

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION CHAPTER
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 39 CANVASSING PROCEDURES

1.10.39.1 ISSUING AGENCY: Office of the New Mexico Secretary of State.
[1.10.39.1 NMAC – N, 4/7/2026]

1.10.39.2 SCOPE: This rule applies to the secretary of state, county clerks, and election board members appointed by the county clerk for all statewide elections and special elections to fill a vacancy in the office of United States representative conducted pursuant to the Election Code.
[1.10.39.2 NMAC – N, 4/7/2026]

1.10.39.3 STATUTORY AUTHORITY: Section 1-2-1 NMSA 1978
[1.10.39.3 NMAC – N, 4/7/2026]

1.10.39.4 DURATION: Permanent.
[1.10.39.4 NMAC – N, 4/7/2026]

1.10.39.5 EFFECTIVE DATE: April 7, 2026, unless a later date is cited at the end of a section.
[1.10.39.5 NMAC – N, 4/7/2026]

1.10.39.6 OBJECTIVE: To establish uniform procedures for the election board, county clerks, and secretary of state to conduct post-election canvassing procedures.
[1.10.39.6 NMAC – N, 4/7/2026]

1.10.39.7 DEFINITIONS:

A. “Canvass” means the post-election verification process conducted by the county clerk and the secretary of state that confirms that ballots were accurately counted, accurately aggregated, and accurately included in the final election results.

B. “Canvass election board” means the election board appointed by the county clerk pursuant to Subsection A of Section 1-13-4 NMSA 1978 that complies with the requirements of Section 1-2-7 NMSA 1978 to assist the county clerk with duties during the conduct of the canvass. The duties conducted by the canvass election board may be completed by the absent voter election board or a separate board appointed by the county clerk for this purpose.

C. “County canvassing board” means the board established pursuant to Section 1-13-1 NMSA 1978 that is required to:

(1) consider and approve the county canvassing report prepared by the county clerk by signing the certificate of canvass of the results of the election pursuant to Subsection B of Section 1-13-13 NMSA 1978; and

(2) certify the election, or nomination in the case of a primary election, of each person running for office located wholly within one county and declare the results of all ballot questions affecting only precincts within one county.

D. “County canvass report” means the report prepared by the county clerk pursuant to Subsection C of Section 1-13-1 NMSA 1978 which consists of:

(1) the certificate of canvass to be signed by the county clerk and the county canvassing board members;

(2) the county summary report generated from the official results reporting system containing the verified final vote counts for each candidate contest and ballot question voted on by voters of the county separated by counting group;

(3) a final copy of the certified absentee by mail roster cover prescribed by the secretary of state that includes the total ballots requested, returned, accepted and rejected from uniformed-service & overseas voters; and

(4) the final signed provisional ballot reconciliation form prescribed by the secretary of state that indicates the total provisional ballots accepted and rejected within the county separated by counting group.

E. “Official results reporting system” means the system prescribed by the secretary of state to be used for aggregating, canvassing, and reporting the official results of all statewide elections and special elections to fill a vacancy in the office of United States representative.

F. “Roster cover” means the certificate form prescribed by the secretary of state that is signed by an election board pursuant to Section 1-12-28 NMSA 1978 to certify that the number of voters checked-in and ballots issued at a voting location reconciles to the number of ballots cast with the number of people who voted at that location, or, in the case of an absent voter precinct, that the number of voters who have returned an accepted ballot reconciles with the number of ballots counted in the prescribed counting groups.

G. “State canvass report” means the report prepared by the secretary of state pursuant to Subsection F of Section 1-2-32 NMSA 1978, that is presented to and approved by the state canvassing board consisting of:

(1) the results in the official results reporting system that have been verified by the county clerk, examined by the secretary of state pursuant to Subsection F of Section 1-2-32 NMSA 1978, and approved by the county canvassing board,

(2) a copy of the signed certificates of canvass provided by the county canvassing boards, and

(3) the information required pursuant to Section 1-6C-8 NMSA 1978.

H. “State canvassing board” means the board consisting of the secretary of state, the governor, and the chief justice of the supreme court constitutionally created in Article 5, Section 2 and who are required to meet pursuant to Section 1-13-15 NMSA 1978 to approve the state canvass report, declare the result of the election for candidates and questions voted on by the voters of the entire state or voters of more than one county.

