that in New Mexico we do prohibit ballot harvesting and it is
16 a crime, but the ultimate essential question is not whether I
17 put your ballot in the ballot box or you put your ballot in
18 the ballot box or in a post office box or walked it into a
19 polling place or put it into one of these. The essential
20 question is, did you fill out your ballot. Is that your
21 ballot, that's really the essential question.

22 MR. AEMISEGGER: As a follow-up to that. In my
23 opinion, putting your ballot into a ballot box like how you
24 would if you dropped it off at a polling center is not equal
25 to putting it in the mail. Somebody should be there asking

1 whose --

2 HEARING OFFICER PINO: Is there a clarifying
3 question?

4 MR. AEMISEGGER: There is. Who would be checking
5 this, since it's going into a ballot box and there's nobody
6 there, who is going to be checking if it's a family member or
7 not, just like at a polling station?

8 MR. IVEY-SOTO: In this case it would be analogous
9 to the U.S. Postal Service.

10 MR. AEMISEGGER: That's not good.

11 HEARING OFFICER PINO: Thank you. I have gone
12 through all of the listed people on the sign-in sheet. We
13 are actually going to take a -- I saw some people came in
14 after we began the hearing. The time is now 10:19. I am
15 going to allow three minutes, we will go back on the record
16 in three minutes to give people the opportunity to sign in on
17 the sign-in sheet, whether you want to speak or not, just
18 that you are present. But also, if you do intend to speak
19 related to the -- before we proceed to comments on the next
20 rule, Alternative and Election Day Voting Administration,
21 please indicate if you would like to provide comments on the
22 sign-in sheet. So we will, again, go off the record and be
23 back in three minutes. We will start exactly on time.

24 (Recess at 10:20 a.m. to 10:23 a.m.)

25 HEARING OFFICER PINO: We are back on the record at

1 10:23. We are going to proceed with our next proposed rule,
2 Alternative and Election Day Voting Administration. I will
3 now call for testimony on amendments to the rule on
4 Alternative and Election Day Voting Administration. If I
5 could have the sign-in sheet. And I will just go through the
6 whole sheet again. If you have specific comments related to
7 that, I will ask you.

8 The first person on our list indicating comment,
9 Leticia Munoz. Do you have comments related to this rule?

10 UNIDENTIFIED SPEAKER: She left.

11 HEARING OFFICER PINO: Leanna Derrick, do you have
12 comments related to this proposed rule?

13 UNIDENTIFIED SPEAKER: She left.

14 HEARING OFFICER PINO: Marcie May, do you have
15 comments related to this specific rule?

16 MS. MAY: Yes, I do.

17 HEARING OFFICER PINO: Please come forward. Please
18 state your name and any affiliation.

19 MS. MAY: Marcie May with Call to Action New Mexico,
20 also worked with our Voter Integrity Project and I was a poll
21 challenger. I have very big concern when we are kicking poll
22 challengers out, that is a protected activity, doesn't matter
23 if there's a pandemic or if there's not a pandemic. Our
24 votes are being compromised when you kick the partisan poll
25 challenger out. Not allowing a challenger to verify

1 signatures on mail-in ballots is illegal and it doesn't
2 matter if there is a pandemic. A poll challenger is actually
3 sworn to have integrity just as much as a poll worker and
4 this is another sneaky way for certain parties that don't
5 like voter integrity.

6 HEARING OFFICER PINO: Ma'am, I'm going to interrupt
7 you right there.

8 MS. MAY: Okay, I didn't say which party, I'm just
9 saying we have issues.

10 HEARING OFFICER PINO: Ms. May, I'm going to ask
11 that you confine your comments to any proposed amendments of
12 the rule. I believe that your comments are not relevant to
13 the proposed amendments to this rule.

14 MS. MAY: There should not be restrictions on poll
15 challenging in there, okay, that's what I'm going to be
16 saying on that. And also I did not get a chance to actually
17 -- because this is the one that I was looking for, and let me
18 take a look at it for just a second.

