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SENATE BILL 113

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

RICHARD M. ROMERO

AN ACT

RELATING TO ELECTIONS; CLARIFYING RESIDENCY REQUIREMENTS;
CHANGING THE DATE THAT LOCAL SCHOOL BOARD, BRANCH COMMUNITY
COLLEGE BOARD, TECHNICAL AND VOCATIONAL INSTITUTE BOARD AND
AREA VOCATIONAL SCHOOL BOARD ELECTIONS ARE HELD; AMENDING
SECTIONS OF THE ELECTION CODE AND THE NMSA 1978.

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

Section 1. Section 1-1-7 NMSA 1978 (being Laws 1969,
Chapter 240, Section 6, as amended) is amended to read:

"1-1-7. RESIDENCE-- RULES FOR DETERMINING.-- For the
purpose of determining residence for voting, the place of
residence is governed by the following rules:

A. The residence of a person is that place [~~in
which his habitation is fixed, and to which, whenever he is
absent, he has the intention to return.~~

1 ~~B. The place where a person's family resides is~~
2 ~~presumed to be his place of residence, but a person who takes~~
3 ~~up or continues his abode with the intention of remaining at a~~
4 ~~place other than where his family resides is a resident where~~
5 ~~he abides]~~ where he physically resides.

6 [~~C.~~] B. A change of residence is made only by the
7 act of removal joined with the intent to remain in another
8 place. There can be only one residence.

9 [~~D.~~] C. A person does not gain or lose residence
10 solely by reason of his presence or absence while employed in
11 the service of the United States or of this state, or while a
12 student at an institution of learning, or while kept in an
13 institution at public expense, or while confined in a public
14 prison or while residing upon an Indian or military
15 reservation.

16 [~~E.~~] D. No member of the armed forces of the
17 United States, his spouse or his dependent is a resident of
18 this state solely by reason of being stationed in this state.

19 [~~F.~~] E. A person does not lose his residence if he
20 leaves his home and goes to another country, state or place
21 within this state for temporary purposes only and with the
22 intention of returning.

23 [~~G.~~] F. A person does not gain a residence in a
24 place to which he comes for temporary purposes only.

25 [~~H.~~] G. A person loses his residence in this state

Underscored material = new
[bracketed material] = delete

1 if he votes in another state in an election requiring
2 residence in that state, and has not upon his return regained
3 his residence in this state under the provisions of the
4 constitution of New Mexico.

5 ~~[F.]~~ H. "Residence" is computed by not including
6 the day on which the person's residence commences and by
7 including the day of the election.

8 ~~[J.]~~ I. A person does not acquire or lose
9 residence by marriage only. "

10 Section 2. Section 1-1-7.1 NMSA 1978 (being Laws 1979,
11 Chapter 378, Section 1, as amended by Laws 1993, Chapter 314,
12 Section 1 and also by Laws 1993, Chapter 316, Section 1) is
13 amended to read:

14 "1-1-7.1. RESIDENCE FOR PURPOSE OF CANDIDACY AND SIGNING
15 OF PETITIONS--RULE FOR DETERMINING.--For the purpose of
16 determining the residence of a person desiring to be a
17 candidate for the nomination or election to an office under
18 the provisions of the Election Code or for the purpose of
19 determining the residence of any signer of a petition required
20 by the Election Code, permanent residence shall be resolved in
21 favor of that place shown on the person's affidavit of regis-
22 tration as his permanent residence, provided the person
23 physically resides on the premises. "

24 Section 3. Section 1-22-3 NMSA 1978 (being Laws 1985,
25 Chapter 168, Section 5, as amended) is amended to read:

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Underscored material = new
[bracketed material] = delete

1 "1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF
2 CANDIDATES. --

3 A. A school district election shall be held in
4 each school district to elect qualified persons to membership
5 on a [~~local school~~] board. No person shall become a candidate
6 for membership on a board unless his record of voter
7 registration shows that he is a qualified elector of the
8 state, physically resides in the school district in which he
9 is a candidate and physically resided in the district on the
10 date of the [~~school~~] board's proclamation calling a regular
11 school district election.