[1.10.39.7 NMAC – N, 4/7/2026]

1.10.39.8 ELECTION BOARD RECONCILIATION PROCEDURES:

A. Early voting. For each day of voting at a mobile or alternate voting location the staff or election board appointed by the county clerk to operate the site shall:

(1) complete a start-of-day reconciliation procedure to validate that the public counter number on each tabulator is zero if it is the first day of in person absentee voting or else that the public counter number matches the ending public counter number from the previous day and complete and sign the start-of-day reconciliation form, or electronic equivalent, prescribed by the secretary of state.

(2) complete an end-of-day reconciliation procedure to account for all ballots issued and to reconcile the sum of the public counter number on each tabulator to the total number of checked-in voters and complete and sign the end-of-day reconciliation form, or electronic equivalent, prescribed by the secretary of state.

(3) the start-of-day and end-of-day reconciliation forms, or the electronic equivalent, shall be submitted to the county clerk and the secretary of state each day during in-person absentee voting.

(4) in the event of a discrepancy found during the daily reconciliation procedures, the staff or election board shall document the discrepancy and immediately notify the county clerk for further direction.

B. Close of polls. Upon the close of polls on election day and upon close out proceedings conducted related to in person absentee voting, the election board appointed by the county clerk and under supervision of the presiding judge shall:

(1) complete reconciliation procedures and complete and sign the roster cover, and if the reconciliation between the number of checked-in voters does not match the number of ballots voted, the presiding judge and election judges must investigate and document the discrepancy on the signed roster cover.

(2) follow tabulator shutdown procedures and print at least three copies of the results tapes. The election board shall verify that:

(a) the results tape(s) contain results,

(b) have printed in their entirety,

(c) the ballot cast number on the result tape matches the ending public counter from the respective tabulator, and

(d) each copy of the results tape(s) is signed by the election board.

(3) review the results tape(s) for write-in votes cast and check the diverter bin on each tabulator ensuring that the number of votes cast for write-in matches the number of ballots pulled from the diverter bin and complete and sign the write-in accounting form prescribed by the secretary of state.

(4) In accordance with Subsection A of Section 1-12-30 NMSA, immediately mail signed copies of the roster cover, the write-in accounting form, and the signed results tape(s) to the secretary of state in the provided stamped and addressed envelope.

(5) Deliver the following election returns directly to the county clerk on election night following procedures prescribed by the county clerk:

- (a) signed copy of the roster cover;
- (b) signed copy of results tape(s);
- (c) removable media storage device removed from each of the tabulators;
- (d) locked & sealed container(s) containing the machine counted ballots;
- (e) ballot box key(s) sealed into envelope addressed to the county clerk,
- (f) locked or sealed container containing provisional paper ballots;
- (g) locked or sealed container containing absentee ballots delivered to the polling place;
- (h) locked or sealed container containing voted ballots not cast on a voting machine (ballots to be hand counted);
- (i) locked or sealed container containing machine tabulated ballots with write-in votes (pulled from the diverter bin) along with a signed copy of the write-in accounting form;
- (j) envelope containing spoiled ballots; and
- (k) all unused election supplies not destroyed pursuant to the election code.

(6) Immediately mail a separate ballot box key, defined pursuant to Section 1-1-2.1 NMSA 1978, for the machine counted ballot boxes to the district court in the provided stamped and addressed envelope in accordance with Subsection C of Section 1-12-31 NMSA 1978.

(7) Post a copy of the results tape to the outside entrance door of the voting location.

C. Absentee voting. The absent voter precinct board is responsible for completing and signing the absentee by mail roster cover and ensuring it reconciles.

(1) The absentee by mail roster cover shall include an accurate accounting of voters who applied for and who returned a ballot to include the number of absentee by mail ballots (1) issued to the voter, (2) received back from the voter, (3) accepted by the absent voter precinct board, and (4) rejected by the absent voter precinct board separated into the following categories:

- (a) Regular by mail ballots,
- (b) Uniformed-service & overseas ballots,
- (c) Federal Write-in Ballots (FWAB), and
- (d) Provisional absentee ballots.

(2) The absentee by mail roster cover shall include an accurate accounting of ballots accepted and counted by the absent voter precinct board separated by the following categories:

- (a) Regular by mail machine counted ballots,
- (b) Regular by mail hand tallied ballots,
- (c) Uniformed-service & overseas ballots, and
- (d) Federal Write-in Ballots (FWAB).

(3) The absent voter election board shall ensure that the accepted ballot count in the accounting of voters described in Paragraph (1) of Subsection C of 1.10.39.8 NMAC matches the corresponding category of counted ballots under ballot accounting described in Paragraph (2) of Subsection C of 1.10.39.8 NMAC. In the case of regular absentee by mail ballots the machine ballots cast plus the regular by mail hand tallied ballots is expected to match the accepted regular by mail ballots.

