

SENATE BILL 4

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ELECTIONS; PROVIDING TEMPORARY PROCEDURES FOR THE CONDUCT OF THE 2020 GENERAL ELECTION; CREATING THE LEGISLATIVE ELECTORAL HEALTH AND SAFETY TASK FORCE TO AUTHORIZE EMERGENCY ACTIONS BY THE SECRETARY OF STATE UNDER CERTAIN CONDITIONS;

Sf13→**ALLOWING VOTERS THAT ARE NOT AFFILIATED WITH A MAJOR POLITICAL PARTY TO CHANGE PARTY REGISTRATION AT A VOTING LOCATION BEFORE VOTING;**←Sf13 PROVIDING FOR A DELAYED REPEAL H/failed→~~Sf12→; DECLARING AN EMERGENCY←Sf12←~~H/failed.

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

Sf13→**SECTION 1. Section 1-4-5.7 NMSA 1978 (being Laws**

.217983.3AIC June 19, 2020 (10:30am)

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2019, Chapter 67, Section 1) is amended to read:

"1-4-5.7. REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions in Section 1-4-8 NMSA 1978 providing for the closing of registration prior to an election, a qualified elector seeking to register to vote or update an existing certificate of registration in the state shall be allowed to do so at a voting location immediately before voting in that election after signing an affidavit under oath that the elector has not voted in the election in this state or elsewhere, and as further provided in this section.

B. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election; provided that if the county clerk establishes an additional alternate voting location near the clerk's office in lieu of voting at the office of the county clerk, a qualified elector may register to vote or update an existing certificate of registration at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the

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election through the Saturday immediately prior to the election.

C. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an alternate voting location only if the county clerk has assigned a county clerk employee to be the clerk's authorized deputy to serve as a registration officer at the alternate voting location; provided that ninety days before the election, the county clerk shall post the location of each alternate voting location where a qualified elector may register to vote or update an existing certificate of registration immediately before voting.

D. Beginning January 1, 2021 and upon the approval of the voting system certification committee, during a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an election day voting location; provided that the secretary of state shall establish procedures to ensure that a registration officer has an opportunity to review the information of a qualified elector who registers to vote or updates an existing certificate of registration immediately before the qualified elector votes on election day.

E. A voter whose political party affiliation on the voter's certificate of registration is with a major political party shall not be allowed to change party affiliation when

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updating an existing certificate of registration or registering to vote at an early voting site or polling place during a primary election.

F. During a special election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election until the last regular business day the week prior to the date of the election.

G. A qualified elector seeking to register to vote or update an existing certificate of registration immediately before voting shall provide:

(1) a New Mexico driver's license or New Mexico identification card issued through the motor vehicle division of the taxation and revenue department;

(2) any document that contains an address in the county together with a photo identification card; or

(3) a current valid student photo identification card from a post-secondary educational institution in New Mexico accompanied by a current student fee statement that contains the student's address in the county.

H. If an early voting site or polling place does not have real-time access to the statewide electronic voter file, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a

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provisional ballot.

I. No later than June 30, 2021 and upon the approval of the voting system certification committee, the secretary of state and the secretary of taxation and revenue shall develop a procedure for importing the list of eligible but unregistered persons with a driver's license or state-issued identification card into the voter registration electronic management system prior to an election to facilitate processing a new voter registration pursuant to this section."←Sf13

SECTION Sf13→1←Sf13 Sf13→2←Sf13. A new Section 1-12-72 NMSA 1978 is enacted to read:

"1-12-72. [NEW MATERIAL] CONDUCT OF ELECTION--2020 GENERAL ELECTION--SPECIAL PROVISIONS AND CONTINGENCIES.--

A. This section regulates the conduct of the 2020 general election. 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 established in the 2019 polling place resolution for each county or a location established by any subsequent amendment to such a resolution shall operate as a voter convenience center;

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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 ninety days before the general 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 remote area of a county.

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 2020 general 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. Each county clerk may automatically deliver to

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each mailable voter in the county SRC→~~either~~←SRC a mailed ballot application SRC→~~or a mailed ballot~~←SRC. The determination by each county clerk to automatically deliver to each mailable voter in the county SRC→~~either~~←SRC a mailed ballot application SRC→~~or a mailed ballot~~←SRC shall have been communicated in writing to the secretary of state no later than ninety days before the 2020 general election; provided that no county clerk is obligated to automatically deliver SRC→~~either~~←SRC a mailed ballot application SRC→~~or a mailed ballot~~←SRC to each mailable voter of the county. If a county clerk automatically delivers to each mailable voter of the county a mailed ballot application, the applications shall be mailed beginning on the fiftieth day before the 2020 general election. SRC→~~If a county clerk automatically delivers to each~~←SRC SRC→~~mailable voter of the county a mailed ballot, the ballots shall be mailed beginning on the thirty-second day before the 2020~~←SRC SRC→~~general election.~~←SRC As used in this subsection, a "mailable voter" is a voter of a county other than a voter:

