

SUMMARY OF FINDINGS

This report was prepared for the Yvette Herrell campaign for the New Mexico 2nd Congressional District by Full Compliance Consulting, LLC, with assistance from Herrell's legal counsel, Carter B. Harrison IV of Peifer, Hanson & Mullins, P.A.

The Herrell campaign filed an action in district court to impound the absentee election returns in Doña Ana County following the 2018 general election. Bobbi Shearer, a former Director of the state's Bureau of Elections worked with a team of volunteers to copy and scan a complete set of election returns from the absentee voting process in Doña Ana County and review those documents. The election returns included the absentee ballot applications, the absentee ballot outer envelopes, and the records of the absentee precinct board and the county clerk's office.

The review of these documents provided the campaign with an opportunity to look at the absentee voting process in New Mexico. These documents allowed insight into the processes attendant to voters requesting absentee ballots; those ballots being issued by the county clerk's office to the voters; ballots being returned, or not returned, by voters; and, finally, the absent voter precinct board qualifying and counting the ballots.

The review involved around 12,000 absentee ballot requests, 8,577 absentee ballot outer envelopes, and hundreds of rejected applications and several dozen undeliverable absentee ballots from Doña Ana County for the 2018 general election.

I. Currently, the New Mexico Voter ID requirement is not being applied to absentee ballots.

In New Mexico, the Voter ID requirement applicable to all types of voting is not particularly strenuous: the voter can come with any one of a number of different identifying documents, or — much easier and far more common — can simply state his or her own name, registration address, and year of birth. *See* NMSA 1978, § 1-1-24. The outer envelope of absentee ballots is designed to provide for this latter, non-documentary form of voter ID. The Election Code provides that “[t]he voter shall [] complete [a] form ‘on the reverse of the official [absentee ballot] mailing envelope, which shall include . . . the voter’s name, registration address and year of birth.’” NMSA 1978, § 1-6-9.

Despite this mandatory language,¹ no absent voter precinct board in the state actually confirms whether or not the Voter ID fields on the absentee ballot envelopes have been filled out

¹ *See* NMSA 1978, § 1-1-3 (“As used in the Election Code, ‘shall’ is mandatory and ‘may’ is permissive.”).

correctly, or even filled out at all — instead, they check only to see if the envelope has been *signed*. (And, of course, no effort is made to match the signature on the ballot to the voter’s signature from his or her certificate of registration or absentee-ballot application). The result is that, despite it being acknowledged by everyone (including the New Mexico Supreme Court) that “absentee voting, as regulated by our statute[s], offers opportunities for fraud,”² wrong answers or non-answers to the Voter ID questions are completely ignored by absent voter precinct boards. This is problematic for the simple reason that if the same wrong answers or non-answers were given in-person at the polls, the voter would not be issued a regular ballot, but would instead be required to vote on a provisional ballot.³

In fact, the language of existing statutes emphasizes unmistakably that in-person absentee ballots can be issued only on the condition that the voter provides the statutorily-defined Voter ID: “When marking an absentee ballot in person at the county clerk’s office. . . [i]f the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot.” NMSA 1978, § 1-6-5.1(G). This same standard applies in early voting and in Election Day voting. *See* NMSA 1978, § 1-6-5.7(E).

The reason that the Voter ID fields on the absentee ballot outer envelopes are ignored stems from the historical development of both the Voter ID and absentee voting requirements. Before 1993, absentee voting was still “for-cause” only (meaning the voter had to claim to be out of town on election day or otherwise unable to get to a polling place in person), and the current Voter ID statute had not yet been enacted. However, the statute did require that these returned absentee ballots include (what are now) the three Voter ID fields that did exist (*i.e.*, the earlier-quoted provision of § 1-6-9 was in effect). And at that time, precinct boards rejected absentee ballots that did not contain all of the right information.

Our Supreme Court put a stop to those rejections, however, in *Klumker v. Van Allred*, 1991-NMSC-045, holding that § 1-6-14 — a section on the “[h]andling [of] absentee ballots by absent voter precinct boards” — provided for a “lawfully appointed challenger” to challenge a ballot only for a missing signature, for having been opened before getting the precinct board, or because the putative voter is not eligible to vote for some reason. *See* NMSA 1978, § 1-6-14(C). The Court acknowledged that, in a previous case, it had

² *Bryan v. Barnett*, 1930-NMSA-095, ¶ 12; *see also* Elizabeth Bircher, *Election Law Manual*, 6-9 (2008) (“Absentee voting that occurs outside a polling location is usually unsupervised; thus it carries an inherent risk of election fraud. This increased fraud risk allows states to regulate absentee voting more extensively than in-precinct voting, including limiting its availability.” (footnote omitted)).

