

CHAPTER 366

ELECTIONS

HOUSE BILL 21-1011

BY REPRESENTATIVE(S) Caraveo, Amabile, Arndt, Bacon, Benavidez, Bennett, Bird, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Roberts, Sirota, Snyder, Tipper, Valdez A., Valdez D., Weissman, Woodrow, Young, Garnett, Boesenecker, Mullica;
 also SENATOR(S) Gonzales and Moreno, Bridges, Buckner, Danielson, Donovan, Fenberg, Fields, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Pettersen, Story, Winter, Zenzinger, Garcia.

AN ACT

CONCERNING THE EXPANSION OF MULTILINGUAL BALLOT ACCESS FOR ELECTORS IN THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 9 to article 5 of title 1 as follows:

PART 9
MULTILINGUAL BALLOT ACCESS

1-5-901. Short title. THE SHORT TITLE OF THIS PART 9 IS THE "BALLOT ACCESS FOR ALL CITIZENS ACT".

1-5-902. Legislative declaration - intent. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) CONGRESS ENACTED THE LANGUAGE MINORITY PROVISIONS OF THE FEDERAL "VOTING RIGHTS ACT OF 1965" BECAUSE "THROUGH THE USE OF VARIOUS PRACTICES AND PROCEDURES, CITIZENS OF LANGUAGE MINORITIES HAVE BEEN EFFECTIVELY EXCLUDED FROM PARTICIPATION IN THE ELECTORAL PROCESS...";

(b) TODAY, THE FORMULA IN SECTION 203 OF THE "VOTING RIGHTS ACT OF 1965" REQUIRES ONLY THE COLORADO COUNTIES OF CONEJOS, COSTILLA, DENVER, AND SAGUACHE TO PROVIDE ELECTION MATERIALS IN BOTH ENGLISH AND SPANISH AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

REQUIRES ONE OTHER COLORADO COUNTY TO PROVIDE INFORMATION IN UTE;

(c) BASED ON THE 2017 FIVE-YEAR ESTIMATES SPECIFIED IN THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY, THERE ARE ONE HUNDRED THREE THOUSAND ONE HUNDRED FORTY-SIX ELIGIBLE ELECTORS IN COLORADO WHO SPEAK ENGLISH "LESS THAN VERY WELL". AN ESTIMATED EIGHTY-TWO THOUSAND NINETY-SIX OF THOSE ELIGIBLE ELECTORS LIVE IN COUNTIES WHERE BALLOTS AND OTHER ELECTION MATERIALS ARE NOT AVAILABLE IN LANGUAGES OTHER THAN ENGLISH.

(d) FURTHER COMPOUNDING THE PROBLEM OF BALLOT ACCESS FOR MINORITY LANGUAGE SPEAKERS IS THE READING LEVEL AT WHICH COLORADO'S BALLOTS ARE WRITTEN. FOR MANY MINORITY LANGUAGE SPEAKERS THE BALLOT IS SIMPLY INCOMPREHENSIBLE EVEN IF THEY SPEAK AND READ SOME ENGLISH.

(e) SECTION 203 OF THE "VOTING RIGHTS ACT OF 1965" COVERS A JURISDICTION WHEN THE NUMBER OF UNITED STATES CITIZENS OF VOTING AGE IN THAT JURISDICTION HAS A SINGLE LANGUAGE GROUP THAT:

(I) IS MORE THAN TEN THOUSAND PEOPLE OF VOTING AGE, IS MORE THAN FIVE PERCENT OF ALL VOTING-AGE CITIZENS, OR IS ON AN AMERICAN INDIAN RESERVATION AND EXCEEDS FIVE PERCENT OF ALL RESERVATION RESIDENTS; AND

(II) THE ILLITERACY RATE OF THE GROUP IS HIGHER THAN THE NATIONAL ILLITERACY RATE;

(f) COLORADO DOES NOT CURRENTLY EXPAND MINORITY LANGUAGE BALLOT ACCESS BEYOND FEDERAL REQUIREMENTS; AND

(g) COLORADO HAS AN OPPORTUNITY TO MAKE THE BALLOT ACCESSIBLE TO MORE ELIGIBLE ELECTORS AND PROVIDE THEM WITH MEANINGFUL ACCESS TO A BALLOT THAT THEY ARE ABLE TO READ, UNDERSTAND, AND VOTE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE INTENT OF THIS PART 9 IS TO:

(a) PROVIDE BALLOT ACCESS TO ELECTORS THROUGHOUT THE STATE WHILE BALANCING THE REALITY OF LIMITED STATE AND COUNTY RESOURCES; AND

(b) EXPAND MINORITY LANGUAGE BALLOT ACCESS WITHOUT CHANGING OR REDUCING THE STATE'S EXISTING RESPONSIBILITIES PURSUANT TO SECTION 203 OF THE "VOTING RIGHTS ACT OF 1965".

