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SECRETARY OF STATE

# State of New Mexico

Michelle Lujan Grisham  
Governor

June 26, 2020

## SENATE EXECUTIVE MESSAGE NO. 2

The Honorable Mary Kay Papen, President Pro Tempore and  
Members of the New Mexico State Senate  
State Capitol Building  
Santa Fe, NM 87501


Dear President Pro Tempore Papen and Members of the Senate:

I have this day SIGNED:

SENATE BILL 4, as amended, without emergency clause;

enacted by the Fifty-Fourth Legislature, First Special Session, 2020.

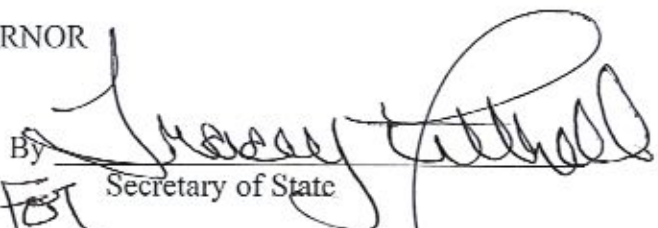
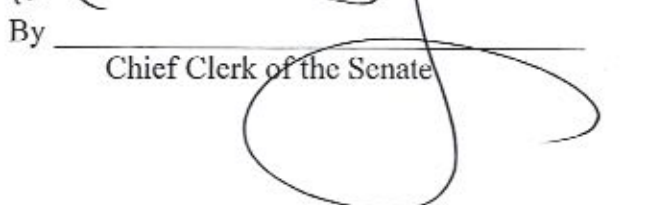
Respectfully yours,

  
Michelle Lujan Grisham  
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: 4:05 a.m. p.m.  
Date: June 26 2020

Time: \_\_\_\_\_ a.m. p.m.  
Date: \_\_\_\_\_ 2020

By   
Secretary of State  
By   
Chief Clerk of the Senate



The Legislature  
of the  
State of New Mexico

54th Legislature, 1st Special Session

LAWS 2020

CHAPTER 2

SENATE BILL 4, as amended,

without emergency clause

Introduced by

SENATOR DANIEL A. IVEY-SOTO  
SENATOR JACOB R. CANDELARIA  
SENATOR GABRIEL RAMOS  
REPRESENTATIVE DOREEN W. JOHNSON  
REPRESENTATIVE LINDA M. TRUJILLO



# CHAPTER



## AN ACT

1  
2 RELATING TO ELECTIONS; PROVIDING TEMPORARY PROCEDURES FOR THE  
3 CONDUCT OF THE 2020 GENERAL ELECTION; CREATING THE  
4 LEGISLATIVE ELECTORAL HEALTH AND SAFETY TASK FORCE TO  
5 AUTHORIZE EMERGENCY ACTIONS BY THE SECRETARY OF STATE UNDER  
6 CERTAIN CONDITIONS; ALLOWING VOTERS THAT ARE NOT AFFILIATED  
7 WITH A MAJOR POLITICAL PARTY TO CHANGE PARTY REGISTRATION AT  
8 A VOTING LOCATION BEFORE VOTING; PROVIDING FOR A DELAYED  
9 REPEAL.

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

12 SECTION 1. Section 1-4-5.7 NMSA 1978 (being Laws 2019,  
13 Chapter 67, Section 1) is amended to read:

14 "1-4-5.7. REGISTRATION AT VOTING LOCATION PRIOR TO  
15 VOTING.--

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

25 B. During a statewide election, a qualified



1 elector may register to vote or update an existing  
2 certificate of registration at the county clerk's office  
3 during the regular hours and days of business beginning on  
4 the twenty-eighth day preceding the election and from 10:00  
5 a.m. to 6:00 p.m. on the Saturday immediately prior to the  
6 date of the election; provided that if the county clerk  
7 establishes an additional alternate voting location near the  
8 clerk's office in lieu of voting at the office of the county  
9 clerk, a qualified elector may register to vote or update an  
10 existing certificate of registration at that location during  
11 the regular hours and days of business beginning on the  
12 twenty-eighth day preceding the election and during the hours  
13 for voting at alternate voting locations commencing on the  
14 third Saturday prior to the election through the Saturday  
15 immediately prior to the election.