(1) to whom a notice was sent pursuant to Subsection C of Section 1-4-28 NMSA 1978 in 2016, 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

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certificate of registration with a new address at which election-related mail is to be sent; or

(c) has not otherwise notified the secretary of state or county clerk of a desire to participate in the 2020 general election at the address of registration;

(2) who registered to vote on or before December 31, 2015, has not submitted a new certificate of registration at any time since January 1, 2016 and has not voted in any election since January 1, 2016; 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. The secretary of state shall implement the United States postal service intelligent barcode system to be utilized on the envelope containing the unvoted mailed ballot sent to a voter and on the official mailing envelope for use by a voter to return the voted mailed ballot. In addition, each mailed ballot sent to a voter in the 2020 general 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 Sfill→where you are registered to vote←Sfill at any time up to and including the day of the general 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 Tuesday, October 27, 2020."

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F. An application for a mailed ballot from a voter who is not a federal qualified elector is timely if received by the county clerk no later than Tuesday, October 20, 2020. An application for a mailed ballot from a voter who is not a federal qualified elector that is received by the county clerk after Tuesday, October 20, 2020 shall be rejected, and if the application was received by the county clerk by Saturday, October 31, 2020, 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.

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 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

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who is a federal qualified elector is timely if received by the county clerk no later than Tuesday, October 27, 2020; 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 Tuesday, October 20, 2020.

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 SRC→a←SRC SRC→the voter's←SRC 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 signed the official mailing envelope and confirm that the last four digits of the social security number provided by the voter matches the information on the voter's certificate of registration. If the signature is present and the last four digits of the voter's social security number match, the county

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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. 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 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 2020 general 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. On election night, the absent voter election

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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.

L. 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.

M. Certificates of registration and cancellations of existing voter registrations not processed until after the election pursuant to existing law 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.

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N. No later than September 21, 2020 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.

O. The secretary of health may issue public health orders regarding the conduct of the 2020 general election. A public health order issued regarding the conduct of the 2020 general election shall specify areas of the state to which the order applies and shall specify for each county in the areas covered by the order the severity of the public health issues necessitating the public health order and make specific recommendations to mitigate the health issues described. The recommendations shall be consistent with guidelines issued by the federal centers for disease control and prevention or be otherwise evidence-based. If the secretary of health issues a public health order regarding the conduct of the 2020 general election on or before the sixtieth day before the 2020 general election, the secretary of state shall, in consultation with each county clerk in an area identified in the public health order, implement changes in the conduct of the 2020 general election only to the extent necessary for the preservation of the health and safety of county clerks and their staffs, election board members and voters. If the secretary of health issues a public health order after the sixtieth day before the

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2020 general election, the secretary of state may provide guidance to county clerks on best practices for the preservation of the health and safety of county clerks and their staffs, election board members and voters; and in addition, the secretary of state may call a meeting of the legislative electoral health and safety task force. The legislative electoral health and safety task force may meet using remote means and is composed of the SRC→~~speaker of the house of representatives~~←SRC SRC→~~president pro tempore of the senate~~←SRC, who shall serve as chair, the SRC→~~president pro tempore of the senate~~←SRC SRC→~~speaker of the house of representatives~~←SRC, who shall serve as vice chair, and the majority floor leaders and minority floor leaders of each house; provided that each member may appoint a legislator of the member's chamber and political party to serve as the member's designee on the task force. The legislative electoral health and safety task force may, in response to and in accordance with recommendations in the public health order as provided in this subsection, authorize the secretary of state to institute procedures and measures to ensure the health and safety of county clerks and their staffs, election board members and voters in the conduct of the election.

P. 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

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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.

Q. The secretary of state shall reimburse each county clerk for necessary and reasonable expenses incurred pursuant to this section.

R. The secretary of state shall deposit sufficient funds in the business reply mail account for each county clerk to ensure delivery of all certificates of voter registration, mailed ballot applications and returned mailed ballots.

S. The secretary of state shall conduct and coordinate a public information campaign educating voters of the benefits of ensuring the address of registration is accurate in advance of the 2020 general election.

T. Notwithstanding any 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."

SECTION Sf13→2←Sf13 Sf13→3←Sf13. DELAYED REPEAL.--
Section 1-12-72 NMSA 1978 is repealed effective December 31, 2020.

SECTION Sf13→3←Sf13 Sf13→4←Sf13 . APPLICABILITY.--The
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provisions of Section 1-12-72 NMSA 1978 apply to the conduct of the 2020 general election.

Sf12→SECTION Sf13→4←Sf13 Sf13→5←Sf13. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately←Sf12.

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