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FISCAL IMPACT REPORT

Trujillo, L./Ivey-
 Soto/Gonzales/
SPONSOR Anderson **ORIGINAL DATE** 2/15/19
LAST UPDATED 3/11/19 **HB** 407/aHJC/aHfI#1/ec
SHORT TITLE Election Laws 50-Year Tune-up **SB** _____
ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	(\$1,056.0)	(\$1,056.0)	Recurring	(Local) Election Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$2,590.8	\$2,590.8	\$5,181.6	Recurring	General Fund (Election Fund or Program/SOS)

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

Conflicts with SB 52, SB 86, SB 416 and SB 418

Relates to HB 52, HB 55, HB 84, HB 93, HB 211, HB 249, HB 292, SB 99, SB 410 and SB 320

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

Administrative Office of the Courts (AOC)

New Mexico Attorney General’s Office (NMAG)

New Mexico Municipal League (NMML)

SUMMARY

Synopsis of HfI#1 Amendments

The House Floor Amendments #1 to House Bill 407, as previously amended, make numerous corrective and clarifying revisions to the bill. Among them, the more significant changes:

- Requires the SOS to provide two notices of noncompliance to a county clerk concerning a county precinct map when boundary adjustments are necessary pursuant to existing law following receipt of federal census results prior to the SOS adjusting a boundary (Amendment #4 re Section 42(B));
- Removes details concerning location of secured containers for voted mailed ballots and the need for SOS to promulgate rules concerning those containers, allows county clerks to determine locations for them, and requiring those clerk to post those locations at least 90 days (up from 42 days) before a statewide election and 42 days before a special election; declares a container location to be a polling place for purposes of existing electioneering prohibitions; requires specified notice at each container site, monitoring of each container by video surveillance cameras, and collection and documentation of ballots from containers at least once each day (Amendment #14-20 re Section 43);
- Sets the number of signatures on a nominating petition for an independent candidate for United States president to be the number required to form a new political party (Amendment #21 re Section 97); and
- Requires a municipality reimburse SOS the actual cost of conducting a run-off election when the first round of voting is conducted at the regular local election (Amendment #30-32 re Section Section 150).

Significant Issues

The notice provided for in Amendment #20, at subparagraph (4)(a) regarding collection and delivery of a ballot for another person does not reflect existing law. The amendment requires the notice to state that it is a violation of law for any person who is not an immediate family member to collect and deliver a ballot for another person. Section 1-6-10.1 (which is amended in Section 70 of the bill to define “immediate family”) allows the voter and the voter’s caregiver to deliver a ballot, as well as a member of the voter’s immediate family.

Technical Issues

1. Amendment #10: the language being inserted likely should follow the second “the” in line 14, rather than the first (as written).
2. Amendment #28 and 29: Clears up the ambiguity of the phrase “by the county clerk” on page 228, line 2 pointed out in the analysis of the HJC amendments. These same corrections should be made in the new Section 145(D)(4) provided in HJC Amendment #39.
3. Amendment #33: Rather than adding two new sections of law, the addition of the word “conspicuous” to the notice requirements of the sections of existing law cited therein, along with replacing “election” with the phrase “the first day of voting” in those same sections may be less duplicative of already existing law.

Synopsis of HJC Amendments

The House Judiciary Committee amendments to House Bill 407 make these significant changes to the bill:

- Allow for, rather than require, combining of precincts or adjustment of precinct

boundaries, and strike the county population qualifier (Section 35(C));

- Require a board of county commissioners to consider local public body input regarding the location of a voting convenience center (Section 38(D));
- Strike the proposed new section of the Absent Voter Act establishing a mailed ballot pilot project for certain regular local elections (Section 75);
- Reduce the number of signatures required on a nominating petition for an independent candidate for United States representative from three to two percent of total votes cast in the district (Section 97(D));
- Appropriate money in the election fund to the SOS for the purposes authorized in that section (original Section 109);
- Strike Section 139, which deleted the definition of “proper filing officer” in the Campaign Reporting Act;
- Repeal and reenact provisions governing municipal election procedures, adjusting dates and charter amendments for procedures affected by the election code and public financing, including adding in Subsection (E) a delayed effective date of December 31, 2019 for municipalities over 100,000, for purposes of regular local elections in 2019. (Section 144) A virtually identical provision (except for Subsection (E)) repeals Section 144 and reenacts it as Section 145 with a delayed effective date of January 1, 2020. (See amendment 51)
- Require a formation determination be conducted among the owners of a proposed public improvement district (PID) prior to submitting the question of formation of the district to qualified voters of that district. Such a determination is not a local election for purposes of the Election Code, and determinations may be made by unanimous written approval of the owners by affidavit. A three-fourths majority vote of the owners in favor of a formation determination is required before an election is conducted. Any such election shall be conducted pursuant to the provisions of the Election Code, including certain revised procedures set forth in the section, including those which apply when there are no registered voters within the proposed district (new Sections 193 and 194);
- Make changes to other provisions governing PIDs, including notice and conduct of elections, staggered terms for district directors, changes in district boundaries or general plan, and general obligation bond elections (new Sections 195-197);
- Make changes to statutes governing tax increment development districts (TIDDs) similar to those for PIDs (new Sections 200-204 and 206-207); and
- Repeal and reenact provisions governing water and sanitation district boards, allowing for appointed members in certain instances and subject to stated limitations. (new Section 263).