³ “If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional paper ballot and shall provide the required voter identification to the county clerk’s office before 5:00 p.m. on the second day following the election, or to the precinct board before the polls close, or the voter’s provisional ballot shall not be qualified.” NMSA 1978, § 1-12-7.1(D).

properly held that the [signature] requirements are of sufficient importance in safeguarding the purity of elections that failure to comply with them necessitates rejection of the ballot.

[But n]o similar importance attaches to the [Voter ID] requirements in the form on the official mailing envelope that the voter’s name be printed beneath his or her signature, that the ballot envelope be dated, or that the voter’s address or correct registration number be inserted. (*Klumker*, 1991-NMSC-045, ¶¶ 18-19) (emphasis added).

Klumker, 1991-NMSC-045, ¶¶ 18-19 (emphasis added).

The *Klumker* holding would seem to definitively resolve the question of whether the statute today directs its absent voter precinct board to check the Voter ID fields. However, two very important changes to the statute were implemented after *Klumker*. These two changes seriously call into question the continued viability of the *Klumker* holding.

First, in 1991, when *Klumker* was decided, the “signature requirement” was not merely the single signature (of the voter) required today. Rather, the envelope had to be signed by both the voter and “have [the voter’s] signature witnessed by another registered voter or subscribed and sworn to before a person authorized to administer an oath.” NMSA 1978, § 1-6-9(A) (in eff. 1991).

That language was stricken in 1993 in a bill titled “An Act . . . Removing the Requirement That Voter Signatures Be Made Under Oath or Before a Witness.” S.B. 234, § 3, at 4 (41st Leg., 1st Sess., 1993). This change, which resulted in absentee ballots needing only a single signature — the voter’s — did much to undermine the strength of the *Klumker* Court’s holding about the relative unimportance of the Voter ID fields, as compared to the *then-two* signatures.

The *Klumker* Court had made the signature requirement the ‘all-important’ component precisely because it required two signatures: one by the voter and the other by a notary or a witness. The court was recognizing the safeguard that the then-existing two-signature provision provided — it indicated that a notary/witness either knew the person or looked at his or her ID(s). If someone signed the oath and had it properly notarized, but then forgot to put in their printed name, the date, or his or her voter registration number, it was ‘no harm, no foul’ precisely because the more important fact was that independent verification was being provided by means of a second signature.

Today, however, the name, address, and year of birth fields are the Voter ID, and it makes no sense not to verify that information, as is required for every other type of voting. The removal

of the second signature eliminated the crucial element in confirming the voter was who he or she claimed to be but replaced it with the new ID standard.

In addition to the changes already noted, that same S.B. 234, in 1993, made another change to § 1-6-14 (the section laying out the grounds for rejecting an absentee ballot):

- A. Before opening any official mailing envelope, the presiding judge and the election judges shall determine that the required [~~oath has been executed~~] information has been completed on the reverse side of the official mailing envelope.

S.B. 234 § 5, at 5. Thus, the post-*Klumker* addition of the requirement that the precinct board check for the “required information” not only provides strong support for the proposition that the absent voter precinct board should, in fact, check for the required information, it states that requirement explicitly.

In 2005, the conclusion that absentee ballots must contain the correct name, registration address, and year of birth of the voter became inescapable. That year, New Mexico finally adopted an explicit Voter ID statute. The fact that the new statute was codified in Article 1 of the Election Code, rather than one of the articles devoted to specific types of voting, underscored the fact that the Voter ID requirement was intended to apply to all forms of voting — in-person absentee, absentee by mail, early voting, and election day voting. This is also obvious from the very title of the act implementing the requirement: “An Act . . . Requiring Voter Identification for In-Person and Absentee Voting.” 2005 N.M. Laws Ch. 270.

