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SENATE BILL 4

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

INTRODUCED BY

Daniel A. Ivey-Soto and Gabriel Ramos and Linda M. Trujillo and
D. Wonda Johnson

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;
PROVIDING FOR A DELAYED REPEAL.

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

SECTION 1. 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;

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1 provided, however, that if a direct conflict exists with other
2 provisions in the Election Code, the provisions of this section
3 shall apply.

4 B. Each election day polling location established
5 in the 2019 polling place resolution for each county or a
6 location established by any subsequent amendment to such a
7 resolution shall operate as a voter convenience center;
8 provided that the secretary of state may authorize an election
9 day polling location that is not located on Indian nation,
10 tribal or pueblo land to operate as a mail ballot election
11 precinct if:

12 (1) the county clerk has requested a written
13 waiver from the requirements of this subsection at least ninety
14 days before the general election; and

15 (2) the request is for a specific election day
16 polling location that is unable to meet the data connectivity
17 requirements for voter convenience centers or is located in a
18 remote area of a county.

19 C. A polling place located on Indian nation, tribal
20 or pueblo land shall not be closed or consolidated with other
21 polling locations, nor shall the days and times of voting be
22 modified, without the written agreement of the Indian nation,
23 tribe or pueblo where the polling location is located. If, as
24 a result of public health concerns, voters registered within
25 the Indian nation, tribe or pueblo are unable to leave the

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1 Indian nation, tribe or pueblo during the time when voting
2 occurs for the 2020 general election, regardless of whether
3 voters residing outside the boundaries of the Indian nation,
4 tribe or pueblo are able to access such polling locations,
5 there shall be at least one polling location within the
6 boundaries of the Indian nation, tribe or pueblo.

7 D. Each county clerk may automatically deliver to
8 each mailable voter in the county either a mailed ballot
9 application or a mailed ballot. The determination by each
10 county clerk to automatically deliver to each mailable voter in
11 the county either a mailed ballot application or a mailed
12 ballot shall have been communicated in writing to the secretary
13 of state no later than ninety days before the 2020 general
14 election; provided that no county clerk is obligated to
15 automatically deliver either a mailed ballot application or a
16 mailed ballot to each mailable voter of the county. If a
17 county clerk automatically delivers to each mailable voter of
18 the county a mailed ballot application, the applications shall
19 be mailed beginning on the fiftieth day before the 2020 general
20 election. If a county clerk automatically delivers to each
21 mailable voter of the county a mailed ballot, the ballots shall
22 be mailed beginning on the thirty-second day before the 2020
23 general election. As used in this subsection, a "mailable
24 voter" is a voter of a county other than a voter:

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

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1 Subsection C of Section 1-4-28 NMSA 1978 in 2016, 2018 or 2020,
2 and subsequent to the sending of the most recent notice:

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

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

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

11 (2) who registered to vote on or before
12 December 31, 2015, has not submitted a new certificate of
13 registration at any time since January 1, 2016 and has not
14 voted in any election since January 1, 2016; or

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

18 E. The secretary of state shall implement the
19 United States postal service intelligent barcode system to be
20 utilized on the envelope containing the unvoted mailed ballot
21 sent to a voter and on the official mailing envelope for use by
22 a voter to return the voted mailed ballot. In addition, each
23 mailed ballot sent to a voter in the 2020 general election
24 shall contain the following notice: "This ballot may be
25 returned to the office of the county clerk or any open polling

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1 location in the county at any time up to and including the day
2 of the general election. If this ballot is returned by mail,
3 to ensure timely postal delivery to the county clerk, the
4 ballot should be mailed no later than Tuesday, October 27,
5 2020."

6 F. An application for a mailed ballot from a voter
7 who is not a federal qualified elector is timely if received by
8 the county clerk no later than Tuesday, October 20, 2020. An
9 application for a mailed ballot from a voter who is not a
10 federal qualified elector that is received by the county clerk
11 after Tuesday, October 20, 2020 shall be rejected, and if the
12 application was received by the county clerk by Saturday,
13 October 31, 2020, the county clerk shall within twenty-four
14 hours of receipt of the application send a rejection notice to
15 the voter that shall include a list of the early and election
16 day polling locations in the county.

17 G. If the application for a mailed ballot from a
18 voter who is not a federal qualified elector indicates that the
19 mailed ballot is to be delivered to an address other than an
20 address listed on the voter's certificate of registration, the
21 county clerk shall prepare a notice of requested mailed ballot.
22 The notice of requested mailed ballot shall inform the voter of
23 the address to which the ballot was mailed along with the phone
24 number of the county clerk's office and the internet address of
25 the voter web portal provided by the secretary of state. The

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1 notice of requested mailed ballot shall be delivered to the
2 address provided on the voter's certificate of registration on
3 the same day the county clerk delivers the mailed ballot to the
4 address requested by the voter.

5 H. An application for a mailed ballot from a voter
6 who is a federal qualified elector is timely if received by the
7 county clerk no later than Tuesday, October 27, 2020; provided
8 that the voter provides information permitting secured
9 electronic delivery of the ballot to the voter. An application
10 for a mailed ballot from a voter who is a federal qualified
11 elector who does not provide information permitting secured
12 electronic delivery of the ballot is timely if received by the
13 county clerk no later than Tuesday, October 20, 2020.