12 B. A regular school district election shall be
13 held in each school district on the [~~first Tuesday in~~
14 ~~February~~] second Tuesday in November of each odd-numbered
15 year.

16 C. A school district election held at any time
17 other than the date for the regular school district election
18 shall be a special school district election.

19 D. Except as otherwise provided in the School
20 Election Law, school district elections shall be called,
21 conducted and canvassed as provided in the Election Code. "

22 Section 4. Section 1-22-4 NMSA 1978 (being Laws 1985,
23 Chapter 168, Section 6, as amended) is amended to read:

24 "1-22-4. REGULAR ELECTION--PROCLAMATION--PUBLICATION. --

25 A. The board shall by resolution issue a public

Underscored material = new
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1 proclamation in Spanish and English calling a regular school
2 district election within the school district on the date
3 prescribed by the School Election Law. The proclamation shall
4 be filed by the superintendent with the county clerk of record
5 on the [~~last Friday in November of the even-numbered~~] first
6 Friday in September of the odd-numbered year immediately
7 preceding the date of the election.

8 B. The proclamation shall specify:

- 9 (1) the date when the election will be held;
- 10 (2) the positions on the board to be filled;
- 11 (3) the date on which declarations of
12 candidacy are to be filed;
- 13 (4) the date on which declarations of intent
14 to be a write-in candidate are to be filed;
- 15 (5) the questions to be submitted to the
16 voters;
- 17 (6) the precincts in each county in which the
18 election is to be held and the location of each polling place;
- 19 (7) the hours each polling place will be
20 open; and
- 21 (8) the date and time of the closing of the
22 registration books by the county clerk of record as required
23 by law.

24 C. After [~~filing~~] the superintendent files the
25 proclamation with the county clerk of record and not less than

Underscored material = new
[bracketed material] = delete

1 fifty days before the date of the election, the county clerk
2 of record shall publish the proclamation at least once in a
3 newspaper of general circulation within the school district.
4 The publication of the proclamation shall conform to the
5 requirements of the federal Voting Rights Act of 1965, as
6 amended. "

7 Section 5. Section 1-22-7 NMSA 1978 (being Laws 1985,
8 Chapter 168, Section 9) is amended to read:

9 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--
10 PENALTY. --

11 A. A declaration of candidacy for membership on
12 the board to be filled at a regular school district election
13 shall be filed with the proper filing officer during the
14 period commencing at 9:00 a.m. on the [~~third Tuesday in~~
15 ~~December of the even-numbered~~] fourth Tuesday in September of
16 the odd-numbered year immediately preceding the date of the
17 regular school district election and ending at 5:00 p.m. on
18 the same day.

19 B. A declaration of candidacy for membership on
20 the board to be filled at a special school district election
21 shall be filed with the proper filing officer during the
22 period commencing at 9:00 a.m. on the forty-eighth day before
23 the election and ending at 5:00 p.m. on the same day.

24 C. Any person who knowingly [~~making~~] makes a false
25 statement in his declaration of candidacy is guilty of a

Underscored material = new
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1 fourth degree felony. "

2 Section 6. Section 21-14-2.1 NMSA 1978 (being Laws 1985,
3 Chapter 238, Section 29) is amended to read:

4 "21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD- -LOCAL
5 OPTION. - -

6 A. A majority of the local school board [~~of~~
7 ~~education~~] or the combined boards of education acting as a
8 single board may cease to operate as the branch community
9 college board and provide for an elected branch community
10 college board. In that event, the majority of the local
11 school board [~~of education~~] or the combined boards of
12 education acting as a single board shall elect five persons as
13 members of the branch community college board. The persons
14 elected shall be assigned position numbers one through five.
15 Board members shall be over twenty-one years of age, qualified
16 electors and residents of the branch community college
17 district. The members of the board shall continue to serve
18 until the next regular branch community college election, to
19 be held on the [~~first Tuesday of February~~] second Tuesday of
20 November of each odd-numbered year, at which time five board
21 members shall be elected by the registered voters of the
22 branch community college district. The candidates shall file
23 for and be elected to a particular position number. The
24 candidate receiving the highest number of votes for a
25 particular position shall be elected. At the first board