1-5-903. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COUNTY CLERK" MEANS THE COUNTY CLERK AND RECORDER OF ANY COUNTY IN THE STATE.

(2) "MINORITY LANGUAGE BALLOT" MEANS A BALLOT THAT IS FULLY TRANSLATED INTO A LANGUAGE OTHER THAN ENGLISH. THE CONTENT OF A

"MINORITY LANGUAGE BALLOT" MAY BE IN ONLY A LANGUAGE OTHER THAN ENGLISH OR BOTH ENGLISH AND A LANGUAGE OTHER THAN ENGLISH.

(3) "MINORITY LANGUAGE SAMPLE BALLOT" MEANS A DOCUMENT THAT IS AVAILABLE TO ELIGIBLE ELECTORS TO HELP THEM PREPARE FOR AN ELECTION THAT CONTAINS ALL CANDIDATES, QUESTIONS, AND INSTRUCTIONS FOR VOTING, AND IS FULLY TRANSLATED INTO A LANGUAGE OTHER THAN ENGLISH.

(4) "QUALIFIED TRANSLATOR OR INTERPRETER" MEANS A TRANSLATOR OR INTERPRETER WHO IS DETERMINED BY THE SECRETARY OF STATE TO:

(a) BE SCREENED AND TESTED FOR PROFICIENCY IN BOTH WRITTEN ENGLISH AND THE TARGET LANGUAGE WITH AFFILIATION OR ACCREDITATION BY A NATIONALLY RECOGNIZED ASSOCIATION OF TRANSLATORS OR HAVE OTHER CREDENTIALS OR CERTIFICATIONS THAT ARE COMPARABLE TO OR EXCEED THE STANDARDS USED BY A NATIONALLY RECOGNIZED ASSOCIATION OF TRANSLATORS; AND

(b) PRODUCE TRANSLATIONS THAT ARE LINGUISTICALLY ACCURATE, CULTURALLY APPROPRIATE, AND TECHNICALLY CONSISTENT WITH THE ORIGINAL DOCUMENTS.

1-5-904. Multilingual ballot hotline - creation - secretary of state - rules.

(1) THE SECRETARY OF STATE SHALL ESTABLISH A MULTILINGUAL BALLOT HOTLINE TO PROVIDE ACCESS TO A QUALIFIED TRANSLATOR OR INTERPRETER IN EACH OF THE LANGUAGES IN THE STATE THAT HAS AT LEAST TWO THOUSAND CITIZENS AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND WHO SPEAK A SHARED MINORITY LANGUAGE AT HOME, AND IN ANY ADDITIONAL LANGUAGES THE SECRETARY DETERMINES BY RULE IS NEEDED TO ASSIST ELECTORS IN TRANSLATING BALLOT LANGUAGE. THE MULTILINGUAL BALLOT HOTLINE SHALL BE ESTABLISHED FOR USE DURING THE GENERAL ELECTION HELD IN NOVEMBER 2022, AND FOR EVERY GENERAL ELECTION AND STATEWIDE ODD-YEAR ELECTION THEREAFTER.

(2) THE SECRETARY OF STATE SHALL PROVIDE NOTICE ON THE SECRETARY'S WEBSITE AND SHALL CREATE SIGNS TO BE POSTED BY COUNTY CLERKS AT ALL VOTER SERVICE AND POLLING CENTERS TO INFORM ELECTORS THAT THE MULTILINGUAL BALLOT HOTLINE IS AVAILABLE TO ELECTORS STATEWIDE FROM THE FIRST DAY THAT DOMESTIC BALLOTS FOR STATEWIDE GENERAL AND COORDINATED ELECTIONS ARE MAILED TO ELECTORS THROUGH ELECTION DAY. THE MULTILINGUAL BALLOT HOTLINE MUST BE AVAILABLE ANYTIME A VOTER VISITS A VOTER SERVICE AND POLLING CENTER DURING THAT CENTER'S HOURS OF PUBLIC OPERATION. THE MULTILINGUAL BALLOT HOTLINE MUST BE AVAILABLE TO ALL OTHER VOTERS BETWEEN 8 A.M. AND 5 P.M. MONDAY THROUGH FRIDAY BEGINNING THE FIRST DAY THAT DOMESTIC BALLOTS FOR STATEWIDE GENERAL AND COORDINATED ELECTIONS ARE MAILED TO ELECTORS THROUGH THE FRIDAY BEFORE ELECTION DAY. THE HOTLINE MUST BE AVAILABLE TO ALL VOTERS BETWEEN 7 A.M. AND 7 P.M. ON THE MONDAY BEFORE ELECTION DAY AND ON ELECTION DAY.