19 (pause in proceedings)

20 MS. MAY: Your amendments are on the blacked out --
21 which parts are you guys amending on these?

22 HEARING OFFICER PINO: It's either crossed through
23 or underlined.

24 (pause in proceedings)

25 MS. MAY: I think the fact that you are keeping the

1 last four of the social, that that's being removed, that's a
2 problem, because we are having -- the whole voting process of
3 mail-in ballots is to protect the votes and if these Social
4 Security numbers -- nobody can guess the rest -- the other
5 parts of the Social Security number, and to keep a challenger
6 out because of that, that's really -- that's a slight of
7 hand, smoking mirrors. It's a way to bring voter insecurity.

8 Again, poll challengers are able -- they are sworn
9 to bring integrity to the voting system and that's why I am
10 against the removal. And the checking of the Social Security
11 numbers, those should be -- that's part of our voting process
12 and that's why voter challengers are there. They should not
13 be removed, and that piece of information should not be the
14 little caveat that gives the Secretary of State a free hand
15 to allow ballots that may be compromised to get through.

16 Thank you.

17 HEARING OFFICER PINO: Thank you, Ms. May. Does
18 anybody have any clarifying questions for this speaker?
19 Thank you for your comments, Ms. May.

20 MS. MAY: Thank you.

21 HEARING OFFICER PINO: Next on the list we have Dale
22 Stockard. Do you have any comments you would --

23 MS. STOCKARD: No.

24 HEARING OFFICER PINO: Thank you. Audrey Trujillo,
25 do you have comments related to this rule?

1 MS. TRUJILLO: Yes, thank you.

2 HEARING OFFICER PINO: Please state your name and
3 any affiliation.

4 MS. TRUJILLO: Audrey Trujillo, New Mexico voter. I
5 guess my main thing is that anything that is going to be
6 stripped for voter, to protect our votes, I think that is
7 something that we should be concerned about. I think we
8 should definitely keep what's in place that works and stop
9 stripping things out to make it easier to -- like with the
10 signature identification, I think that's something that is
11 put in place in order to give some type of integrity on the
12 voting, making sure that person is voting.

13 The Social Security numbers as well, it's just the
14 four last digits, I don't see that there should be any kind
15 of problem with that and they should continue to do that same
16 practice. To me, I think we're going backwards when we're
17 starting to take out precautions to make sure our votes are
18 safe. And I think, if anything, we should be putting more
19 precautionary things to make sure that our votes when we go
20 out and vote, that is what we are delivering there and it's
21 safe. Integrity is everything. People need to make sure
22 that when you go out and vote you're voting and your vote is
23 being counted. That's all.

24 HEARING OFFICER PINO: Does anybody have any
25 clarifying questions for this speaker? Ma'am, please state

1 your name.

2 MS. MAY: Marcie May. I have a question regarding
3 -- you said that removing hallmarks or benchmarks like the
4 Social Security numbers. Let's say that there was a -- and
5 this was an actual instance. There was a family that
6 received four absentee ballots that they did not request.
7 Let's say those ballots got into someone else's hands and the
8 social number -- or there was something awry. What would be
9 the problem with requiring a Social Security number or an
10 extra set of eyes on that? What do you think might -- why
11 would having those checkmarks and those balances, why would
12 -- how could that have protected those ballots from being
13 misused?

14 MS. TRUJILLO: I think they are precautionary
15 measures. We have to make sure that that ballot is going to
16 the person that's signing it, just like the gentleman over
17 here said, and that's just something that we want to put more
18 precautionary measures. We don't want to have anybody going
19 out and voting and just -- and it just brings integrity back
20 to the people. We already have a problem with people
21 thinking that their votes don't count and we want more people
22 to come out and vote and be a part of the process. I think
23 if these precautionary measures are not kept in place that
24 can identify the person, and if it's a challenge -- what type
25 of -- if they're stripping everything away from that, that

1 will identify the person, there's no way to check to see if
2 that vote is theirs.

3 MS. MAY: One last question. Why would someone, in
4 your opinion, want to remove those numbers, those
5 precautionary checkmarks to make sure? Why would, in your
6 opinion, someone want to do that?

7 MS. TRUJILLO: Well, that would come back to not
8 wanting security on our votes, no secure voting. That's the
9 way I would see it as a voter. I don't mind my last four
10 digits on the paper that I am putting my vote on.