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Underscored material = new
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1 meeting after the election, the five members shall draw lots
2 for the following terms: two for terms of two years and three
3 for terms of four years. Thereafter, board members shall be
4 elected for terms of four years from [~~March 1~~] December 1
5 succeeding their election. All vacancies caused in any other
6 manner than by the expiration of the term of office shall be
7 filled by appointment by the remaining members.

8 B. Immediately after the election of the five
9 members by the assembled board of education members, the board
10 shall select from its members a chairman and secretary who
11 shall serve in these offices until the next regular branch
12 community college board election. After each branch community
13 college board election, the members shall proceed to
14 reorganize.

15 C. The duties of the board shall continue as set
16 out in Chapter 21, Article 14 NMSA 1978. "

17 Section 7. Section 21-16-5 NMSA 1978 (being Laws 1963,
18 Chapter 108, Section 5, as amended) is amended to read:

19 "21-16-5. BOARD. --

20 A. The initial board of [~~the~~] a technical and
21 vocational institute district shall be composed of:

22 (1) the board of the initiating school
23 district, if only one school district is involved; or

24 (2) if more than one school district is
25 involved in the initiation of the technical and vocational

Underscored material = new
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1 institute district, one member delegated from each
2 participating school board. If there are an even number of
3 participating school districts, the boards of all
4 participating school districts shall jointly appoint an
5 additional member to the governing board of the technical and
6 vocational institute district, who shall serve as a member at
7 large.

8 B. At the second school board election held
9 pursuant to Section 1-22-3 NMSA 1978 following the creation of
10 the technical and vocational institute district, an election
11 shall be held to elect seven members to the institute board to
12 replace the members holding office under the provisions of
13 Subsection A of this section.

14 (1) Except where specific provision is
15 otherwise provided by law, all election proceedings for
16 institute district elections shall be conducted pursuant to
17 the provisions of the School Election Law with the president
18 of the technical and vocational institute serving in the place
19 of the superintendent of schools in every case.

20 (2) The board shall consist of seven separate
21 positions, and each position shall be designated by number.
22 Qualified electors seeking election to the board shall file
23 and run for only one of the numbered positions.

24 (3) At the second school board election to be
25 held following the creation of the technical and vocational

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1 institute district, members of the board elected to positions
2 1, 3, 5 and 7 shall be elected for two-year terms and members
3 elected to positions 2, 4 and 6 shall be elected for four-year
4 terms. Thereafter, each board member shall be elected for a
5 term of four years. The elections shall be held in the same
6 manner and at the same time as regular school district
7 elections on the [~~first Tuesday in February~~] second Tuesday in
8 November of each odd-numbered year.

9 C. A vacancy occurring on the board shall be
10 filled in the same manner as provided for school board
11 vacancies in Section 22-5-9 NMSA 1978. "

12 Section 8. Section 21-17-4 NMSA 1978 (being Laws 1967,
13 Chapter 177, Section 4, as amended) is amended to read:

14 "21-17-4. DESIGNATION AS AN AREA VOCATIONAL SCHOOL BY
15 THE STATE BOARD. --

16 A. Upon receipt and examination of the plan and
17 supporting evidence, the state board shall conduct hearings,
18 investigate records and procure such other information
19 relating to vocational training as it deems necessary and
20 appropriate.

21 B. If the state board finds that the plan provides
22 an adequate, broad vocational and technical educational
23 program, serves sufficient students for an economical
24 operation, provides for adequate financing and sensibly
25 relates to a statewide pattern for development of vocational

Underscored material = new
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1 and technical education, the state board may approve the plan.