(4) The absent voter election board shall investigate and resolve or document any discrepancy documented on the absentee by mail roster cover.

[1.10.39.8 NMAC – N, 4/7/2026]

1.10.39.9 COUNTY CLERK RECONCILIATION PROCEDURES:

A. For each voting location, and absent voter precinct, the county clerk shall review the election returns and ascertain whether the election board delivered all returns and properly executed the roster cover. Specifically, the county clerk shall verify:

(1) that the roster cover is completely filled out and signed and, by comparison, contains an accurate account of the number of:

(a) regular machine counted ballots issued (this number matches the ballots cast number on the sum total of machine results tapes used at the voting location);

(b) ballots spoiled (this number matches the number of spoiled ballots returned in the spoiled ballot envelope);
(c) provisional ballots issued (this number matches the number of provisional ballots returned in the secured provisional ballot envelope or box);
(d) hand tally ballots issued (this number will be verified by the canvass election board later, but the county clerk shall verify the presence of a secured hand tally ballot envelope or box if the roster cover indicates the hand tally ballot number is greater than zero)
(e) voters checked-in (this number matches the number of permits (or early voter applications) issued and the number of checked-in voters reported by the final poll book summary report or roster of voters).

(2) that the roster cover accurately reconciles the number of voters checked-in matches the ballots cast from the sum total of the results tapes plus the number of hand tally ballots or, if the numbers do not reconcile, that the election board has adequately documented the discrepancy on the roster cover.

(3) that all ballots, results tapes, removable media, and roster covers have been received from every voting location.

(4) If a county has a qualified write-in candidate, the county clerk shall review every result tape for the presence of unqualified write-in votes. If the county clerk observes uncounted write-in votes on the result tape, then the county clerk shall verify that the election board properly completed and signed a write-in accounting form and turned in an envelope or box containing write-in ballots.

B. If the county clerk identifies an error, omission, or discrepancy on the roster cover, the county clerk shall recall the delinquent election board to resolve or document the identified issue.

C. If during canvassing procedures, the county clerk identifies that election returns are missing, a search for missing returns shall be conducted pursuant to Section 1-13-8 NMSA 1978.

D. After the county clerk has completed an accurate inventory of election returns and verified the accuracy and completeness of every roster cover, the county clerk shall qualify provisional ballots and complete the provisional ballot reconciliation form prescribed by the secretary of state.

E. After the county clerk has completed all duties pursuant to 1.10.39.9 NMAC, the county clerk shall deliver the qualified provisional ballots to be counted and sealed containers containing ballots to be hand counted (regular hand tally ballots and ballots containing write-in votes) to the canvass election board along with the verified roster covers and the completed provisional ballot reconciliation form.

[1.10.39.9 NMAC – N, 4/7/2026]

1.10.39.10 CANVASS ELECTION BOARD DUTIES:

A. The canvass election board shall count the number of qualified provisional ballots received from the county clerk and verify that the number reconciles with the provisional ballot reconciliation form. If the number matches, the canvass election board shall proceed with tallying the qualified provisional ballots by precinct and by counting group on the hand tally sheet prescribed by the secretary of state or on tabulators specifically programmed to count qualified provisional ballots as provided by the county clerk. However, if a discrepancy with the provisional ballot reconciliation form is identified, the canvass election board shall notify the county clerk to investigate further.

B. The canvass election board shall open each hand tally ballot envelope or box and compare that the number of hand tally ballots listed on the corresponding roster cover matches the number of ballots contained in the hand tally envelope or box from each voting location. If the number matches, the canvass election board shall proceed with the hand tally of the ballots by precinct and by counting group on the hand tally sheets prescribed by the secretary of state. However, if a discrepancy is identified, the canvass election board shall notify the county clerk to investigate further.

C. The canvass election board shall open each envelope or box containing write-in ballots and compare that the number of write-in ballots matches the number listed on the write-in accounting form. If the number matches, the canvass election board shall proceed with the hand tally of the write-in votes by precinct and by counting group on the write-in tally sheets prescribed by the secretary of state. However, if a discrepancy is identified, the canvass election board shall notify the county clerk to investigate further.

D. All hand tally sheets must be properly filled out with the vote category clearly marked at the top of the sheet and signed by the canvass election board. Completed hand tally sheets shall be turned over to the county clerk for entry into the official results reporting system.