11 HEARING OFFICER PINO: Thank you. We're going to go
12 back to Leanna Derrick. Do you have comments specific to
13 this rule?

14 MS. DERRICK: I do.

15 HEARING OFFICER PINO: Please state your name and
16 any affiliation.

17 MS. DERRICK: My name is Leanna Derrick, Call to
18 Action New Mexico. I am a registered voter and also part of
19 Voter Integrity Project that happened in the 2020 election.
20 First of all, I would like to begin with my experience. I
21 work for the Republican Party as a canvasser for a political
22 campaign. In my experience I was given Secretary of State
23 records of who to talk to as part of campaigning. And I
24 would go door to door and I would talk to whoever was there.

25 Sadly, when these issues happened with repeated

1 regularity is that I would be asking for someone that died,
2 was no longer there. So the Secretary of State records were
3 not -- did not expunge dead voters in a timely manner. And I
4 understand that they fall off after two presidential
5 elections, but that's too long of a time. What happens is,
6 we get people on the voting rolls and voting records that are
7 actually no longer living and that poses a problem of
8 integrity, because I don't know who has access to that and I
9 don't believe the measures that are instituted are good
10 enough to secure the fact that people can vote on behalf of a
11 deceased voter.

12 Moreover, a large number -- just going back to the
13 dead voters, is that their names can be collected through
14 obituaries, public records and find out the date of birth of
15 these folks and request ballots for mail in purposes and that
16 includes general elections, primaries, but also affects our
17 school district elections primarily because they are in a
18 sectioned area for their school district. That concerns me
19 because, again, ballot harvesting happened in that process.

20 A second concern I have, and also from experience,
21 was to go to homes of people that had moved out of New Mexico
22 and had not gone to the Secretary of State website and
23 removed their voting records and asked them to be removed
24 from New Mexico rolls and therefore they have not removed
25 them. They still are persons listed on the records as people

1 who can still vote in the State of New Mexico and when that
2 happens -- the records are not always updated when they have
3 gone to another state, and said I now moved my residency to
4 another state, and not cancel that New Mexico voter status,
5 then we have another voter on the rolls that is not in New
6 Mexico and that's a security issue because their information
7 can be gained off of public records, property records, and
8 all that data can be pulled, as well as partial
9 identification from their Social Security records.

10 My concern there as far as removing the Social
11 Security numbers and voter poll challenging is that in the
12 warehouse experience in Albuquerque and Bernalillo County,
13 challengers are not allowed to see the envelope that contains
14 the four digits and that precluded our challengers, and
15 myself included, from verifying that envelope as to that
16 voter.

17 So I disagree with this, I think it's a bad policy
18 because that, again, is another opportunity that poses a
19 barrier to proper voter integrity, and voter integrity is
20 what makes the election possible. We have to have voter
21 integrity to ensure that our elections are fair and accurate
22 and we have not had that.

23 I disagree with the policy put in place in respect
24 to the last election. I believe those were two large factors
25 that were a huge part of verifying, because we can't go back

1 and verify the person because we have no identification to
2 that ballot. That ballot has no identification as to who
3 submitted that ballot and that is a problem, because when we
4 have the problems just submitted to you before, deceased
5 voters, voters have moved out of state, we cannot verify that
6 ballot is theirs and therefore we cannot challenge an
7 election or we cannot go back and count ballots and we don't
8 know to whom that belongs, what party affiliation, because
9 our process in New Mexico has restricted itself through these
10 different rules and we cannot get elections that we can go
11 back and count ballots. We cannot count a ballot to know was
12 every person who voted belonged to that ballot, and that's
13 what I want to say about this.

14 Mailing out ballots, there was a huge
15 miscommunication. People did not understand they had to
16 request a ballot. There's no education process. My
17 suggestion would be more education to vote, opportunities for
18 a voter to learn more about the election process. Civics is
19 not taught to our students anymore in our public schools. I
20 speak as a former teacher of public education with
21 Albuquerque Public Schools at secondary education where my
22 students had no understanding of the voting process. And
23 when you don't understand the voting process and given the
24 right to vote, you don't understand your right to do your due
25 diligence and therefore you are an ignorant voter of the

1 electoral process and if this is something that is not
2 taught in the schools, then I believe our New Mexico state
3 government and Secretary of State should address that and
4 have very clear information posted as to how to do the voting
5 process.