(3) THE SECRETARY OF STATE SHALL ENSURE THAT EACH TRANSLATOR OR INTERPRETER WHO PROVIDES TRANSLATIONS FOR THE MULTILINGUAL BALLOT HOTLINE IS A QUALIFIED TRANSLATOR OR INTERPRETER IN THE LANGUAGE OR

LANGUAGES IN WHICH THE TRANSLATOR OR INTERPRETER PROVIDES BALLOT TRANSLATION ASSISTANCE. A QUALIFIED TRANSLATOR OR INTERPRETER SHALL PROVIDE ASSISTANCE WITH TRANSLATION OF BALLOT LANGUAGE ONLY AND SHALL NOT PROVIDE EXPLANATIONS OF OR ARGUMENTS FOR OR AGAINST ANY CANDIDATE OR QUESTION INCLUDED ON THE BALLOT.

(4) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS MAY BE NECESSARY TO CREATE AND ADMINISTER THE MULTILINGUAL BALLOT HOTLINE, INCLUDING RULES REGARDING HIRING OR CONTRACTING FOR QUALIFIED TRANSLATORS OR INTERPRETERS TO STAFF THE MULTILINGUAL BALLOT HOTLINE. THE SECRETARY OF STATE MAY INCLUDE RULES FOR SHARING QUALIFIED TRANSLATOR OR INTERPRETER RESOURCES WITH OTHER STATE AGENCIES.

1-5-905. Multilingual ballot access - general provisions - requirements of secretary of state - county clerks. (1) A COUNTY CLERK IS REQUIRED TO PROVIDE MULTILINGUAL BALLOT ACCESS BY CREATING A MINORITY LANGUAGE SAMPLE BALLOT PURSUANT TO SECTION 1-5-906 AND PROVIDING AN IN-PERSON MINORITY LANGUAGE BALLOT PURSUANT TO SECTION 1-5-907 IF:

(a) THE COUNTY HAS AT LEAST TWO THOUSAND CITIZENS AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND WHO SPEAK A SHARED MINORITY LANGUAGE AT HOME; OR

(b) AT LEAST TWO AND ONE-HALF PERCENT OF CITIZENS IN THE COUNTY AGE EIGHTEEN YEARS OR OLDER SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND SPEAK A SHARED MINORITY LANGUAGE AT HOME.

(2) THE SECRETARY OF STATE SHALL DETERMINE WHICH COUNTIES IN THE STATE ARE REQUIRED TO PROVIDE MULTILINGUAL BALLOT ACCESS AND, THEREFORE, ARE REQUIRED TO CREATE A MINORITY LANGUAGE SAMPLE BALLOT PURSUANT TO SECTION 1-5-906 AND PROVIDE AN IN-PERSON MINORITY LANGUAGE BALLOT PURSUANT TO SECTION 1-5-907. THE SECRETARY OF STATE SHALL MAKE SUCH DETERMINATION BASED ON INFORMATION PROVIDED IN THE MOST RECENT FIVE-YEAR ESTIMATES SPECIFIED IN THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA. THE SECRETARY OF STATE SHALL NOTIFY THE COUNTY CLERK OF ANY COUNTY THAT IS REQUIRED TO PROVIDE A MINORITY LANGUAGE SAMPLE BALLOT PURSUANT TO SECTION 1-5-906 AND PROVIDE AN IN-PERSON MINORITY LANGUAGE BALLOT PURSUANT TO SECTION 1-5-907 ON OR BEFORE JANUARY 5, 2022, AND ON OR BEFORE JANUARY 5 OF EACH EVEN YEAR THEREAFTER. IN ADDITION, ON OR BEFORE JANUARY 5, 2022, AND ON OR BEFORE JANUARY 5 OF EACH EVEN YEAR THEREAFTER, THE SECRETARY OF STATE SHALL POST A LIST ON THE SECRETARY'S WEBSITE OF ALL COUNTIES THAT ARE REQUIRED TO PROVIDE A MINORITY LANGUAGE SAMPLE BALLOT PURSUANT TO SECTION 1-5-906 AND PROVIDE AN IN-PERSON MINORITY LANGUAGE BALLOT PURSUANT TO SECTION 1-5-907.