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

1 before voting.

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

12 E. A voter whose political party affiliation on  
13 the voter's certificate of registration is with a major  
14 political party shall not be allowed to change party  
15 affiliation when updating an existing certificate of  
16 registration or registering to vote at an early voting site  
17 or polling place during a primary election.

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

24 G. A qualified elector seeking to register to vote  
25 or update an existing certificate of registration immediately

1 before voting shall provide:

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

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

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

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

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



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

3 "1-12-72. CONDUCT OF ELECTION--2020 GENERAL ELECTION--  
4 SPECIAL PROVISIONS AND CONTINGENCIES.--

5 A. This section regulates the conduct of the 2020  
6 general election. To the greatest extent possible, the  
7 provisions of this section are to be read as supplemental to  
8 and in harmony with the provisions of the Election Code;  
9 provided, however, that if a direct conflict exists with  
10 other provisions in the Election Code, the provisions of this  
11 section shall apply.

12 B. Each election day polling location established  
13 in the 2019 polling place resolution for each county or a  
14 location established by any subsequent amendment to such a  
15 resolution shall operate as a voter convenience center;  
16 provided that the secretary of state may authorize an  
17 election day polling location that is not located on Indian  
18 nation, tribal or pueblo land to operate as a mail ballot  
19 election precinct if:

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

23 (2) the request is for a specific election  
24 day polling location that is unable to meet the data  
25 connectivity requirements for voter convenience centers or is

1 located in a remote area of a county.

2 C. A polling place located on Indian nation,  
3 tribal or pueblo land shall not be closed or consolidated  
4 with other polling locations, nor shall the days and times of  
5 voting be modified, without the written agreement of the  
6 Indian nation, tribe or pueblo where the polling location is  
7 located. If, as a result of public health concerns, voters  
8 registered within the Indian nation, tribe or pueblo are  
9 unable to leave the Indian nation, tribe or pueblo during the  
10 time when voting occurs for the 2020 general election,  
11 regardless of whether voters residing outside the boundaries  
12 of the Indian nation, tribe or pueblo are able to access such  
13 polling locations, there shall be at least one polling  
14 location within the boundaries of the Indian nation, tribe or  
15 pueblo.

16 D. Each county clerk may automatically deliver to  
17 each mailable voter in the county a mailed ballot  
18 application. The determination by each county clerk to  
19 automatically deliver to each mailable voter in the county a  
20 mailed ballot application shall have been communicated in  
21 writing to the secretary of state no later than ninety days  
22 before the 2020 general election; provided that no county  
23 clerk is obligated to automatically deliver a mailed ballot  
24 application to each mailable voter of the county. If a  
25 county clerk automatically delivers to each mailable voter of



1 the county a mailed ballot application, the applications  
2 shall be mailed beginning on the fiftieth day before the 2020  
3 general election. As used in this subsection, a "mailable  
4 voter" is a voter of a county other than a voter:

5 (1) to whom a notice was sent pursuant to  
6 Subsection C of Section 1-4-28 NMSA 1978 in 2016, 2018 or  
7 2020, and subsequent to the sending of the most recent  
8 notice:

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

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

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

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

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

24 E. The secretary of state shall implement the  
25 United States postal service intelligent barcode system to be

1 utilized on the envelope containing the unvoted mailed ballot  
2 sent to a voter and on the official mailing envelope for use  
3 by a voter to return the voted mailed ballot. In addition,  
4 each mailed ballot sent to a voter in the 2020 general  
5 election shall contain the following notice: "This ballot  
6 may be returned to the office of the county clerk or any open  
7 polling location in the county where you are registered to  
8 vote at any time up to and including the day of the general  
9 election. If this ballot is returned by mail, to ensure  
10 timely postal delivery to the county clerk, the ballot should  
11 be mailed no later than Tuesday, October 27, 2020."