6 And a website is not enough because a website is
7 only available to persons who can access that either through
8 a library or if they're lucky enough to have it in their
9 home, and that does not include the Reservations on the
10 state. I am a member of the Navajo Nation and I come from an
11 area, my family does, where Internet access is not available,
12 it's not part of the infrastructure, and that is a huge
13 concern, because on the Reservations mail-in ballot addresses
14 of persons frequently change. There is no way to validate
15 security and verify the security of mail-in ballots.

16 That's what I would like to say about that. Thank
17 you.

18 HEARING OFFICER PINO: Thank you. Does anybody have
19 any clarifying questions for this speaker? Please stand and
20 state your name.

21 MS. MAY: It's Marcie May. You were talking about
22 how you had been canvassing the vote rolls for the Republican
23 Party. How many homes did you visit, a roundabout number,
24 and how many either deceased voters or moved voters would you
25 say the percentage was that you encountered?

1 MS. DERRICK: I was employed from mid-July 2020 and
2 canvassing from that time five days to seven days per week as
3 we got closer to election. Election Day was November 3rd. I
4 canvassed until the 2nd. Was a trained registrar during that
5 time and also a poll challenger. I can say the record of
6 homes I visited was over 15,000 homes around Albuquerque,
7 from the South Valley to the East Mountains, all the way to
8 the West Side from Ventana Ranch all the way to east side and
9 all the way up to the house districts. I don't have it in my
10 head, but South Valley all the way to the end of Los Lunas to
11 the East Mountains in metropolitan Albuquerque, Ventana Ranch
12 and all the area between to the northern part of Academy, so
13 I was all over Albuquerque. And I can say on average of at
14 least one to two times per hour did I encounter missing
15 persons, people that were not at that home or residence, or
16 even to the point of persons that had never resided at the
17 residence. They were first time home owner, no one else has
18 lived here but me, I don't know that voter. There was some
19 clear problems with the Secretary of State's records.

20 I don't know how those came to be and I can't prove
21 who those persons were, but I can say my job was tasked to go
22 and speak to the voter on my list, canvass them, give them
23 opportunities to learn more about our campaign and what the
24 campaign function was and what we were doing, providing voter
25 information, polling places, information on how they can

1 access that through the Secretary of State website. My job
2 was to provide information to make that the voter's job of
3 getting to the polls was as easy as possible providing as
4 much information as I could.

5 I would report that this person is deceased.
6 Oftentimes it was past the eight year record, so someone that
7 should have been expunged the two presidential terms, passed,
8 it was 11 years. My husband, currently Mr. Daniel May, his
9 uncle, Mr. Dan Gaylord in Albuquerque on Tower, I went to go
10 visit him, but he had been deceased, so that was just an
11 interesting point of record of fact of a personal story of my
12 family record.

13 MS. MAY: Thank you. That was very informative.
14 Thank you.

15 MS. DERRICK: You're welcome.

16 HEARING OFFICER PINO: Thank you. We are going to
17 move to the next person on the list, Harry Montoya. Do you
18 have any comments related to this proposed rule?

19 MR. MONTOYA: No, not this one, but I have comments
20 about the other one. So is there going to be an opportunity
21 to go back to the Secured Containers?

22 HEARING OFFICER PINO: I believe you were given an
23 opportunity.

24 MR. MONTOYA: I was, and then I asked if we can go
25 back and you didn't respond.

1 HEARING OFFICER PINO: We will at the very end, I
2 will give you the opportunity to go back and provide one more
3 comment. I will point out that I am going to start limiting,
4 because we do have 15 more minutes allotted for this hearing
5 and I want everyone to have the opportunity to provide their
6 comments.

