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AN ACT
RELATING TO CONGRESSIONAL VACANCY ELECTIONS; PROVIDING
TEMPORARY EMERGENCY PROCEDURES FOR THE CONDUCT OF
CONGRESSIONAL SPECIAL ELECTIONS HELD DURING THE CORONAVIRUS
DISEASE 2019 PANDEMIC IN 2021; PROVIDING A DELAYED REPEAL;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A temporary provision of the Election Code
is enacted to read:

"TEMPORARY PROVISION--CONDUCT OF ELECTION--2021 SPECIAL
CONGRESSIONAL ELECTION--SPECIAL PROVISIONS AND
CONTINGENCIES.--

A. This section regulates the conduct of any
election held in 2021 to fill a vacancy in the office of
United States representative. To the greatest extent
possible, the provisions of this section are to be read as
supplemental to and in harmony with the provisions of the
Election Code; provided, however, that if a direct conflict
exists with other provisions in the Election Code, the
provisions of this section shall apply.

B. Each election day polling location located in
the district established in the 2019 polling place resolution
for each county or a location in the district established by
any subsequent amendment to such a resolution shall operate

1 as a voter convenience center.

2 C. A polling place located on Indian nation,
3 tribal or pueblo land shall not be closed or consolidated
4 with other polling locations, nor shall the days and times of
5 voting be modified, without the written agreement of the
6 Indian nation, tribe or pueblo where the polling location is
7 located. If, as a result of public health concerns, voters
8 registered within the Indian nation, tribe or pueblo are
9 unable to leave the Indian nation, tribe or pueblo during the
10 time when voting occurs for the election, regardless of
11 whether voters residing outside the boundaries of the Indian
12 nation, tribe or pueblo are able to access such polling
13 locations, there shall be at least one polling location
14 within the boundaries of the Indian nation, tribe or pueblo.

15 D. On behalf of each county clerk, the secretary
16 of state shall automatically deliver to each mailable voter
17 in the district a notice informing the voter of the date of
18 the election, an internet web address where a voter may
19 request a mailed ballot, a telephone number where a voter may
20 call to request a paper mailed ballot application and a list
21 of the days and times and addresses where voters may vote in
22 person. The notice shall be mailed beginning on the fiftieth
23 day before the election. As used in this subsection, a
24 "mailable voter" is a voter in the district other than a
25 voter:

1 (1) to whom a notice was sent pursuant to
2 Subsection C of Section 1-4-28 NMSA 1978 in 2018 or 2020, and
3 subsequent to the sending of the most recent notice:

4 (a) did not return the prepaid and
5 pre-addressed return card provided pursuant to that section;

6 (b) has not filed a new or amended
7 certificate of registration with a new address at which
8 election-related mail is to be sent; and

9 (c) has not since voted;

10 (2) who registered to vote on or before
11 December 31, 2016, has not submitted a new certificate of
12 registration at any time since January 1, 2017 and has not
13 voted in any election since January 1, 2017; or

14 (3) whose ballot is delivered pursuant to
15 the provisions of the Uniform Military and Overseas Voters
16 Act or the Intimate Partner Violence Survivor Suffrage Act.

17 E. Each mailed ballot sent to a voter in the
18 election shall contain the following notice: "This ballot
19 may be returned to the office of the county clerk or any open
20 polling location in the county where you are registered to
21 vote at any time up to and including the day of the election.
22 If this ballot is returned by mail, to ensure timely postal
23 delivery to the county clerk, the ballot should be mailed no
24 later than _____.". The date used in the notice shall
25 be seven days prior to the election.

1 F. An application for a mailed ballot from a voter
2 who is not a federal qualified elector is timely if received
3 by the county clerk no later than fourteen days prior to the
4 election. An application for a mailed ballot from a voter
5 who is not a federal qualified elector that is received by
6 the county clerk after the fourteenth day prior to the
7 election shall be rejected, and if the application was
8 received by the county clerk by the fourth day prior to the
9 election, the county clerk shall within twenty-four hours of
10 receipt of the application send a rejection notice to the
11 voter that shall include a list of the early and election day
12 polling locations in the county. The county clerk shall only
13 accept applications for a mailed ballot submitted through the
14 official web portal operated by the secretary of state or
15 submitted on the official paper form sent to a voter by the
16 county clerk, and shall process only the first request
17 submitted by the voter. A request for a replacement ballot
18 is not subject to the deadlines in this subsection.

19 G. If the application for a mailed ballot from a
20 voter who is not a federal qualified elector indicates that
21 the mailed ballot is to be delivered to an address other than
22 an address listed on the voter's certificate of registration,
23 the county clerk shall prepare a notice of requested mailed
24 ballot. The notice of requested mailed ballot shall inform
25 the voter of the address to which the ballot was mailed along

1 with the phone number of the county clerk's office and the
2 internet address of the voter web portal provided by the
3 secretary of state. The notice of requested mailed ballot
4 shall be delivered to the address provided on the voter's
5 certificate of registration on the same day the county clerk
6 delivers the mailed ballot to the address requested by the
7 voter.

8 H. An application for a mailed ballot from a voter
9 who is a federal qualified elector is timely if received by
10 the county clerk no later than seven days prior to the
11 election; provided that the voter provides information
12 permitting secured electronic delivery of the ballot to the
13 voter. An application for a mailed ballot from a voter who
14 is a federal qualified elector who does not provide
15 information permitting secured electronic delivery of the
16 ballot is timely if received by the county clerk no later
17 than fourteen days prior to the election.

18 I. To return a mailed ballot, each voter shall
19 provide in the space provided for that purpose under the
20 privacy flap of the official mailing envelope the voter's
21 signature on a line located under the required attestation
22 and the last four digits of the voter's social security
23 number, which shall constitute the required voter
24 identification. The attestation shall include the
25 pre-printed name of the voter to whom the mailed ballot was

1 sent. No additional information shall be required of a voter
2 to return a mailed ballot.