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

23 G. If the application for a mailed ballot from a  
24 voter who is not a federal qualified elector indicates that  
25 the mailed ballot is to be delivered to an address other than

1 an address listed on the voter's certificate of registration,  
2 the county clerk shall prepare a notice of requested mailed  
3 ballot. The notice of requested mailed ballot shall inform  
4 the voter of the address to which the ballot was mailed along  
5 with the phone number of the county clerk's office and the  
6 internet address of the voter web portal provided by the  
7 secretary of state. The notice of requested mailed ballot  
8 shall be delivered to the address provided on the voter's  
9 certificate of registration on the same day the county clerk  
10 delivers the mailed ballot to the address requested by the  
11 voter.

12 H. An application for a mailed ballot from a voter  
13 who is a federal qualified elector is timely if received by  
14 the county clerk no later than Tuesday, October 27, 2020;  
15 provided that the voter provides information permitting  
16 secured electronic delivery of the ballot to the voter. An  
17 application for a mailed ballot from a voter who is a federal  
18 qualified elector who does not provide information permitting  
19 secured electronic delivery of the ballot is timely if  
20 received by the county clerk no later than Tuesday, October  
21 20, 2020.

22 I. To return a mailed ballot, each voter shall  
23 provide in the space provided for that purpose under the  
24 privacy flap of the official mailing envelope the voter's  
25 signature on a line located under the required attestation



1 and the last four digits of the voter's social security  
2 number, which shall constitute the required voter  
3 identification. The attestation shall include the  
4 pre-printed name of the voter to whom the mailed ballot was  
5 sent. No additional information shall be required of a voter  
6 to return a mailed ballot.

7 J. Upon receipt of a mailed ballot, the county  
8 clerk shall remove the privacy flap to verify that the voter  
9 signed the official mailing envelope and confirm that the  
10 last four digits of the social security number provided by  
11 the voter matches the information on the voter's certificate  
12 of registration. If the signature is present and the last  
13 four digits of the voter's social security number match, the  
14 county clerk shall note in the absentee ballot register that  
15 the ballot was accepted and shall transfer the ballot to the  
16 special deputy for mailed ballots for delivery to the absent  
17 voter election board. If either the voter's signature is  
18 missing or the last four digits of the voter's social  
19 security number are not provided or do not match, the county  
20 clerk shall reject the mailed ballot and make the appropriate  
21 notation in the absentee ballot register and shall transfer  
22 the ballot to the special deputy for mailed ballots for  
23 delivery to the absent voter election board. If the mailed  
24 ballot is rejected, the county clerk shall within one day  
25 send the voter a notice of rejection, along with information

1 regarding how the voter may cure the reason for the  
2 rejection. The determination of the county clerk to accept  
3 or reject a mailed ballot is subject to a later interposition  
4 of a challenge before the absent voter election board. In  
5 addition to existing procedures in the Election Code for  
6 qualifying a previously rejected absentee ballot after  
7 election day, a previously rejected absentee ballot may be  
8 qualified by the presiding judge and election judges of the  
9 absent voter election board before the day of the 2020  
10 general election if the ballot was rejected for the lack of a  
11 signature or missing required voter identification if the  
12 voter provides such information pursuant to procedures  
13 established by the secretary of state.

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

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

- 24 (1) paper ballots not previously tabulated;
- 25 (2) mailed ballots delivered to an election

1 board not previously tabulated;

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

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

6 M. Certificates of registration and cancellations  
7 of existing voter registrations not processed until after the  
8 election pursuant to existing law may be processed by the  
9 county clerk beginning the first Monday following the  
10 election; provided that such certificates of registration and  
11 cancellations of existing voter registrations shall be  
12 processed beginning the first business day following approval  
13 of the report of the county canvass by the county canvassing  
14 board.