7 The next person on the list is Anthony. Do you have
8 comments related to this proposed rule?

9 MR. AEMISEGGER: Yes.

10 HEARING OFFICER PINO: Please come forward and state
11 your name and any affiliation.

12 MR. AEMISEGGER: My name is Anthony Aemisegger and I
13 am a concerned New Mexico voter. Now, the biggest thing I
14 have see here, the thing that I have a problem with is, it
15 looks like we are taking the county clerk completely out of
16 the process for the mail-in ballots. In my opinion, having
17 the county clerk there puts another set of eyes on the
18 ballots themselves to verify if there's something wrong prior
19 to having it go to the election board. And the way this is
20 written now, all that's gone. It's going straight to the
21 election board. It seems like we are centralizing ballot
22 reviews and I don't like that. I don't think that should be
23 happening, it's unAmerican.

24 That's all I have.

25 HEARING OFFICER PINO: Does anybody have any

1 clarifying questions for this speaker? Thank you. Daniel
2 Ivey-Soto. Mr. Ivey-Soto, do you have comments related to
3 this proposed rule?

4 MR. IVEY-SOTO: Oh, why not.

5 HEARING OFFICER PINO: Please state your name and
6 any affiliation.

7 MR. IVEY-SOTO: Madam Hearing Officer, thank you
8 very much. My name is Daniel Ivey-Soto. I'm with Vandelay
9 Solutions. First of all, let me just state that I recognize
10 that the removal of the text in 1.10.15.8 is not at the
11 desire of the Secretary of the State's Office, but because
12 the legislature failed to put a county clerk review of
13 qualification rejection of ballots in the permanent statute.

14 Likewise, the legislature failed to adopt the last
15 four digits as a security mechanism going forward, having
16 done so in temporary provisions for both the general election
17 and the special election for Congress, which is unfortunate
18 because I think it will be very confusing to voters and
19 election administrators alike, but that's not your call,
20 that's unfortunately the failure of the legislature.

21 I do have a couple of comments, and let me start
22 with 1.10.15.10, on a couple of the edits that you have, and
23 then I do want to go back to 1.10.15.9. In 1.10.15.10,
24 beginning in Subsection D and really focusing on Subsection
25 D. This language was originally written in the previous

1 language for the county canvass where the county canvass
2 board shall proceed to canvass the results of the election as
3 opposed to the current language, which is, the county clerk
4 shall prepare the report of the canvass and the county
5 canvass board shall approve the report of the canvass.

6 For example, where you have, if the reason for the
7 challenge is satisfied by the voter before the conclusion of
8 the county canvass, that's within the old context, it really
9 ought to be, before the approval of the county canvass
10 reports. While I do appreciate that you have, or as part of
11 an appeal, and I think that's appropriate because we do have
12 an appeal process that takes place, but because the time
13 frame of the appeal, which goes until the third Saturday
14 after the election is later than the 32 counties deadline to
15 be able to complete their county canvass, that does create an
16 issue where you have that the change, rejected to accept the
17 notation challenge confirmed shall be crossed out and signed
18 and dated by a member of the county canvassing board. The
19 county canvassing board may have already completed the work
20 by this time, and really the work is being done by the county
21 clerk. So that probably ought to be, by the county clerk.

22 The other thing is, and continuing with the rest of
23 that sentence, the existing language, the official mail-in
24 envelope shall be opened, counted by the county canvass
25 board. Again, it wouldn't be by the county canvassing board,

1 it may be included in an amended county canvass reports.
2 Although, you do need to take a look at whether or not the
3 time would always -- from a challenge that takes place on a
4 Saturday to the state canvass meeting on Tuesday, whether or
5 not the time frame to be able have the county canvass report
6 amended exists under the requirements of 10-15-19(G) of the
7 agenda being posted 72 hours in advance.

8 And so consequently, I think what has been done
9 before when there is an appeal that is approved after the
10 approval of the county canvass report is that those votes are
11 forwarded to the state canvass and then they're included in
12 the state canvass numbers.

13 I just think that that disconnect in time needs to
14 be ferreted out here in terms of, if it's after the adoption
15 of the county canvass report, then where does it get included
16 in the numbers. And if it gets included in the state canvass
17 numbers based on time, does that then generate an amendment
18 to the county canvass report at the direction of the state
19 canvass board, so that you don't run into a time crunch under
20 the Opening Meetings Act.