At that time, the legislature also adopted § 1-12-29.1, which provides:

- A. The secretary of state shall issue rules to create a uniform process and set of criteria for deciding if provisional, absentee and other paper ballots shall be counted.
- B. When qualifying provisional, absentee and other paper ballots, middle initials, suffixes and addresses shall not be dispositive as to whether that person’s ballot is qualified and counted in the vote totals, provided that the county clerk can otherwise verify the person is a voter based on the information provided on the outer envelope of the paper ballot or affidavit.

For all these reasons, there is no convincing basis — whether derived from some informal ‘policy’ or the text of the Election Code — to exempt absentee ballots from the same requirements that are mandatory for all other methods of voting. (It is also certainly a peculiarity that Voter ID

is required in the presence of an employee of the clerk's office, but no Voter ID is required for ballots that are voted by an individual in the presence of no one else. *See* NMSA 1978, § 1-6-5.1(G).)

The legislature should amend § 1-6-14 to resolve the persistent non-uniform application of Voter ID that has led clerks and secretaries of state to continue following the *Klumker* mandate; failure to do so will very likely lead to the issue being litigated before the next election cycle.

The quantitative significance of this issue

The review involved around 12,000 absentee ballot requests, 8,577 absentee ballot outer envelopes, as well as hundreds of rejected applications and several dozen undeliverable ballots from the absentee voting in Doña Ana County for the 2018 general election.

Under the court order in the impoundment case, the county clerk's office was required to redact any confidential information that the voter had written on the envelope, particularly the voter's full date of birth (which people often wrote in on the line for "year of birth"). As a result, the county clerk's office redacted and provided black and white paper copies of all of the redacted absentee outer envelopes to Herrell's campaign team. The remainder of the outer envelopes were scanned in color by the campaign team. Both the county clerk's office and the campaign team separated the outer envelopes into those that were received by mail, and those that were hand-delivered (referred to as "walk in").

For these reasons, the outer envelopes are separated into four (4) major batches, plus a few exceptions such as materials from military and overseas voters and ballots turned in to presiding judges on Election Day. The four major sets of ballot envelopes are:

- (1) Redacted – Walk in (780 envelopes; A's through Z's)
- (2) Redacted – Mail in; (1,679 envelopes; A's through Z's)
- (3) Scanned – Walk in; (approximately 2,012 envelopes; A's through Z's)⁴
- (4) Scanned – Mail in; (approximately 4,018 envelopes; A's through Z's)

Exceptions not in the larger batches include:

- (1) Ballots Disqualified and then Requalified by the AB Board (12 envelopes)
- (2) Ballot envelopes marked "no ballot" (2 envelopes)

⁴ The envelopes do not add up to exactly 8,577 because of duplicates within the four sets. The team did not attempt to match the exact number of envelopes to ballots cast.

- (3) Ballot envelope marked “realized he still had ballot. Came to office to complete new envelope. Received new envelope. D.C. 11/6/18.” (1 envelope)
- (4) Ballot envelope with notation on the front “Nov 6, 2018 10:48 p.m. bp”, and on the back shows the ballot was disqualified then requalified by the AB board (1 envelope).
- (5) Ballot envelope with presiding judge notation “Nov 6, 2018 10:48 pm bp” on back (1 envelope)
- (6) Ballot envelopes with Disability Affidavits (4 envelopes)
- (7) Ballot Envelopes for Military and Overseas Voters (24 envelopes)
- (8) Ballot envelopes with no clerk’s date and time stamp and no PJ initials or notations (108 envelopes)
- (9) Ballot envelopes with notations from a polling place presiding judge with date and time (128 envelopes)
- (10) Ballot envelope with a large signature whited out using “Whiteout” and resigned with different signature

The redacted ballots were reviewed for the Voter ID requirements. These ballots are expected to produce a lower rate of missing or incorrect voter ID information because, presumably, they were redacted because the voter had provided not just the year of birth, but the full date of birth.

The combined Redacted Mail-In Ballots and the Redacted Walk-In Ballots totaled 2,459 ballot envelopes, or 28.6% of all of the returned outer envelopes. Within those envelopes, there were:

- A. 5 envelopes that provided a registration address that did not match the absentee register;
- B. 25 envelopes that listed 845 N. Motel — the county clerk’s address — as the registration address
- C. 49 envelopes with no registration address provided
- D. 23 envelopes with a P.O. Box provided instead of a registration address.