3 J. Upon receipt of a mailed ballot, the county
4 clerk shall remove the privacy flap to verify that the voter
5 signed the official mailing envelope and confirm that the
6 last four digits of the social security number provided by
7 the voter matches the information available to the county
8 clerk. If the signature is present and the last four digits
9 of the voter's social security number match, the county clerk
10 shall note in the absentee ballot register that the ballot
11 was accepted and shall transfer the ballot to the special
12 deputy for mailed ballots for delivery to the absent voter
13 election board. If either the voter's signature is missing
14 or the last four digits of the voter's social security number
15 are not provided or do not match, the county clerk shall
16 reject the mailed ballot and make the appropriate notation in
17 the absentee ballot register and shall transfer the ballot to
18 the special deputy for mailed ballots for delivery to the
19 absent voter election board. If the mailed ballot is
20 rejected, the county clerk shall within one day send the
21 voter a notice of rejection, along with information regarding
22 how the voter may cure the reason for the rejection. When an
23 application for a mailed ballot is rejected pursuant to this
24 section, the county clerk shall send a notice of rejection to
25 the mailing address on the voter's certificate of

1 registration and, if different, also to the address listed on
2 the voter's application for a mailed ballot. The
3 determination of the county clerk to accept or reject a
4 mailed ballot is subject to a later interposition of a
5 challenge before the absent voter election board. In
6 addition to existing procedures in the Election Code for
7 qualifying a previously rejected absentee ballot after
8 election day, a previously rejected absentee ballot may be
9 qualified by the presiding judge and election judges of the
10 absent voter election board before the day of the election if
11 the ballot was rejected for the lack of a signature or
12 missing required voter identification if the voter provides
13 such information pursuant to procedures established by the
14 secretary of state.

15 K. A political party with a candidate on the
16 ballot may appoint a challenger to observe the determination
17 made by the county clerk to accept or reject a mailed ballot.
18 The challenger shall not interpose a challenge to the county
19 clerk, but may make notes to interpose a challenge to the
20 absent voter election board; provided that a challenger shall
21 not copy, record or transcribe any portion of a voter's
22 social security number. Challengers are subject to the same
23 public health requirements as county clerk staff and election
24 board members.

25 L. On election night, the absent voter election

1 board shall recess upon the earlier of completion of its work
2 or 11:00 p.m. An absent voter election board that recesses
3 at 11:00 p.m. shall continue its work only between the hours
4 of 9:30 a.m. and 8:00 p.m. on each subsequent day until the
5 board has completed its work.

6 M. If the absent voter election board does not
7 complete its work by 11:00 p.m. on election night, the county
8 clerk shall notify the county sheriff's office that a deputy
9 is required to be present to secure the room or facility
10 where uncounted ballots are locked overnight. If the sheriff
11 indicates a sheriff's deputy is unavailable, the county clerk
12 shall notify the secretary of state who shall request state
13 police to assign a patrolman to secure the room or facility
14 where uncounted ballots are locked overnight. The county
15 clerk shall provide as much notice as is practicable in order
16 to secure law enforcement personnel to secure the uncounted
17 ballots overnight. A sheriff's deputy or state police
18 patrolman is required for overnight watch any time the absent
19 voter election board is not present until the return of the
20 absent voter election board. If neither a sheriff's deputy
21 nor a state police patrolman is available, the county clerk
22 or chief deputy shall remain on site until the return of the
23 absent voter election board and shall allow any challenger or
24 observer to remain present, as well.

25 N. When preparing the county canvass report, each

1 county clerk shall appoint an election board to conduct a
2 machine tabulation or hand tally if the county clerk has
3 received and logged any:

4 (1) paper ballots not previously tabulated;

5 (2) mailed ballots delivered to an election
6 board not previously tabulated;

7 (3) provisional paper ballots that have been
8 qualified and contain votes that are to be counted; or

9 (4) ballots with write-in votes not
10 previously counted.

11 O. Certificates of registration and cancellations
12 of existing voter registrations not processed until after the
13 election pursuant to existing law may be processed by the
14 county clerk beginning the first Monday following the
15 election; provided that such certificates of registration and
16 cancellations of existing voter registrations shall be
17 processed beginning the first business day following approval
18 of the report of the county canvass by the county canvassing
19 board.

20 P. No later than fifty days before the election
21 and in consultation with the department of health, the
22 secretary of state shall procure sufficient personal
23 protective equipment and sanitizing supplies for distribution
24 to each county clerk and for each early, mobile and election
25 day polling location.

1 Q. Nothing in this section shall alter or modify
2 the time lines or procedures provided in the Uniform Military
3 and Overseas Voters Act except for the deadlines provided in
4 this section for the request of a military-overseas ballot by
5 a voter who is a federal qualified elector. Nothing in this
6 section shall alter or modify the time lines or procedures
7 provided in the Intimate Partner Violence Survivor Suffrage
8 Act.

9 R. The secretary of state shall deposit sufficient
10 funds in the business reply mail account for each county
11 clerk to ensure delivery of all mailed ballot applications
12 and returned mailed ballots.

13 S. Notwithstanding any limitations to the
14 contrary, the state board of finance shall authorize
15 sufficient funds to be timely distributed to the secretary of
16 state and the department of health for necessary and
17 reasonable expenses incurred pursuant to this section.

18 T. The compiler shall not compile this section,
19 but shall reference it in a compiler's note."

20 SECTION 2. DELAYED REPEAL.--Section 1 of this act is
21 repealed effective December 31, 2021.

22 SECTION 3. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect
24 immediately. _____