As to the continuing appropriation language being added to Section 109, the LFC has concerns with including continuing appropriation language in statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

Additionally, the phrase “by the county clerk” that appears in the new Section 145(D)(4) in amendment 39 is not clear: the addition of the words “as qualified” immediately preceding that phrase may help clarify its meaning. (That same ambiguity is present in Section 144(D)(4) of the original bill on page 228 at line 2.)

NMML raises a concern about the new Section 45 (amendment #10), which allows SOS to disclose confidential voter information to other election officials and TRD as threatening the confidentiality and integrity of election databases. It also questions the uploading of declarations

of candidacy and candidate qualification documents and resolutions approving ballot questions into the voter registration database. (amendment #12)

Synopsis of Original Bill

House Bill 407 revises and repeals numerous existing provisions of New Mexico’s election code, as well as adding new sections to other existing laws. It defines the term “statewide elections” as used in the code to mean primary and general elections as well as regular local elections. See Section 17. In the Local Election Act, enacted in 2018 as Chapter 79, the existing provision requiring annual local government assessments is removed. See Section 109. HB 407 also enacts: 1) the Recall Act; and 2) the Nonpartisan Judicial Retention Act, which establishes staggered terms for supreme court justices, court of appeals judges, and district court and metropolitan judges. See Sections 171-176. HB 407 also creates a regular local election mailed ballot pilot project. Temporary provisions of this bill: a) establish polling places for the 2019 regular local elections; b) adjust terms of office for five special districts; c) extend the terms of certain district court and metropolitan judges; d) direct the SOS to take certain actions to implement the changes made in the bill; and e) authorize the expenditure of money in the election fund, upon a finding of sufficient funding by the SOS, to reimburse local governments for transitional costs due to the implementation of the Local Election Act in FY19 and FY 20. A section-by-section summary of the bill prepared by the SOS is incorporated as Attachment 1.

HB 407 contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

Revenues. Section 109 of this bill strikes the existing provision in the Local Election Act requiring local governments pay annual assessments to the SOS for deposit into the Local Election Fund. In light of that change, the revenue table above reflects the loss of \$1.1 million annually, the estimate provided by SOS.

Non-reverting Fund. Section 109 of this bill creates a new fund, the election fund. All income derived from that fund must be credited directly to the fund, and any remaining balances at the end of a fiscal year remain in the fund and do not revert. It is created for the purpose of paying expenses for administering statewide elections required by the election code and for the SOS to reimburse counties for the costs of conducting and administering statewide elections required by the Election code. However, the fund is not appropriated to the SOS. Funds must be appropriated by that Legislature to authorize expenditure.

Operating Budget Impact. The numbers in the Operating Budget Impact Tables above reflect the SOS’s analysis of the costs related to the election program at the SOS arising from the additions, deletions, and changes made in HB 407. As SOS explains, Section 109 amends Section 1-22-20 NMSA 1978, to convert the current local election fund, which is SHARE fund 20710, to an election fund for the purpose of paying expenses for administering statewide elections required by the election code and for the SOS to reimburse counties for the costs of conducting and administering statewide elections required by the code. The counties are currently reimbursed for Native American early voting sites, costs for recounts, and for attending election school, which expenses totaled \$58.9 thousand for the 2018 General Election.

According to the SOS, the proposed legislation would result in an estimated additional \$2.5 million to be reimbursed to the counties annually for each statewide election. The code requires a statewide local election and primary election in even fiscal years and general elections in odd fiscal years. In addition, SOS reports that Section 77 requires, in part, that all absentee and otherwise mailed election ballots be postage pre-paid. SOS estimates that cost, based on the 2018 general election absentee ballots received, to be \$90.8 thousand. It is not a cost that is paid currently by either the SOS or the counties. Both of these new costs are reflected in the Operating Budget Impact Table.

SOS notes more generally that the election fund requires an appropriation by the legislature, and allows grant funding. The SOS considers that by establishing a fund which pays expenses for administering statewide elections required by the election code, this legislation includes those that are currently appropriated and expended by the office's election program (P783), and costs to be reimbursed to the counties for primary, general, and local elections. This is approximately \$6 million in appropriation to P783, the election program in the SOS office. The local election cost is estimated by SOS to be \$6.6 million in even fiscal years (including the \$2.5 million annual cost discussed earlier). SOS reports that an \$11.89 million appropriation to the converted election fund (20710) would cover all of the costs under the Election Code as amended by this legislation; a net increase of \$5.89 million.

