

## NOTICE OF PROPOSED RULEMAKING

The Office of the New Mexico Secretary of State (“Office”) hereby gives notice that the Office will conduct a public hearing on the described rules below.

A public hearing will be held on September 5 at 9:00 am at the State Land Office, 310 Old Santa Fe Trail, Santa Fe NM 87504. Attendees cannot park in the State Land Office parking lot, but must park at the PERA lot, one block east of the State Land Office. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on proposed rule changes to 1.10.23 NMAC, as well as changes to 1.10.13 NMAC, and 1.10.37 NMAC and also a new rule, 1.10.38 NMAC, for which separate notices are being published. All comments will be recorded by a court reporter.

**Authority:** Election Code, Sections 1-2-1, and 1-14-1 et seq. NMSA 1978

### **1.10.23 NMAC Procedures for Recounts, Audits, Rechecks and Contests**

**Purpose:** The purpose of the proposed changes is to clarify the role of district judges during voting system checks, recounts and audits. Pursuant to a recommendation from the State Records Center and Archives and in order to bring historic changes to the rule into compliance, 1.10.23 NMAC will be repealed and replaced with a new version that remains substantially the same but that includes new amendments as outlined below.

**Summary of Full Text:** Amendments to 1.10.23.9 specify that a district judge should be present for the opening and closing of ballot boxes during a voting system check. The proposed changes further clarify that a member of the New Mexico State Bar may serve as a judge’s designee for that purpose. Amendments to 1.10.23.10 affirm that a district judge must witness all ballot movement during a recheck and a recount, and further amendments clarify that a member of the New Mexico State Bar may serve as a judge’s designee for that purpose. Additional changes remove a “in-lieu of absentee” reference as it refers to an outdated category of ballots and remove “district judge” as a participant permitted to tabulate ballots during a recount or recheck.

**Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments:** Copies of the proposed rule are available on the Office’s website at [www.sos.nm.gov](http://www.sos.nm.gov) or can be obtained from the Elections Bureau & Ethics Division by calling (505) 827-3600 or emailing [lindsey.bachman@sos.nm.gov](mailto:lindsey.bachman@sos.nm.gov). The proposed rule is also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing, written comments may be sent to Lindsey Bachman, Director of Legislative and Executive Affairs, via email at [lindsey.bachman@sos.nm.gov](mailto:lindsey.bachman@sos.nm.gov), fax 505-827-3611, or by regular mail at Attn: Lindsey Bachman – proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM 87501. The deadline to receive written comment is September 4, 2025. All written public comments will be posted on the website throughout the written comment period at: [www.sos.nm.gov](http://www.sos.nm.gov).

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 827-3600 or email [lindsey.bachman@sos.nm.gov](mailto:lindsey.bachman@sos.nm.gov) (5) business days prior to the hearing.