

SENATE BILL 286

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Daniel A. Ivey-Soto

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

.219152.3AIC March 12, 2021 (10:36am)

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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 as a voter convenience center SRC→; ~~provided that the secretary of~~

~~state may authorize an election day polling location that is not located on Indian nation, tribal or pueblo land to operate as a mail ballot election precinct if:~~

~~(1) the county clerk has requested a written waiver from the requirements of this subsection at least forty-five days before the election; and~~

~~(2) the request is for a specific election day polling location that is unable to meet the data connectivity requirements for voter convenience centers or is located in a~~

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~~remote area of a county~~←SRC .

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

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

- (1) to whom a notice was sent pursuant to

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Subsection C of Section 1-4-28 NMSA 1978 in 2018 or 2020, and subsequent to the sending of the most recent notice:

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

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

(c) has not since voted;

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

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

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

F. An application for a mailed ballot from a voter

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

G. If the application for a mailed ballot from a voter who is not a federal qualified elector indicates that the mailed ballot is to be delivered to an address other than an address listed on the voter's certificate of registration, the county clerk shall prepare a notice of requested mailed ballot. The notice of requested mailed ballot shall inform the voter of the address to which the ballot was mailed along with the phone number of the county clerk's office and the internet address of

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the voter web portal provided by the secretary of state. The notice of requested mailed ballot shall be delivered to the address provided on the voter's certificate of registration on the same day the county clerk delivers the mailed ballot to the address requested by the voter.

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

I. To return a mailed ballot, each voter shall provide in the space provided for that purpose under the privacy flap of the official mailing envelope the voter's signature on a line located under the required attestation and the last four digits of the voter's social security number, which shall constitute the required voter identification. The attestation shall include the pre-printed name of the voter to whom the mailed ballot was sent. No additional information shall be required of a voter to return a mailed ballot.

J. Upon receipt of a mailed ballot, the county clerk shall remove the privacy flap to verify that the voter

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signed the official mailing envelope and confirm that the last four digits of the social security number provided by the voter matches the information available to the county clerk. If the signature is present and the last four digits of the voter's social security number match, the county clerk shall note in the absentee ballot register that the ballot was accepted and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If either the voter's signature is missing or the last four digits of the voter's social security number are not provided or do not match, the county clerk shall reject the mailed ballot and make the appropriate notation in the absentee ballot register and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If the mailed ballot is rejected, the county clerk shall within one day send the voter a notice of rejection, along with information regarding how the voter may cure the reason for the rejection. SJC→When an application for a mailed ballot is rejected pursuant to this section, the county clerk shall send a notice of rejection to the mailing address on the voter's certificate of registration and, if different, also to the address listed on the voter's application for a mailed ballot.←SJC The determination of the county clerk to accept or reject a mailed ballot is subject to a later interposition of a challenge before the absent voter election board. In addition

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to existing procedures in the Election Code for qualifying a previously rejected absentee ballot after election day, a previously rejected absentee ballot may be qualified by the presiding judge and election judges of the absent voter election board before the day of the election if the ballot was rejected for the lack of a signature or missing required voter identification if the voter provides such information pursuant to procedures established by the secretary of state.

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

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

HJC→SJC→M. ~~If the absent voter election board does not complete its work by 11:00 p.m. on election night, the~~

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~~county clerk shall notify the county sheriff's office that a deputy is required to be present to secure the room or facility where uncounted ballots are locked overnight. If the sheriff indicates a sheriff's deputy is unavailable, the county clerk shall notify the secretary of state who shall request state police to assign a patrolman to secure the ballots. The county clerk shall provide as much notice as is practicable in order to secure law enforcement personnel to secure the uncounted ballots overnight. A sheriff's deputy or state police patrolman is required for overnight watch any time the absent voter election board is not present until the return of the absent voter election board. If neither a sheriff's deputy nor a state police patrolman is available, the county clerk or chief deputy shall remain on site until the return of the absent voter election board and shall allow any challenger or observer to remain present, as well.~~←SJC←HJC

HJC→M. If the absent voter election board does not complete its work by 11:00 p.m. on election night, the county clerk shall notify the county sheriff's office that a deputy is required to be present to secure the room or facility where uncounted ballots are locked overnight. If the sheriff indicates a sheriff's deputy is unavailable, the county clerk shall notify the secretary of state who shall request state police to assign a patrolman to secure the room or facility

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where uncounted ballots are locked overnight. The county clerk shall provide as much notice as is practicable in order to secure law enforcement personnel to secure the uncounted ballots overnight. A sheriff's deputy or state police patrolman is required for overnight watch any time the absent voter election board is not present until the return of the absent voter election board. If neither a sheriff's deputy nor a state police patrolman is available, the county clerk or chief deputy shall remain on site until the return of the absent voter election board and shall allow any challenger or observer to remain present, as well.←HJC

SJC→M.←SJC SJC→N.←SJC When preparing the county canvass report, each county clerk shall appoint an election board to conduct a machine tabulation or hand tally if the county clerk has received and logged any:

- (1) paper ballots not previously tabulated;
- (2) mailed ballots delivered to an election board not previously tabulated;
- (3) provisional paper ballots that have been qualified and contain votes that are to be counted; or
- (4) ballots with write-in votes not previously counted.

SJC→N.←SJC SJC→O.←SJC Certificates of registration and cancellations of existing voter registrations not processed until after the election pursuant to existing law

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may be processed by the county clerk beginning the first Monday following the election; provided that such certificates of registration and cancellations of existing voter registrations shall be processed beginning the first business day following approval of the report of the county canvass by the county canvassing board.

SJC→~~Q.~~←SJC SJC→P.←SJC No later than fifty days before the election and in consultation with the department of health, the secretary of state shall procure sufficient personal protective equipment and sanitizing supplies for distribution to each county clerk and for each early, mobile and election day polling location.

SJC→~~P.~~←SJC SJC→Q.←SJC Nothing in this section shall alter or modify the time lines or procedures provided in the Uniform Military and Overseas Voters Act except for the deadlines provided in this section for the request of a military-overseas ballot by a voter who is a federal qualified elector. Nothing in this section shall alter or modify the time lines or procedures provided in the Intimate Partner Violence Survivor Suffrage Act.

SJC→~~Q.~~←SJC SJC→R.←SJC The secretary of state shall deposit sufficient funds in the business reply mail account for each county clerk to ensure delivery of all mailed ballot applications and returned mailed ballots.

SJC→~~R.~~←SJC SJC→S.←SJC Notwithstanding any

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limitations to the contrary, the state board of finance shall authorize sufficient funds to be timely distributed to the secretary of state and the department of health for necessary and reasonable expenses incurred pursuant to this section.

SJC→~~S.~~←SJC SJC→~~T.~~←SJC The compiler shall not compile this section, but shall reference it in a compiler's note."

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

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