2 C. Upon approval by the state board the board of
3 each school district concerned shall present the proposal for
4 the creation of an area vocational school district on a
5 separate ballot at the time of the next school board election
6 or at any separate election called for that purpose. If a
7 majority of those qualified ad valorem tax paying electors who
8 are not delinquent in the payment of their ad valorem tax,
9 voting in the election in each school district concerned,
10 [~~vote~~] votes in favor of establishing an area vocational
11 school district, the board of each school district concerned
12 shall declare the organization of the area vocational school
13 district.

14 D. After approval by the state board of the plan,
15 the school shall be officially designated by the state board
16 as an area vocational school, shall be operated in accordance
17 with provisions in the state plan for vocational education and
18 shall meet all other requirements of an accredited school.

19 E. At the next school board election held pursuant
20 to Section [~~22-6-1~~] 1-22-3 NMSA 1978, an election may be held
21 to elect five members to the area vocational school board to
22 replace the local school board as the governing board of the
23 area vocational school.

24 (1) Except where specific provision is
25 otherwise provided by law, all election proceedings for area

Underscored material = new
[bracketed material] = delete

1 vocational school elections shall be conducted pursuant to the
2 provisions of [~~Sections 22-6-1 through 22-6-34 NMSA 1978~~] the
3 School Election Law, with the president of the area vocational
4 school serving in the place of the superintendent of schools
5 in every case.

6 (2) The board shall consist of five separate
7 positions, and each position shall be designated by number.
8 Qualified electors seeking election to the board shall file
9 and run for only one of the numbered positions.

10 (3) [~~At the next regular school board~~
11 ~~election, members of the board elected to positions 1, 3 and 5~~
12 ~~shall be elected for terms ending February 28, 1989, and~~
13 ~~members elected to positions 2 and 4 shall be elected for~~
14 ~~terms ending February 28, 1991. Thereafter, each] A board
15 member shall be elected for a term of four years. The
16 elections shall be held in the same manner and at the same
17 time as regular school district elections on the [~~first~~
18 ~~Tuesday in February~~] second Tuesday in November of each odd-
19 numbered year [~~beginning with the election to be held in~~
20 ~~February of 1987~~].~~

21 F. A vacancy occurring on the board shall be
22 filled in the same manner as provided for school board
23 vacancies in Section 22-5-9 NMSA 1978.

24 G. A member of the board may be recalled pursuant
25 to the provisions of [~~Sections 22-7-1 through 22-7-16 NMSA~~

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1 ~~1978, except that a recall election may be held only at the~~
2 ~~same time as a regular school district election]~~ Article 12,
3 Section 14 of the constitution of New Mexico."

4 Section 9. Section 22-5-8 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 31, as amended) is amended to read:

6 "22-5-8. TERM OF OFFICE. --

7 A. The full term of office of a member of a local
8 school board shall be four years from [~~March 1~~] December 1
9 succeeding his election to office at a regular school district
10 election.

11 B. Any member of a local school board whose term
12 of office has expired shall continue in that office until his
13 successor is elected and qualified."

14 Section 10. TEMPORARY PROVISION--TERM OF OFFICE. --The
15 term of office for a local school board member, a branch
16 community college board member, a member of a board of a
17 technical and vocational institute or an area vocational
18 school board member due to expire on March 1, 1999 shall be
19 extended until December 1, 1999. All subsequent terms of
20 office shall be for the regular term. ~~Members~~ elected in the
21 November 1999 election shall take office December 1, 1999.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 4, 1998
7

8 Mr. President:
9

10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 113
13

14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 48, and thence referred to
16 the RULES COMMITTEE.
17

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19 Respectfully submitted,
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25 _____
Manny M. Aragon, Chairman

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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4
5 February 6, 1998

6
7 Mr. President:

8
9 Your RULES COMMITTEE, to whom has been referred

10
11 SENATE BILL 113

12
13 has had it under consideration and reports same with recommendation
14 that it DO PASS, and thence referred to the EDUCATION
15 COMMITTEE.
16

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18 Respectfully submitted,

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23 Gloria Howes, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Gorham

Absent: None

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[bracketed material] = delete

6 February 11, 1998

8 Mr. President:

10 Your EDUCATION COMMITTEE, to whom has been referred

12 SENATE BILL 113

14 has had it under consideration and reports same with recommendation
15 that it DO PASS, amended as follows:

17
18 1. On page 1, line 11, after "REQUIREMENTS" insert "FOR
19 CANDIDATES".