The 102 envelopes that lacked the address requirement of the Voter ID, represent a 4.1% error rate in the address requirement alone, among the ballot envelopes that are expected to produce the least number of errors.

Volunteers are continuing the process of reviewing the remaining 71.4% of the unredacted ballots and cannot assess the error rate contained in those envelopes as of the date of this report. Based on the rate of error found in the outer envelopes that should not have any issues associated with the year of birth, it is expected that the overall error rate for all of the voter ID requirements will exceed the 4.1% found in the address element alone in the redacted envelopes.

II. Non-governmental groups are almost certainly engaging in at best aggressive — and at worst fraudulent — procurement of absentee ballot applications.

Of the 11,428 people who purportedly applied for, and were sent, an absentee ballot by the Doña Ana County Clerk, roughly 2,891 (~25% of the total) never mailed them back in to vote. This rate of non-return is over twice the 2018 statewide rate and is totally out of keeping with Bernalillo County (which is comparable to Doña Ana insofar as they are the two most populous counties) and Chaves County (which is another Congressional District 2 county with a larger-sized city in it). This is a marked change from 2016, when Doña Ana County’s non-return rate hewed closely to the figures for Bernalillo, Chaves, and the state as a whole. The non-return rate of absentee ballots in various jurisdictions in the two years is as follows:

	2016	2018
Bernalillo	4,874/30,411 (16.0%)	2,375/26,207 (9.1%)
Chaves	196/1,289 (15.2%)	191/1,704 (11.2%)
Doña Ana	657/3,758 (17.5%)	2,891/11,428 (25.3%)
Statewide	12,283/69,966 (17.6%)	9,095/75,470 (12.1%)

Of the 2,891 Doña Ana County voters who were sent absentee ballots but did not return them, 1,718 of them were registered Democrats, while only 306 were Republicans. Additionally, non-returned ballots among Decline-to-State (DTS) voters greatly outnumbered Republicans even though Republican voters in the county are far more numerous than DTS. This is suggestive of the possibility that someone was submitting absentee ballot applications for Democrats and those deemed likely to vote for Democrats.

All it takes to submit an absentee-ballot application — for one’s self or for someone else (although the latter is illegal) — is the voter’s name, registration address, year of birth, and signature. The Doña Ana County Clerk *did* verify the accuracy of this information on the application (although it did not compare the signature on the application to the one on the voter’s certificate of registration, nor are we suggesting it should have). However, all three components of the required information is publicly available. And not “publicly available but a pain to find and/or compile” — anyone can acquire a voter roll or signature roster containing all of the Voter ID information for every registered voter laid out in convenient tabular form. Going through registered voters who are either registered with a party or demographically likely to vote for that party, and focusing on those individuals who are unlikely to otherwise vote — namely those with a sparse history of voting in past elections (information that is also publicly available) — and filling out absentee-ballot applications for them would likely be an effective strategy for increasing turnout among those voters.

Also consistent with potential absentee ballot-application fraud is the apparently high rate of applications rejected for incorrect Voter ID or for submitting duplicate applications, *i.e.*, where

the same voter purportedly applies twice for an absentee ballot. The Doña Ana County Clerk's Office provided the impoundment team with 530 redacted absentee ballot applications that had been rejected, as well as 1,191 additional rejected absentee applications that did not require redaction, all of which were segregated from the accepted absentee applications. There were an additional significant number of absentee applications that were duplicates, but that were included within the accepted absentee applications. In those cases, the duplicate application was kept together with the accepted application.

While duplicate applications may indicate that voters simply signed multiple absentee ballot requests, the issues noted in the report, such as applications submitted after the voter had voted early in person, are indicators of fraudulent activities.

Last, there were a large number of instances on election day of voters who appeared at the polls to vote in person and were forced to vote provisionally due to being on the absent ballot register because they had been sent an absentee ballot, despite having not requested them. Nearly two dozen voters went out of their way to *submit complaints* about this exact issue at just one early voting location.