21 But then the other thing is, it's not so much that
22 it's counted by either the county or the state canvassing
23 board, but whether or not it's included in the report of the
24 canvass, adopted by the county canvassing board or adopted by
25 the state canvassing board.

1 Then just real quick on 1.10.15.9, although you
2 don't have any amendments suggested since you do have this
3 rule before you. In Subsection H, the last sentence, the
4 whole part about challengers determining who has the
5 authority to challenge at their discretion, that actually
6 conflicts with 1-2-21(A). 1-2-21(A) in the statutes provide,
7 that if multiple challengers are approved by a political
8 party, the political party shall rank who has authority first
9 over somebody else. It's not for them to decide. The party
10 chair does that when they do the appointment. Challengers
11 would only be representing political party, they would not be
12 representing candidate, they would not be representing
13 election organization, those are exclusively watchers. So
14 that should be struck. But then instead of having them
15 deciding is simply saying which challenger has authority
16 would be the one ranked pursuant to 1-2-21(A), something
17 along those lines.

18 And then finally, I do think, since this rule is in
19 front of you, that there is an opportunity -- I think this is
20 a logical outgrowth of the direction you're headed, so I
21 don't know that it would require a secondary hearing on this
22 or not, but I do think this is a good opportunity to provide
23 some parameters where we try to tackle the issue of, at what
24 point is a challenger being disruptive, what are the
25 procedures for removing a challenger, and then what if a

1 challenger is removed, what communication needs to take place
2 back to the county chair of that political party so they can
3 get somebody else into that location, and so they're informed
4 of that action.

5 I think it is pretty clear, there's a clear
6 inference from the statutes that there are limitations on
7 what challengers can do and that if they violate those, I
8 think there's a very clear inference that they can be removed
9 from the polling location or the clerk's office, but that is
10 not laid out in terms of any detail.

11 So since this rule is in front of you at this time,
12 I do think it's something that really does need to be
13 addressed and I would encourage you to include that in the
14 final rule that you would do in this adoption process, just
15 in terms of what's the due process, what's the communication,
16 what's the decision point, et cetera, that way we're
17 protecting first and foremost the election workers and the
18 election process, but also balancing that with what we have
19 statutorily is the right of a political party to have a
20 challenger present as long as that person is not disrupting
21 the election process.

22 Thank you.

23 HEARING OFFICER PINO: Any clarifying questions for
24 this speaker? Sir, please stand. State your name. I'm
25 going to limit both the question and any response to one

1 minute.

2 MR. AEMISEGGER: Anthony Aemisegger. Can you
3 confirm which party majority didn't pass any legislation to
4 protect the current poll process?

5 MR. IVEY-SOTO: Madam Hearing Officer and Sir, the
6 legislature acts as a monolith, and it was not passed.

7 MR. AEMISEGGER: Okay. I have one other question
8 here.

9 MR. IVEY-SOTO: And by the way, I would also note
10 that there were bills sponsored by Republicans and sponsored
11 by Democrats that would put this into law permanently. So it
12 was a bipartisan support and a bipartisan blocking of it.

13 MR. AEMISEGGER: Thank you. Would you consider it a
14 conflict of interest for a seated senator to be making
15 comments on a proposed rule if that same senator is also a
16 private contractor providing instructions for county clerks?

17 HEARING OFFICER PINO: That was not part of the
18 speaker's comments, and so I'm going to ask that you --

19 MR. AEMISEGGER: It is relevant to this speaker.

20 HEARING OFFICER PINO: -- limit your clarifying
21 questions to clarify any of the testimony that he provided.

22 MR. AEMISEGGER: It is relevant, so that's why I
23 brought it up. But thank you.

24 HEARING OFFICER PINO: Would you like to answer?

25 MR. IVEY-SOTO: Madam Hearing Officer and Sir, I'd

1 be happy to. No, I don't believe there is a conflict of
2 interest, particularly if the person is identifying
3 themselves as a contractor and not in their legislative
4 capacity. Or if the person is doing it from a legislative
5 capacity, which is actually appropriate as well in the
6 administrative rulemaking process, if there's an issue of
7 legislative intent, to make that identification. So the
8 issue is one of clarity of disclosure when somebody is
9 testifying.

