

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/22/2025

Check all that apply:

Bill Number: SB487

Original Correction
Amendment Substitute

Sponsor: Sen. Antoinette Sedillo Lopez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Emergency Voting Procedures

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Conflicts with SB218.

May conflict with HB170.

Related to HB526.

(Further detail in Conflicts section, below)

Duplicates/Relates to Appropriation in the General Appropriation Act:

None noted.

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill 487 ("SB487" or the "Bill")

Section 1: Amends Sec. 1-3-2 of the Election Code, requiring that boards of county commissioners designate polling places for each precinct the June or July of an odd-numbered year preceding an even-numbered year in which a statewide election will occur. The amendment would add a new subsection providing that the county clerk may designate secure congregate facilities and collaborate with facility administrators to determine expected voting needs.

Section 2: Amends Sec. 1-3-4 of the Election Code, providing that a board of county commissioners may consolidate precincts and establish voter convenience centers. Subsection A is amended to provide that absentee voter assistance units created under the Bill do not constitute voter convenience centers. Subsection B(3) is amended to modify the number of precincts each voter convenience center must serve from a maximum of ten to a minimum of ten for election day of a general election and fifteen for election day of a primary or local election. Subsection B(8) is added to provide that if the number of voters in a precinct on the permanent absentee list is 25% or more, that precinct counts as a half precinct for determining the number of precincts a voter convenience center may serve. Subsection B(9) is added to provide a precinct with 55% or more of voters on the permanent absentee list, it shall be designated as a mail-only precinct and does not count towards the number of precincts served by a voter convenience center. Subsection D is added to provide that the Board may add additional voter convenience centers with consideration to tribal voting, population density, historical and projected turnout, and community needs.

Section 3: Amends Sec. 1-3-5 of the Election Code, providing that boards of county commissioners shall create or modify precincts as required by law. Subsection E, providing that

precincts shall be designated solely by whole numbers, is stricken from the section.

Section 4: Amends Sec. 1-3-7 of the Election code, providing the requirements for establishment of polling places for precincts. Subsection G is added to provide that if a polling place is destroyed within 15 days of an election, the county need not issue a new election resolution or seek a court order, provided that the Secretary of State approves the county clerk's contingency plan and that a replacement location or mobile voting unit is established in close proximity to the destroyed polling place. Subsection H is added to provide requirements of the county clerk in the instance that the clerk adjusts the polling place pursuant to Subsection G.

Section 5: Amends Sec. 1-4-8 of the Election Code, providing the deadlines for voter registration in advance of an election other than same-day registration. Subsection A is amended to change the deadline for voter registration from 28 days prior to an election to 28 days prior to an election for paper voter registration and the Friday immediately preceding an election for online and electronic voter registrations.

Section 6: Creates a new section of the Absent Voter Act, Chapter 1, Article 6 NMSA 1978. The new section establishes "absentee voter assistance units." Subsection A requires county clerks to establish and operate absentee voter assistance units (the "Units") as designated "election day voting alternatives," including the establishment of an associated election board. The Units must issue absentee ballots, facilitate same-day registration and voting, observe voters filling out and sealing absentee ballots, and securely transport ballots for processing. Subsection B provides that absentee voter units shall operate inside secure congregate facilities, including jails, nursing homes, and hospitals; the Subsection establishes operational hours. Subsection C provides that the Units shall not be considered a substitute for a consolidated precinct or voter convenience centers, unless a declared emergency renders a polling place inaccessible. Subsection D provides that qualified electors not registered to vote may complete same-day registration and cast provisional ballots. Subsection E requires the county clerk to ensure that residents of secure congregate facilities staying longer than 30 days have the opportunity to apply for absentee ballots and that same-day registration for residents is performed in accordance with law. Subsection F provides that a county clerk may use the Units to ensure voter access in emergency situations. Subsection G defines "secure congregate facilities."

Section 7: Amends Section 1-6-22.1 of the Election Code, providing for designation of a precinct as a mail ballot election precinct. The Bill creates Subsection D to provide that the county clerk and board of county commissioners may designate a precinct as a mail ballot precinct if more than 55% of active registered voters in the precinct are on the permanent absentee list.

Section 8: Amends Section 1-11-18 of the Election Code, providing for the Secretary of State to prescribe election supplies. The Bill adds language to the Section requiring that at least 90 days before an election, the county clerk shall determine the supply needs at secure congregate facilities.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

Definition

Section 6(G) provides a definition of "secure congregate facility." However, the definition is limited to "As used in this *section* . . ." (emphasis added). SB487 would use the term "secure

congregate facilities” in four separate sections scattered in three different Articles within the Election Code. Chapter 1, Article 1 NMSA 1978 provides definitions for terms used throughout the rest of the Election Code, so this may be a more appropriate location for the definition contained in Section 6(G).

Terminology

Section 6(A) uses the term “election day voting alternatives.” However, that phrase does not appear in the Election Code as of yet. The phrase “alternate voting location” exists in the Election Code, but, given that the Absentee Voter Assistance Units are not a “location,” this term may not adequately convey the intended meaning.

Section 6(D) provides that “An individual who appears at an absentee voter assistance unit and is not registered to vote but is otherwise eligible to vote may complete same-day voter registration[...].” The Election Code provides the term “qualified elector” for individuals who are qualified to vote under the provisions of the New Mexico and United States constitutions, regardless of whether they are yet registered. *Compare* NMSA 1978, § 1-1-4 (defining “qualified elector”), *with* NMSA 1978, § 1-1-5 (defining a “voter” as “any qualified elector who is registered to vote under the provisions of the Election Code.”). The following language may add clarity and concision: “A qualified elector who appears at an absentee voter assistance unit and is not registered to vote may complete same-day voter registration[...].”

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflict

SB487 conflicts with SB218. SB218 amends many provisions of the Election Code in technical ways. Notably, SB218 adds a new section to the Election Code contemplating procedures for voting with regard to declared or pending states of emergency. The provisions of SB218 conflict with the provisions of SB487 Section 4(G).

HB170 would enact a voter identification requirement for qualified electors to be able to register to vote. SB487 does not contemplate registration requirements, but the inclusion of a voter identification requirement may affect the ability for individuals in secure congregate facilities to be able to register. As such, there is theoretical conflict, even if not in actual text.

Related

HB526 provides for individuals over the age of 16 to vote in local and municipal elections. The definition of “secure congregate facilities” in SB487 does not specifically mention juvenile detention facilities, but may fall under “correctional institutions” as identified in the definition. As such, absentee voter assistance units may be necessary to provide voting assistance to juvenile detention facilities for local and municipal elections.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

See Significant Issues, supra.