It should be noted that it is also completely possible — and this is likely to account for much of each of the statistical anomalies just listed (the high overall absentee voting rate, the high non-return rate, and the high rates of duplicate applications, and absentee ballot applicants attempting to vote in person) — that third-party groups, rather than illegally filling out applications for unknowing voters, were simply engaged in an aggressive 'absentee-ballot drive' strategy. In other words, third-party groups may have been filling out applications for voters who *knew* an application was being filled out for them but did not independently *want* to fill out an application. Such a strategy could be pursued by going door-to-door, perhaps targeting the aforementioned party-aligned, or demographically-sympathetic, unlikely-to-vote voters, or through more traditional tactics of setting up a table at an event frequented by party-aligned individuals (party meetings, interest group gatherings, union halls, etc.).

It would make sense that a voter who was pressured (or to phrase it more value-neutrally, facilitated despite a lack of independent desire) to apply for an absentee ballot would be less likely to turn it in as a vote — thus accounting for the low return rate — and also more apt to forget that he or she had applied in the first place — thus accounting for the high rate of attempts to apply for a second absentee ballot or vote in person.

Whatever the case, it is non-ideal that these groups operate the way they do without any oversight or reporting obligations. Absentee applications submitted independently are completely indistinguishable from those collected by a third-party entity, and even those applications turned

into the clerks *en masse* and in person are not distinguished or categorized as such, nor is the name of the person dropping off a batch of absentee applications noted.⁵

III. A large number (577) of Doña Ana County absentee ballots are listed on the absentee ballot register as having been received after the 7:00 p.m. Election Day deadline — indicating either that huge numbers of votes that should have been rejected were instead wrongly counted or that the register is not being properly maintained.

Upon receipt of an absentee ballot, the clerk must timestamp the outer envelope itself and additionally “record this information in the absentee ballot register.” NMSA 1978, § 1-6-10(A).

Completed official mailing envelopes shall be accepted [by the clerk] until 7:00 p.m. on Election Day. Any completed official mailing envelope received after that time shall not be delivered to the absent voter precinct board” for counting, but should instead be retained, not counted, and eventually destroyed.

NMSA 1978, § 1-6-10(B).

Nearly 600 ballots are *marked in the absentee register* as being received after 7:00 p.m. — most of those are marked as having been received the next day. Upon review of the ballots’ outer envelopes themselves, however, it was noticed that the physical timestamps on the ballot envelopes never matched up with the timestamps in the absentee ballot register. The times subsequently recorded in the absentee register always indicated the ballots had arrived at a later time, typically by a few to several hours later.

What the Herrell campaign concluded likely happened — and this is the most innocent explanation — was that the ballots were physically timestamped when received (either in person or in the mail), sat around in the office for a few hours (perhaps until they were about to be loaded into ballot boxes), and then were scanned into the register with the date and time prefilling automatically, rather than by means of a clerk typing the information from the physical timestamp by hand.

This is, obviously, not how the register is supposed to work, and both contradicts the statutory language and renders the date and time of receipt on the register meaningless. That said,

⁵ Unlike with the absentee ballots themselves, which can only be turned into the clerk by a “caregiver to th[e] voter or member of the voter’s immediate family,” NMSA 1978, § 1-6-10.1, absentee ballot *applications* can be harvested and turned in by anyone — the only requirement is that, once a person has taken it upon himself to collect the applications, he becomes legally obligated to submit them promptly, *see* NMSA 1978, § 1-6-4.3(A)-(B).

if that is in fact what happened, then it is a ministerial error (albeit a relatively serious one) rather than one resulting in votes being wrongfully counted.

It should be noted, however, that the review team identified 108 envelopes among the unredacted ones that contained no date and time stamp or notations from a presiding judge at all. The team also identified two ballots which a presiding judge had marked as being received at 10:48 p.m. on election night, after the 7 p.m. deadline. Among the ballot envelopes that the county clerk's staff redacted, the impoundment team was not permitted to examine both sides of the envelopes for date/time stamps or presiding judge initials and cannot say how many of those envelopes did not contain that information.

This absence of any indication of receipt violates the statute in itself and, more important, means that those ballots should not have been counted since the only evidence available — the time noted in the register — indicates that they were received too late to be counted. This is an issue that needs to be rectified before the next election.

CONCLUSIONS AND RECOMMENDATIONS

A. The Voter ID Requirement Should Apply to Absentee Ballots.

One of the most important findings in this process is the fact that New Mexico's explicit Voter ID requirement is not being applied to absentee ballots. Among the four ways a voter can cast a ballot, absentee voting by mail is the only one for which the Voter ID standard is not applied.