[1.10.39.10 NMAC – N, 4/7/2026]

1.10.39.11 COUNTY CLERK OFFICAL RESULTS VALIDATION:

A. The county clerk shall enter the votes from all hand tally sheets into the official results reporting system, including qualified write-in votes if applicable, by counting group and by precinct. After entry, the county clerk shall review and verify the county precinct report generated from the official results reporting system to ensure that the hand entered votes have been entered correctly and in the correct counting group and in the correct precinct.

B. The county clerk shall validate the summary ballots cast for every counting group in the official results reporting system. Specifically, the county clerk shall:

(1) for machine counted ballots, ensure the ballots cast total from every result tape in each counting group adds up to match the ballots cast total of the same counting group in the official results reporting system.

(2) for hand counted ballots, ensure the number of ballots hand counted in each counting group adds up to match the ballots cast total of the same counting group in the official results reporting system.

(3) for any discrepancy identified, investigate and recall the delinquent election board to assist, if necessary, until the discrepancy is adequately resolved.

C. Upon completing results validation and, prior to the deadline prescribed in Section 1-13-13 NMSA 1978, the county clerk shall prepare the county canvass report and lock the election in the official results reporting system.

D. The county clerk shall email a copy of the certified county canvass report, all hand tally sheets and any other updated election returns not already provided to the secretary of state.

E. The county clerk shall remain available to provide missing returns or to resolve discrepancies until after the completion of the meeting of the state canvassing board.

[1.10.39.11 NMAC – N, 4/7/2026]

1.10.39.12 STATE CANVASSING PROCEDURES:

A. Secretary of state responsibilities.

(1) The secretary of state shall conduct an inventory to ensure all election returns were received from every voting location and absent voter precinct in the state.

(2) The secretary of state shall review each roster cover to ensure it is completely filled out, signed, and the roster cover accurately reconciles the number of voters checked-in matches the ballots cast from the sum total of the results tapes plus number of hand tally ballots or, if the numbers do not reconcile, that the election board has adequately documented the discrepancy on the roster cover.

(3) Upon receipt of the certificate of canvass from a county, the secretary of state shall review the county summary report from the official results reporting system and verify:

(a) for machine counted ballots, ensure the ballots cast total from every result tape in each counting group adds up to match the ballots cast total of the same counting group in the official results reporting system.

(b) for hand counted ballots, ensure the number of ballots hand counted in each counting group adds up to match the ballots cast total of the same counting group in the official results reporting system.

(4) For all contests voted on by the voters of the entire state or voters of more than one county, including qualified write-in votes if applicable, the secretary of state shall verify that the hand tally sheets match the hand entered votes on the county precinct report generated from the official results reporting system.

(5) That a report of all provisional ballots accepted and rejected separated by counting group has been completed and signed and that it reconciles with the total number of provisional ballots issued in the county (according to the roster cover(s)) and that the hand entered votes on the county precinct report generated from the official results reporting system match the provisional hand tally sheets.

(6) For any discrepancy identified, the secretary of state shall contact the county clerk to investigate who will, if necessary, recall the delinquent election board to assist in correcting the discrepancy.

B. Independent auditor procedures.

(1) At least 90 days prior to each statewide election or as soon as practicable prior to an election to fill a vacancy in the office of United States representative, the secretary of state shall contract with an independent auditor qualified by the state auditor to audit state agencies to review the accuracy of the canvassing of the election returns by the county clerk and the secretary of state.

(2) The secretary of state shall provide copies of election returns and reports from the official results reporting system to the independent auditors from each county during the state canvassing procedures.

(3) The independent auditor shall follow procedures outlined in Subsection A of Section 1.10.39.12 NMAC to verify the accuracy of the results in the official results reporting system.

(4) Upon completion of the review by the independent auditor, but no later than the deadline set for the meeting of the state canvassing board, the secretary of state shall prepare the state canvass report to be presented to the state canvassing board.

[1.10.39.12 NMAC – N, 4/7/2026]

1.10.39.13 COUNTY CLERK - AMENDED CANVASS PROCEDURE:

If a discrepancy is found and corrected in the election results after the county canvassing board has met, the county clerk shall be responsible for preparing an amended county canvassing report and the county canvassing board shall convene to certify the corrected results and file an amended certificate of canvass pursuant to Subsection B of Section 1-13-13 NMSA 1978.

[1.10.39.13 NMAC – N, 4/7/2026]

History of 1.10.39 NMAC: [RESERVED]