20
21 2. On page 1, strike lines 18 through 25, strike all of page 2
22 and on page 3, strike lines 1 through 9.

23
24 3. Renumber the succeeding sections accordingly.

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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SEC/SB 113

Page 19

4. On page 4, line 14, strike "second Tuesday" and insert in lieu thereof "Tuesday after the first Monday".

5. On page 7, line 19, strike "second Tuesday of" and insert in lieu thereof "Tuesday after the first Monday in".

6. On page 10, line 7, strike "second Tuesday" and insert in lieu thereof "Tuesday after the first Monday".

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SEC/SB 113

Page 20

Respectfully submitted,

Cynthia Nava, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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SEC/SB 113

Page 21

No: 0

Excused: Duran, Garcia, Gorham

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 17, 1998

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8 Mr. Speaker:

9
10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 113, as amended

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 13, line 18, strike "March 1, 1999" and insert in
18 lieu thereof "March 1, 2001".

19
20 2. On page 13, line 19, strike "December 1, 1999" and insert in
21 lieu thereof "December 1, 2001".

22
23 3. On page 13, line 21, strike "November 1999" and insert in
24 lieu thereof "November 2001" and strike "December 1, 1999" and insert
25 in lieu thereof "December 1, 2001"..

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HVEC/SB 113

Page 23

Respectfully submitted,

Edward C. Sandoval, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Buffett, Lutz, Nicely, Sanchez, Weeks

Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION

February 17, 1998

HOUSE FLOOR AMENDMENT number _____ to SENATE BILL 113, as amended

Amendment sponsored by Representative Jerry Lee Alwin

1. On page 7, between lines 1 and 2, insert the following new section:

"Section 6. Section 3-8-9 NMSA 1978 (being Laws 1985, Chapter 208, Section 17, as amended) is amended to read:

"3-8-9. ELECTION SCHEDULING--CONFLICTS--NOTICE.--

A. Except as otherwise provided by law, no municipal election shall be held within forty-two days prior to or within thirty days after any statewide special, general or primary election [~~or any regular school district election~~]. Whenever a municipal election would be or has been scheduled within the prohibited time, the governing body shall adopt an election resolution scheduling or rescheduling the election on a date as soon as is practicable outside the prohibited period and in compliance with the requirements of the

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FORTY-THIRD LEGISLATURE
SECOND SESSION

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Municipal Election Code and any other statute specifically related to such election. If an election resolution has already been adopted, the new election resolution shall supersede the existing election resolution and the new election resolution shall be published as required by the Municipal Election Code.

B. Except as otherwise provided by law, one or more municipal special elections, including but not limited to bond elections, may be held in conjunction with a regular municipal election or one or more special municipal elections.

C. When concurrent elections are called for, publications, notices, selection of precinct boards, election schools, ordering election supplies, conduct of the election, canvassing, record keeping and all other election matters shall be conducted to comply with all election requirements for each such election as if it were held separately. However, any requirement may be satisfied by a combined action if such action would satisfy the requirements set by law for each individual election. Allowable combined actions include but are not limited to, combined:

(1) publications;

(2) notices;

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FORTY-THIRD LEGISLATURE
SECOND SESSION

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(3) appointment of precinct boards;

(4) ordering of election supplies;

(5) conduct of election;

(6) canvassing; and

(7) record keeping. "".

2. Renumber the succeeding sections accordingly.

3. On page 12, line 18, strike "second Tuesday" and insert in lieu thereof "Tuesday after the first Monday".

Jerry Lee Alwin

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

FORTY-THIRD LEGISLATURE
SECOND SESSION

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HF1/SB 113

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Date _____

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[bracketed material] = delete

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