

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR	Ivey-Soto	ORIGINAL DATE	02/06/21	
		LAST UPDATED	03/12/21	HB
				286/ec/aSRC/aSJC/
SHORT TITLE	Emergency Congressional Election Procedure	SB	aHJC	
		ANALYST	Nichols	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$3,000.0			\$3,000.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act of 2021

SOURCES OF INFORMATION

LFC Files

Responses Received From
Secretary of State (SOS)

No Response Received
Department of Health (DOH)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to Senate Bill 286 strikes the second part of the SJC amendment and replaces it with nearly identical language, directing the county clerk to notify the county sheriff's office, which should post a deputy to secure the uncounted ballots, or if a deputy is unavailable, SOS should request a state police patrolman. The only difference between the two amendments is that the HJC amendment directs the state police patrolman to secure "the room or facility where uncounted ballots are locked overnight," while the SJC amendment directed the patrolman to secure "the uncounted ballots overnight."

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 286 provides that if an application for a mailed ballot is rejected, the county clerk must send a rejection notice to the mailing address on the voter's certificate of registration and also to the address listed on the voter's application for a mailed ballot, if different.

The amendment also provides that if the election board does not complete its work by 11:00 pm on election night, the county clerk must notify the county sheriff, who will post a deputy to secure the uncounted ballots. If a sheriff's deputy is not available, the county clerk will notify SOS, which will request a state police patrolman. A law enforcement agent is required for overnight watch if the absent voter election board is not present. If no law enforcement agent is available, the county clerk should remain on site, and also allow any challenger or observer to remain present.

Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Bill 286 removes a provision from the bill allowing SOS to authorize an election day polling location to operate as a mail ballot election precinct if the location does not meet the data connectivity requirements to operate as a voter convenience center or is located in a remote area. Under the amendment, SOS cannot authorize a polling location to operate as a mail ballot election precinct.

Synopsis of Original Bill

Senate Bill 286 enacts temporary provisions of the Election Code that would regulate special elections to fill vacancies for the office of U.S. representative. The bill is intended to address elections held during the Covid-19 pandemic.

The bill would allow all polling locations to operate as voting convenience centers, meaning that any voter in the county could cast a vote at the center, regardless of the voter's home precinct. If a polling location does not meet data connectivity requirements to operate as a convenience center, a county clerk may request a waiver from SOS to operate as an all-mail election precinct. If a public health concern exists, polling locations operated on tribal lands do not have to operate as voting convenience centers.

SB286 directs SOS to mail a notice to each "mailable voter," or voter that has been active within the last five years and does not have a known address issue, on behalf of the county clerk providing election information.

The bill provides a deadline to submit an application for a mailed ballot of 14 days before the election. On the returned ballot, the voter must provide the last four digits of their social security number and sign an oath for voter identification. SB286 also requires that SOS send notices to voters within 24 hours if their application or ballot is rejected. SOS must also send a notice to a voter's address of record if the voter requests a ballot be mailed to another address.

SB286 requires SOS to cover costs of postage for voter notices, ballot applications, and ongoing and income ballots.

The bill also directs SOS, in consultation with DOH, to procure sufficient personal protective equipment (PPE) and sanitizing supplies for each county clerk and for each early, mobile, and election day polling location no later than 50 days before the election.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

The delayed repeal date of this bill is December 31, 2021.

FISCAL IMPLICATIONS

SB286 does not contain an appropriation.

SOS requested \$3 million in funding to hold a special election to fill an anticipated vacancy in the state's 1st congressional district. The agency requested this funding as a special appropriation in the 2021 General Appropriation Act. According to the special appropriation request, SOS estimates a cost of approximately \$1.7 million in reimbursements to counties for poll workers, postage, PPE, and other costs, and \$1.3 million to administer the election, primarily to pay for ballot on demand systems, or systems at each polling location that print ballots for voters.

SIGNIFICANT ISSUES

SB286 is similar to Senate Bill 4, a temporary bill passed during the first special legislative session of 2020. SB4 enacted provisions to regulate the 2020 general election. SOS indicates that SB4 contributed to the “successful administration” of that election amidst the Covid-19 pandemic.

Voter turnout in the 2020 general election was 68.7 percent, compared with 62.3 percent in the 2016 general election.

ADMINISTRATIVE IMPLICATIONS

SOS indicates that using the last four digits of a voter's social security number to verify the voter's identity provides for increased security and streamlines the review process. Existing statute requires additional fields, handwritten by the voter, creating a more time-consuming and complex process for the election board.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 254 proposes to add a special primary election and special general election to fill a vacancy for the office of U.S. representative and also proposes changes to the nominating process for candidates in those elections.

AN/sb/rl/al