10 MR. AEMISEGGER: Did you disclose your contractor
11 status at the beginning of your testimony?

12 MR. IVEY-SOTO: Madam Hearing Officer and Sir, yes,
13 I did. I disclosed that I am the Executive Director of
14 Vandelay Solutions who provides technical assistance to
15 county clerks throughout the state.

16 MR. AEMISEGGER: Thank you.

17 HEARING OFFICER PINO: Any other clarifying
18 questions for this speaker? Yes, ma'am, please state your
19 name.

20 MS. MAY: Marcie May. I want to just ask, I know
21 that you had several comments on several of the points on
22 here that were not the changes. Were you aware that I was
23 not allowed to comment on other areas, but you were able to
24 comment on points that were not being brought up on this
25 hearing?

1 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am, I
2 am aware of that. Part of that is because I was giving
3 specific suggestions as to amendments that should take place.

4 MS. MAY: Do you think that that was fair, that I
5 was not allowed to comment on things that were not being
6 brought up in this hearing, but you were?

7 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am,
8 while I would not want to second-guess the Hearing Officer's
9 decision, I think there is distinction between generalized
10 policy concerns and specified suggestions.

11 MS. MAY: Why is that, sir?

12 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am,
13 because generalized policy concerns are beyond the scope of
14 what the Secretary of State's Office is authorized to do with
15 the rule where they are only allowed to implement legislative
16 mandate. Specified suggestions are done in the context of
17 what the legislative mandates are and what the rules should
18 provide.

19 MS. MAY: One last question. Have you been in
20 contact with the Secretary of State and these people to be
21 able to talk about these issues before this hearing?

22 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am, I
23 have not had a conversation with anyone in the Secretary of
24 State's Office regarding either one of these rules before
25 today.

1 MS. MAY: Are there associates?

2 MR. IVEY-SOTO: Madam Hearing Officer and Ma'am, as
3 far as -- I mean, no agent of the Secretary of State's
4 Office. I have not discussed this with anybody related to
5 the Secretary of State's Office.

6 MS. MAY: But you do work with county clerks and
7 things like that.

8 MR. IVEY-SOTO: Yes, I do, absolutely.

9 MS. MAY: Thank you.

10 HEARING OFFICER PINO: Any other clarifying
11 questions for this speaker? Sir, you have been provided the
12 opportunity. I will give you one more opportunity to ask one
13 more clarifying question.

14 MR. AEMISEGGER: Thank you. Anthony Aemisegger.
15 Could you unpack and define what a disrupting challenger is?

16 MR. IVEY-SOTO: Madam Hearing Officer and Sir, to
17 some degree that is -- it's difficult to quantify in advance
18 and there are a variety of places where discretion is
19 provided for in different ways in the Election Code, because
20 not everything can be predicted in advance in terms of human
21 behavior.

22 However, when you have a challenger who attempts to
23 physically handle ballots, that is disruptive to the election
24 process. When you have a challenger who begins to attempt to
25 videotape voters while they are voting, that is disrupting

1 the election process. When you have a challenger who decides
2 to engage with people other than the presiding judge and
3 election judges in the polling location, that is disrupting
4 the election process. There's a variety of different things
5 that are not permitted in the Election Code and a violation
6 of those would be disrupting the election process.

7 MR. AEMISEGGER: So basically what's called out in
8 the current rule as it's written now?

9 MR. IVEY-SOTO: Madam Hearing Officer and Sir, that
10 is correct. I am not suggesting that there should be any new
11 standard, other than what is already provided for as it is
12 articulated in the Election Code.

13 MR. AEMISEGGER: Thank you.

14 HEARING OFFICER PINO: Thank you. Now, I know we're
15 running a little bit over but, Mr. Harry Montoya, you
16 provided comments related to the rule on Secured Containers,
17 but you have asked for another opportunity to provide
18 additional comments related to that rule and I will permit
19 you two minutes to provide that.