Our current Voter ID requirements (found in §§ 1-1-24 and 1-6-4 (B)) place no burden on the voter — who simply has to answer a three basic questions about him or herself — and do not burden the exercise of the franchise. Although minimal, they nonetheless provide a modicum of assurance that the voter is the person he or she is identifying himself or herself to be.

An additional benefit is the invaluable effect of instilling confidence in the electorate that there is at least some measure of security regarding the elections in which New Mexicans determine their representatives and constitutional officers. In the social media era, there is also the added benefit of providing a safeguard that helps diminish rumors or accusations of "fraud." For all these reasons, these very minimal requirements should be enforced — as clearly intended by the legislature when it adopted the statutes referenced above.

This security measure is particularly important at a time when the legislature appears to be on the verge of expanding the New Mexico voter rolls through bills that provide for automatic voter registration and same-day voter registration, as well as the inclusion of the entire 7,500-member prison population.

Recommendation: Amend sections of the Election Code (as shown below in the Appendix) to remind county clerks and emphasize to elections officials that existing Voter ID requirements already established in statute must be applied to absentee voting, so that the entire elections process will always be conducted in a uniform and non-discriminatory manner.

If this defect — which is a statutory requirement not being observed in New Mexico elections — is not clarified by the legislature, or otherwise rectified, it will likely create litigation now that the disparate, discriminatory, and non-uniform application of the Voter ID standard has been noted and documented.

B. The Absent Voter Register Is Not Being Maintained

As noted in the report, a significant number of errors occur in the attempts to maintain the absent voter register. Physical counts of applications and physical reviews of applications and outer envelopes of ballots do not match the data contained in the register, including the reasons for rejections, numbers of ballots issued, dates of receipt, and the information shown in a number of other columns.

While clerks are already statutorily required to maintain the Absent Voter Register, it is clear that more emphasis and training, at least in Doña Ana County, is needed. It may be beneficial to acquire new equipment, such as a physical timestamp that will also simultaneously record the same date and time into the register upon scanning of the absentee ballot barcode. If this would help in complying with the Election Code, then it is likely a worthwhile investment.

Recommendation: This is a process error that may be handled effectively and accurately in other counties. Doña Ana County should take measures to ensure the absentee register is correct, including additional staff training or software solutions.

C. The Implications of the Extremely High Number of Unreturned Absentee Ballots Are Concerning.

In the 2018 election, there was a concerted effort to encourage absentee voting. The numbers cited above, both with regard to the steep increase in total absentee votes cast as well as the high number of unreturned ballots, cannot be explained any other way. Much of this effort may have been perfectly lawful, but the 25% non-return rate indicates such a high rate of “unawareness” on the part of those who supposedly requested the ballots that it is possible there may have been fraud in this area, as well.⁶

⁶ A number of observers have raised the issue of third-party entities, including non-profits and other political or “educational” actors, involved in GOTV (Get Out the Vote) projects. A significant risk comes from these entities’ expectations that individual paid canvassers sign up a given number of new absentee applicants

Recommendation: Strengthen the procedures which govern the issuance of absentee ballots and reduce the opportunities for fraud or improper absentee ballot requests by checking available databases that provide information as to whether a voter has moved or is registered in another state.

The statutory provisions contained in Section 1-4-1.1, which allow the secretary of state to enter into agreements with a consortium of election officers from other states, or federal agencies, including the Social Security Administration, as well as the state's motor vehicle division, for the purpose of maintaining accurate information in the statewide voter file should be mandatory rather than permissive.

The state may also want to consider using a signature verification process similar to the one implemented in the State of Colorado for mailed ballots.

per week, as this incentivizes canvassers who are unable to meet the (explicit or implied) quota — and who have likely noticed the shortcomings in the voter-security apparatus from their work repeatedly signing up voters to receive absentee applications — to pad their numbers by (1) filling out forms for voters they have never met, but whose names they take from public records; and (2) aggressively 'assisting' voters at political events or even door-to-door, when those voters may not be aware of the significance of the document they are signing. One may constitute fraud while the other does not. But the result in each could be thousands of unreturned absentee ballots — as was seen in Doña Ana County.

