

<b>LFC Requester:</b>	<b>Simon, Joseph</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/29/24  
**Bill No:** SB 229

**Sponsor:** Sen. Greg Nibert  
**Short Title:** Ballot Collection Box Procedures

**Agency Name and Code**    AOC 218  
**Number:** \_\_\_\_\_  
**Person Writing**    Kathleen Sabo  
**Phone:** 505-470-3214    **Email** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	\$50.00	Nonrec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Duplicates HB 243.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 229 amends Section 1-6-9 NMSA 1978 to require collection of ballots from monitored secured containers at least every 24 hours, by teams of 2 members of the election board who are not from the same political party. The SB 229 amendment requires each county clerk to ensure that teams of 2 members of the election board who are not from the same political party are present at each monitored secured container at 7 p.m. on election day, allowing voters in line by 7 p.m. to deposit their ballots in the monitored secured container. The teams are then required to collect all ballots and lock the monitored secured container so no additional ballots can be deposited.

SB 229 appropriates \$50,000 from the General Fund to the Office of the Secretary of State for FY 2025 to help pay for the cost of members of the election board collecting ballots from ballot collection containers. Any unexpended or unencumbered balance remaining at the end of FY 2025 is required to revert to the General Fund.

The effective date of the Act is July 1, 2024.

**FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions, as well as challenges to the law and to ballot drop boxes, in general. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

**SIGNIFICANT ISSUES**

- 1) Currently, Section 1-6-9 NMSA 1978 requires the county clerk, deputy county clerk, election board member or messenger to collect the ballots from the monitored secured containers and register the date and location on each official mailing envelope, at least every 3 days and on election day after the polls close.
- 2) Chapter 1, Article 20 provides offenses and penalties for violations of the Election Code. Section 1-20-1 NMSA 1978 provides that the penalties imposed by Sections 1-20-3 through 1-20-23 NMSA 1978 do not apply to offenses for which penalties are otherwise provided in the Election Code.

Section 1-20-22 NMSA 1978 provides that if the Election Code does not impose a specific penalty for the violation of a provision prohibiting a specific act, whoever knowingly commits such violation is guilty of a petty misdemeanor.

- 3) See <https://www.ncsl.org/elections-and-campaigns/table-9-ballot-drop-box-laws> for the National Conference of State Legislatures' (NCSL) listing of state ballot drop box laws, updating December 31-2023.
- 4) It is likely that there will be a challenge to the law and to ballot boxes in general. See the Center for Public Integrity's 2022 report, '*Chaos and confusion*': *The campaign to stamp out ballot drop boxes*, Mendelson and Rebala, at <https://publicintegrity.org/podcasts/integrity-out-loud/campaign-to-stamp-out-ballot-drop-boxes/>.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

See "Fiscal Implications," above.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicates HB 243.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

### **AMENDMENTS**