(3) LEGISLATIVE COUNCIL STAFF SHALL PROVIDE TO THE SECRETARY OF STATE A TRANSLATION OF ALL STATEWIDE BALLOT QUESTIONS OR ISSUES THAT WILL APPEAR

ON THE BALLOT IN EVERY LANGUAGE IN WHICH A MINORITY LANGUAGE SAMPLE BALLOT MUST BE PROVIDED IN THE STATE. THE SECRETARY OF STATE SHALL PROVIDE EACH COUNTY CLERK THAT IS SUBJECT TO THIS PART 9 WITH A TRANSLATION IN THE APPLICABLE LANGUAGE OF ALL CONTENT THAT IS CERTIFIED TO THE COUNTY CLERKS BY THE SECRETARY OF STATE. THE COUNTY CLERK OF EACH COUNTY SHALL USE THE TRANSLATION PROVIDED BY THE SECRETARY OF STATE IN CREATING THE MINORITY LANGUAGE SAMPLE BALLOT AND IN PROVIDING THE IN-PERSON MINORITY LANGUAGE BALLOT FOR HIS OR HER COUNTY.

1-5-906. Minority language sample ballots - county clerk. (1) THE COUNTY CLERK OF ANY COUNTY THAT SATISFIES THE CRITERIA SPECIFIED IN SECTION 1-5-905 (1) SHALL, IN COORDINATION WITH THE SECRETARY OF STATE, CREATE A MINORITY LANGUAGE SAMPLE BALLOT IN ANY MINORITY LANGUAGE SPOKEN IN THE COUNTY THAT SATISFIES THE FOLLOWING:

(a) THE MINORITY LANGUAGE IS SPOKEN BY AT LEAST TWO THOUSAND CITIZENS IN THE COUNTY AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY, AND WHO SPEAK THE MINORITY LANGUAGE AT HOME; OR

(b) THE MINORITY LANGUAGE IS SPOKEN BY AT LEAST TWO AND ONE-HALF PERCENT OF CITIZENS IN THE COUNTY AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY, AND WHO SPEAK THE MINORITY LANGUAGE AT HOME.

(2) THE MINORITY LANGUAGE SAMPLE BALLOT MUST INCLUDE ALL OF THE SAME CONTENT THAT IS ON THE ENGLISH LANGUAGE BALLOT.

(3) A COUNTY CLERK THAT IS REQUIRED TO CREATE A MINORITY LANGUAGE SAMPLE BALLOT IN ONE OR MORE MINORITY LANGUAGES PURSUANT TO THIS SECTION SHALL PROVIDE SUCH MINORITY LANGUAGE SAMPLE BALLOTS FOR THE GENERAL ELECTION HELD IN NOVEMBER 2022, AND FOR EACH GENERAL ELECTION AND STATEWIDE ODD-YEAR ELECTION THEREAFTER.

(4) THE MINORITY LANGUAGE SAMPLE BALLOT MUST INCLUDE THE INSTRUCTIONS FOR EVERY BALLOT STYLE IN THE COUNTY. THE COUNTY CLERK IS NOT REQUIRED TO CREATE A SAMPLE BALLOT FOR EVERY BALLOT STYLE IN THE COUNTY BUT MAY INSTEAD CREATE ONE MASTER DOCUMENT CONTAINING ALL THE CANDIDATES, QUESTIONS, AND INSTRUCTIONS INCLUDED ON EVERY BALLOT STYLE IN THE COUNTY. INSTEAD OF CREATING ONE MASTER DOCUMENT, THE COUNTY CLERK MAY CHOOSE TO CREATE A MINORITY LANGUAGE SAMPLE BALLOT FOR EACH BALLOT STYLE IN THE COUNTY.