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

23 J. Upon receipt of a mailed ballot, the county
24 clerk shall remove the privacy flap to verify that the voter
25 signed the official mailing envelope and confirm that the last

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1 four digits of the social security number provided by the voter
2 matches the information on the voter's certificate of
3 registration. If the signature is present and the last four
4 digits of the voter's social security number match, the county
5 clerk shall note in the absentee ballot register that the
6 ballot was accepted and shall transfer the ballot to the
7 special deputy for mailed ballots for delivery to the absent
8 voter election board. If either the voter's signature is
9 missing or the last four digits of the voter's social security
10 number are not provided or do not match, the county clerk shall
11 reject the mailed ballot and make the appropriate notation in
12 the absentee ballot register and shall transfer the ballot to
13 the special deputy for mailed ballots for delivery to the
14 absent voter election board. If the mailed ballot is rejected,
15 the county clerk shall within one day send the voter a notice
16 of rejection, along with information regarding how the voter
17 may cure the reason for the rejection. The determination of
18 the county clerk to accept or reject a mailed ballot is subject
19 to a later interposition of a challenge before the absent voter
20 election board. In addition to existing procedures in the
21 Election Code for qualifying a previously rejected absentee
22 ballot after election day, a previously rejected absentee
23 ballot may be qualified by the presiding judge and election
24 judges of the absent voter election board before the day of the
25 2020 general election if the ballot was rejected for the lack

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1 of a signature or missing required voter identification if the
2 voter provides such information pursuant to procedures
3 established by the secretary of state.

4 K. On election night, the absent voter election
5 board shall recess upon the earlier of completion of its work
6 or 11:00 p.m. An absent voter election board that recesses at
7 11:00 p.m. shall continue its work only between the hours of
8 9:30 a.m. and 8:00 p.m. on each subsequent day until the board
9 has completed its work.

10 L. When preparing the county canvass report, each
11 county clerk shall appoint an election board to conduct a
12 machine-tabulation or hand-tally if the county clerk has
13 received and logged any:

14 (1) paper ballots not previously tabulated;

15 (2) mailed ballots delivered to an election
16 board not previously tabulated;

17 (3) provisional paper ballots that have been
18 qualified and contain votes that are to be counted; or

19 (4) ballots with write-in votes not previously
20 counted.

21 M. Certificates of registration and cancellations
22 of existing voter registrations not processed until after the
23 election pursuant to existing law may be processed by the
24 county clerk beginning the first Monday following the election;
25 provided that such certificates of registration and

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1 cancellations of existing voter registrations shall be
2 processed beginning the first business day following approval
3 of the report of the county canvass by the county canvassing
4 board.

5 N. No later than September 21, 2020 and in
6 consultation with the department of health, the secretary of
7 state shall procure sufficient personal protective equipment
8 and sanitizing supplies for distribution to each county clerk
9 and for each early, mobile and election day polling location.

10 O. The secretary of health may issue public health
11 orders regarding the conduct of the 2020 general election. A
12 public health order issued regarding the conduct of the 2020
13 general election shall specify areas of the state to which the
14 order applies and shall specify for each county in the areas
15 covered by the order the severity of the public health issues
16 necessitating the public health order and make specific
17 recommendations to mitigate the health issues described. The
18 recommendations shall be consistent with guidelines issued by
19 the federal centers for disease control and prevention or be
20 otherwise evidence-based. If the secretary of health issues a
21 public health order regarding the conduct of the 2020 general
22 election on or before the sixtieth day before the 2020 general
23 election, the secretary of state shall, in consultation with
24 each county clerk in an area identified in the public health
25 order, implement changes in the conduct of the 2020 general

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1 election only to the extent necessary for the preservation of
2 the health and safety of county clerks and their staffs,
3 election board members and voters. If the secretary of health
4 issues a public health order after the sixtieth day before the
5 2020 general election, the secretary of state may provide
6 guidance to county clerks on best practices for the
7 preservation of the health and safety of county clerks and
8 their staffs, election board members and voters; and in
9 addition, the secretary of state may call a meeting of the
10 legislative electoral health and safety task force. The
11 legislative electoral health and safety task force may meet
12 using remote means and is composed of the speaker of the house
13 of representatives, who shall serve as chair, the president pro
14 tempore of the senate, who shall serve as vice chair, and the
15 majority floor leaders and minority floor leaders of each
16 house; provided that each member may appoint a legislator of
17 the member's chamber and political party to serve as the
18 member's designee on the task force. The legislative electoral
19 health and safety task force may, in response to and in
20 accordance with recommendations in the public health order as
21 provided in this subsection, authorize the secretary of state
22 to institute procedures and measures to ensure the health and
23 safety of county clerks and their staffs, election board
24 members and voters in the conduct of the election.

25 P. Nothing in this section shall alter or modify

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1 the time lines or procedures provided in the Uniform Military
2 and Overseas Voters Act except for the deadlines provided in
3 this section for the request of a military-overseas ballot by a
4 voter who is a federal qualified elector. Nothing in this
5 section shall alter or modify the time lines or procedures
6 provided in the Intimate Partner Violence Survivor Suffrage
7 Act.

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

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

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

19 T. Notwithstanding any limitations to the contrary,
20 the state board of finance shall authorize sufficient funds to
21 be timely distributed to the secretary of state and the
22 department of health for necessary and reasonable expenses
23 incurred pursuant to this section."

24 SECTION 2. DELAYED REPEAL.--Section 1-12-72 NMSA 1978 is
25 repealed effective December 31, 2020.

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