20 MR. MONTOYA: Harry Montoya, Santa Fe County
21 resident. I just wanted to follow up a little bit on what
22 Mr. Ivey-Soto made in terms of requests. These are certainly
23 things that, number one, I don't agree with ballot boxes. I
24 think this is, unfortunately, another way to have
25 questionable practices in terms of voting and I think this

1 rule in regards to HB407 and the amendments that
2 Mr. Ivey-Soto made and recommended, I concur with. I think
3 it helps strength the rule and certainly puts safeguards that
4 are much needed, I believe, in terms of the integrity of the
5 voter and the voting process for using the use of ballot
6 boxes.

7 As a Santa Fe County commissioner in the past,
8 certainly one of my responsibilities was to ensure the
9 integrity of elections and I think by allowing counties the
10 opportunity to, for example as was suggested to have, shall
11 be reimbursed by the Secretary of State's Office, I would ask
12 that that be done in terms of changing that language, instead
13 of shall. One of the things I was never really fond of was
14 unfunded mandates and I think that takes care of some of the
15 questions that I would have in terms of putting these
16 burdens, especially financial burdens, on already strapped
17 counties.

18 That's all I have. Thank you, Madam Hearing
19 Officer, I appreciate it.

20 HEARING OFFICER PINO: Thank you.

21 MR. MONTOYA: Any questions? Seeing none.

22 HEARING OFFICER PINO: Thank you, Mr. Montoya. I
23 just want to make sure that everyone has signed the
24 attendance sheet. Also, for any additional communication
25 related to these proposed rules, we typically ask that you

1 provide either an email address or a mailing address, so if
2 you would please see Theresa Romero with our office before
3 you leave so you can provide that information for any
4 additional communication related to the implementation of
5 these rules.

6 At this time the attendance sheet will be marked as
7 Exhibit 8; is that correct?

8 MS. FRESQUEZ: That's correct.

9 HEARING OFFICER PINO: If you could, please,
10 Secretary of State's Office, mark that as Exhibit 8. And we
11 will enter that into the record as Exhibit 8.

12 Does anybody in the audience have any questions
13 about the attendance sheet, Exhibit 8? Yes, sir.

14 MR. AEMISEGGER: Anthony Aemisegger. Printed is the
15 same as signed on that sheet, right? Because I only saw a
16 place to print my name.

17 HEARING OFFICER PINO: Yes, it's the same.

18 MR. AEMISEGGER: Thank you.

19 HEARING OFFICER PINO: Thank you. Mr. Ivey-Soto.

20 MR. IVEY-SOTO: Yes, could you just verify for me on
21 the sign-in sheet, if I signed in on behalf of Vandelay, was
22 that the reference that I gave?

23 HEARING OFFICER PINO: Yes.

24 MR. IVEY-SOTO: Thank you very much

25 HEARING OFFICER PINO: This hearing is now closed

1 and no further oral testimony will be heard. The data,
2 arguments and testimony submitted during this hearing will be
3 duly considered by the Secretary of State's Office. Upon
4 completion of the Rule Hearing all exhibits from this public
5 comment hearing will be incorporated into the final
6 rulemaking record in accordance with the State Rules Act.

7 Any rules adopted by the Secretary of State's Office
8 will be filed at the State Records and Archive Center in
9 accordance with State Rules Act and New Mexico Register
10 publication deadline. Any rules or amendments not adopted
11 may be postponed for future discussion at a definite time in
12 the future or may be postponed indefinitely.

13 I would like to thank all of the members of the
14 public who attended today and those who were able to watch
15 via our live-stream for their participation and attendance,
16 we really appreciate it and we appreciate all of your
17 feedback, heard a lot of good things today and certainly a
18 lot of passionate thoughts and we are going to consider all
19 of that, so thank you for your attendance and participation.

20 Let the record reflect that the hearing was
21 adjourned at 11:07 a.m on July 22, 2021. Thank you all.

22 (Meeting adjourned at 11:07 a.m.)
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REPORTER'S CERTIFICATE

I, Kim Kay Shollenbarger, Registered Professional Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a transcript of those proceedings taken to the best of my ability and were reduced to printed form by me to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties in this case and that I have no interest in the final disposition of this case.

/s/ Kim Shollenbarger

Kim Kay Shollenbarger, RPR