(5) THE COUNTY CLERK SHALL MAKE THE MINORITY LANGUAGE SAMPLE BALLOT AVAILABLE AND ACCESSIBLE TO ELECTORS IN THE COUNTY ON THE WEBSITE OF THE COUNTY CLERK AND AT VOTER SERVICE AND POLLING CENTERS COUNTY-WIDE. THE COUNTY CLERK SHALL NOTIFY ALL ELECTORS IN THE COUNTY VIA THE MAIL BALLOT PACKET AND IN EACH LANGUAGE IN WHICH A MINORITY LANGUAGE SAMPLE BALLOT WILL BE CREATED THAT A MINORITY LANGUAGE SAMPLE BALLOT IS AVAILABLE.

(6) A COUNTY CLERK SHALL ENSURE THAT THE TRANSLATION PROVIDED FOR THE MINORITY LANGUAGE SAMPLE BALLOT IS PERFORMED BY ONE OR MORE QUALIFIED TRANSLATORS.

1-5-907. In-person minority language ballot - county clerk - voter service and polling centers. (1) THE COUNTY CLERK OF ANY COUNTY THAT SATISFIES THE CRITERIA SPECIFIED IN SECTION 1-5-905 (1) SHALL ENSURE THAT EVERY VOTER SERVICE AND POLLING CENTER IN THE COUNTY IS EQUIPPED TO PROVIDE, UPON THE REQUEST OF AN ELECTOR, AN IN-PERSON MINORITY LANGUAGE BALLOT IN ANY MINORITY LANGUAGE SPOKEN IN THE COUNTY THAT SATISFIES THE FOLLOWING:

(a) THE MINORITY LANGUAGE IS SPOKEN BY AT LEAST TWO THOUSAND CITIZENS IN THE COUNTY AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND WHO SPEAK THE MINORITY LANGUAGE AT HOME; OR

(b) THE MINORITY LANGUAGE IS SPOKEN BY AT LEAST TWO AND ONE-HALF PERCENT OF CITIZENS IN THE COUNTY AGE EIGHTEEN YEARS OR OLDER WHO SPEAK ENGLISH LESS THAN VERY WELL, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AMERICAN COMMUNITY SURVEY OR COMPARABLE CENSUS DATA, AND WHO SPEAK THE MINORITY LANGUAGE AT HOME.

(2) AN IN-PERSON MINORITY LANGUAGE BALLOT OPTION SHALL BE EITHER A BALLOT ON DEMAND, A BALLOT FROM A PRINTED STOCK OF BALLOTS, OR A BALLOT VIA A VOTING DEVICE AND SHALL INCLUDE ALL OF THE SAME CONTENT THAT IS ON THE ENGLISH LANGUAGE BALLOT.

(3) A COUNTY CLERK THAT IS REQUIRED TO PROVIDE AN IN-PERSON MINORITY LANGUAGE BALLOT OPTION IN ONE OR MORE MINORITY LANGUAGES PURSUANT TO THIS SECTION SHALL PROVIDE IN-PERSON MINORITY LANGUAGE BALLOT OPTIONS FOR THE GENERAL ELECTION HELD IN NOVEMBER 2022, AND FOR EACH GENERAL ELECTION AND STATEWIDE ODD-YEAR ELECTION THEREAFTER.

(4) THE COUNTY CLERK SHALL NOTIFY ALL ELECTORS VIA THE MAIL BALLOT PACKET AND IN EACH LANGUAGE IN WHICH THE IN-PERSON MINORITY LANGUAGE BALLOT OPTION WILL BE AVAILABLE THAT ELECTORS MAY REQUEST AN IN-PERSON MINORITY LANGUAGE BALLOT IN THE APPLICABLE LANGUAGE AT ANY VOTER SERVICE AND POLLING CENTER IN THE COUNTY.

1-5-908. State assistance to counties for implementation costs. SUBJECT TO AVAILABLE RESOURCES, THE STATE SHALL ENDEAVOR TO PROVIDE FINANCIAL ASSISTANCE TO COUNTIES THAT ARE SUBJECT TO THE REQUIREMENTS OF THIS PART 9 TO OFFSET THE COSTS INCURRED BY THE COUNTIES IN COMPLYING WITH THIS PART 9.

SECTION 2. Appropriation. For the 2021-22 state fiscal year, \$82,800 is appropriated to the department of state for use by the information technology division. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the division may use this appropriation for personal services.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 28, 2021