Worse yet, there is also the incredibly dangerous possibility that a truly unethical person would go a step further: directing in the application that the absentee ballot be *sent to an address controlled by the canvasser or his entity*, which would then cast the vote in the name of the unwitting, and now disenfranchised, voter. New Mexico currently relies on the honor system to prevent this from happening — along with the probability that, if done enough, eventually one of the voters forced to vote provisionally after being told that an absentee ballot was submitted in their name will doggedly pursue a complaint, and the fraud will become known. (Even then, the perpetrator is exceptionally unlikely to be caught, and, ironically, it is the (fraudulent) absentee ballot, not the in-person (now provisional) ballot cast by the real voter, that will be counted under our system.) There were, by the way, 22 such complaints from Doña Ana County in the 2018 general election.

APPENDIX: PROPOSED AMENDMENTS (Voter ID for Absentee Ballots)

1-6-8. Absentee ballot envelopes.

- A. The secretary of state shall prescribe the form of, procure and distribute to each county clerk a supply of:
- (1) official inner envelopes for use in sealing the completed absentee ballot;
 - (2) official mailing envelopes for use in returning the official inner envelope to the county clerk; provided the official mailing envelope for absentee ballots in a general election shall contain no designation of party affiliation;
 - (3) absentee ballot instructions, describing proper methods for completion of the ballot and returning it; and
 - (4) official transmittal envelopes for use by the county clerk in mailing absentee ballot materials.
- B. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.
- C. The reverse of each official mailing envelope shall contain a form to be executed by the voter completing the absentee ballot. The form shall identify the voter and shall contain the following statement: “The information I have provided to constitute the required form of identification, including my name, registration address, and year of birth are correct to the best of my knowledge. I will not vote in this election other than by the enclosed ballot. I will not receive or offer any compensation or reward for giving or withholding any vote.”
- D. The official mailing envelope shall contain a space for the voter to record the voter’s name, registration address and year of birth. The envelope shall have a security flap to cover this information.

1-6-14. Handling absentee ballots by absent voter precinct boards.

- A. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the required information that shall constitute the required form of identification, as specified in 1-1-24 (B) and 1-6-4 (B), has been completed on the reverse side of the official mailing envelope.

- B. If the voter's required form of identification signature is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation "Rejected, Missing Signature" in the "Notations" column of the signature rosters or register, specifying the missing form(s) of required identification which resulted in the ballot being rejected. The presiding judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope and write the voter's name on the front of the envelope and deposit it in the locked ballot box.
- C. A lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:
- (1) the official mailing envelope has been opened by someone other than the voter prior to being received by the absent voter precinct board;
 - (2) the official mailing envelope does not contain the information which shall constitute the required form of identification specified in 1-6-4 (B): the applicant's printed name, registration address and year of birth;
 - (3) the official mailing envelope does not contain a signature; or
 - (4) the person offering to vote is not a voter as provided in the Election Code [Chapter 1 NMSA 1978].
- D. If a challenge is upheld by unanimous vote of the presiding judge and the election judges, the official mailing envelope shall not be opened but shall be placed in an envelope provided for challenged ballots. If the reason for the challenge or rejection is satisfied by the voter before the conclusion of the county canvass, the official mailing envelope shall be opened and the vote counted. If the reason for the challenge or rejection is not satisfied, the official mailing envelope shall be handled in the same manner as a provisional ballot. ~~The same procedure shall be followed in canvassing and determining the validity of challenged absentee ballots as with other challenged ballots.~~
- E. If the official mailing envelope has been properly subscribed and the voter has not been challenged:
- (1) the judges or election clerks shall enter the absent voter's name and residence address as shown on the official mailing envelope in the signature rosters and shall mark the notation "AB" opposite the voter's name in the "Notations" column of the signature rosters or register; and

- (2) only between 8:00 a.m. and 10:00 p.m. on the five days preceding election day, including Saturday and Sunday, and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.
- F. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of absentee ballots prior to the closing of the polls.
- G. Absentee ballots shall be counted and tallied, where possible, on an electronic voting machine as provided in the Election Code.
- H. Absent voter precinct polls shall close in accordance with Section 1-6-23 NMSA 1978, and the results of the election shall be certified as prescribed by the secretary of state.
- I. If an absentee ballot does not contain the identification required pursuant to Subsection D of Section 1-6-5 NMSA 1978, it shall be handled as a provisional paper ballot in accordance with the Election Code.