15 N. No later than September 21, 2020 and in  
16 consultation with the department of health, the secretary of  
17 state shall procure sufficient personal protective equipment  
18 and sanitizing supplies for distribution to each county clerk  
19 and for each early, mobile and election day polling location.

20 O. The secretary of health may issue public health  
21 orders regarding the conduct of the 2020 general election. A  
22 public health order issued regarding the conduct of the 2020  
23 general election shall specify areas of the state to which  
24 the order applies and shall specify for each county in the  
25 areas covered by the order the severity of the public health



1 issues necessitating the public health order and make  
2 specific recommendations to mitigate the health issues  
3 described. The recommendations shall be consistent with  
4 guidelines issued by the federal centers for disease control  
5 and prevention or be otherwise evidence-based. If the  
6 secretary of health issues a public health order regarding  
7 the conduct of the 2020 general election on or before the  
8 sixtieth day before the 2020 general election, the secretary  
9 of state shall, in consultation with each county clerk in an  
10 area identified in the public health order, implement changes  
11 in the conduct of the 2020 general election only to the  
12 extent necessary for the preservation of the health and  
13 safety of county clerks and their staffs, election board  
14 members and voters. If the secretary of health issues a  
15 public health order after the sixtieth day before the 2020  
16 general election, the secretary of state may provide guidance  
17 to county clerks on best practices for the preservation of  
18 the health and safety of county clerks and their staffs,  
19 election board members and voters; and in addition, the  
20 secretary of state may call a meeting of the legislative  
21 electoral health and safety task force. The legislative  
22 electoral health and safety task force may meet using remote  
23 means and is composed of the president pro tempore of the  
24 senate, who shall serve as chair, the speaker of the house of  
25 representatives, who shall serve as vice chair, and the

1 majority floor leaders and minority floor leaders of each  
2 house; provided that each member may appoint a legislator of  
3 the member's chamber and political party to serve as the  
4 member's designee on the task force. The legislative  
5 electoral health and safety task force may, in response to  
6 and in accordance with recommendations in the public health  
7 order as provided in this subsection, authorize the secretary  
8 of state to institute procedures and measures to ensure the  
9 health and safety of county clerks and their staffs, election  
10 board members and voters in the conduct of the election.

11 P. Nothing in this section shall alter or modify  
12 the time lines or procedures provided in the Uniform Military  
13 and Overseas Voters Act except for the deadlines provided in  
14 this section for the request of a military-overseas ballot by  
15 a voter who is a federal qualified elector. Nothing in this  
16 section shall alter or modify the time lines or procedures  
17 provided in the Intimate Partner Violence Survivor Suffrage  
18 Act.

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

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

1 ballots.

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

6 T. Notwithstanding any limitations to the  
7 contrary, the state board of finance shall authorize  
8 sufficient funds to be timely distributed to the secretary of  
9 state and the department of health for necessary and  
10 reasonable expenses incurred pursuant to this section."

11 SECTION 3. DELAYED REPEAL.--Section 1-12-72 NMSA 1978  
12 is repealed effective December 31, 2020.

13 SECTION 4. APPLICABILITY.--The provisions of Section  
14 1-12-72 NMSA 1978 apply to the conduct of the 2020 general  
15 election.

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Howie C. Morales

Howie C. Morales, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Brian Egolf

Brian Egolf, Speaker  
House of Representatives

Lisa M. Ortiz McCutcheon  
Lisa M. Ortiz McCutcheon, Chief Clerk  
House of Representatives

Approved by me this 26<sup>th</sup> day of June, 2020

Michelle Lujan Grisham  
Governor Michelle Lujan Grisham  
State of New Mexico