SIGNIFICANT ISSUES

SOS advises the purpose of HB 407 is to update procedures for the conduct of all elections governed by the Election Code and to incorporate local election references into the Code.

Citing one example, SOS notes that Section 116 develops procedures for handling ballots that were not tabulated and those with write-in votes, both of which will be handled by the county clerk. Currently, SOS advises, these duties are the responsibility of poll officials at polling places. However, since implementing vote centers, SOS reports that these tasks have become far too challenging for those officials to complete after a long election night. According to SOS, the security of these ballots, proper chain of custody methods and accuracy of tallying necessitate shifting these duties to the county clerk.

SOS also points to the provisions of Section 183 and 184, which eliminate language that allows a person who owns property but who is not registered to vote in a municipality to vote on a bond issue. SOS explains that these voters are referred to as "non-resident" voters, and allowing them to vote is contrary to the constitutional requirement for a qualified elector. SOS reports that the statewide voter registration system used by county clerks to determine ballot issuance eligibility is based solely on registered voters, as required by the new subsection (B) in Section 183.

NMAG comments on provisions which may impact a citizen's access to voting, advising that such changes may implicate constitutional protections, and any burdens placed on a political party or voter will be subject to strict scrutiny in the event of legal challenges. It calls attention to Section 49(D), which might be construed as limiting a person's right to vote by requiring a social security number as part of the registration process. Similarly, Section 60(C) requires someone applying for a mailed ballot provide the number on the person's driver's license or state identification card when applying on-line. Section 60(D) also requires the applicant verify the validity of the information that person has submitted, which NMAG reports has created disputes in the past. Section 64 requires voter identification for early voting at the county clerk's office

when using an absentee ballot. NMAG advises that, to varying degrees, each of these provisions may be viewed as limiting a person's access to voting and therefor subject to challenge.

NMML suggests a major area of confusion arises in Section 17 by its inclusion of regular local elections in the definition of "statewide election". Provisions that currently would apply only to statewide elections must be implemented by county clerks in the clerk's administration of a regular local election, but not so if a municipal clerk is conducting a special municipal election or a municipal officer election.

In addition, Sections 171 through 176 enacts the Nonpartisan Judicial Retention Act, which provides that a justice of the supreme court, judge of the court of appeals, district court judge or metropolitan court judge is eligible for nonpartisan judicial retention after the justice or judge has first been elected to that position in a partisan election. The retention election is to occur in the last year of the term of office for the position to which an eligible justice or eligible judge was elected in a partisan election or in a previous nonpartisan retention election. The bill defines "eligible justice" or "eligible judge" to mean a justice or judge who has been elected to that position in a partisan election. It also requires staggered terms for these justices and judges. AOC provides this analysis of these sections:

Article VI, Section 33 of the NM Constitution governs the retention or rejection of supreme court justices, judges of the court of appeals, district court judges and metropolitan court judges at general election. Section 33 was added to the constitution in 1988 and amended in 1994. Subsection E ensured that all justices and judges would stand for retention at the same time, under the new system adopted in 1988. See *State of NM v. Raphaelson*, 2015-NMSC-028, p. 8, paragraph 28. <http://www.nmcompcomm.us/nmcases/NMSC/2015/15sc-028.pdf>.

Section 33 provides that:

- Each justice of the supreme court or judge of the court of appeals shall be subject to retention or rejection in like manner at the general election every eighth year. (Subsection B)
- Each district judge shall be subject to retention or rejection in like manner at the general election every sixth year. (Subsection C)
- Each metropolitan court judge shall be subject to retention or rejection in like manner at the general election every fourth year. (Subsection D)

As the supreme court in *Raphaelson* noted, Section 33 does not prescribe when a judge's or justice's term begins. *Raphaelson*, Supra, p. 4, paragraph 12. Additionally, there is no indication in Article VI, Section 33 that the phrase "in like manner" in Subsections B, C and D means "at the same time".

Further, as to Sections 273 and 274, which contain temporary provisions extending certain district and metropolitan judges' terms, AOC advises these section:

govern the expiration of district court and metropolitan court judge terms, "subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico." The court in *Raphaelson*, supra, was grappling with the interpretation of Article 6, Section 35 language providing that, "Any person appointed shall serve until the next general election. That person's successor shall be chosen at such election and shall

hold the office until the expiration of the original term.” HB 407 is not addressing appointments to a judicial vacancy. It is likely that HB 407 is addressing the provisions of Article 6, Section 33.

HB 407 does not appear to provide a mechanism for or direction regarding the required staggering of terms for supreme court justices or court of appeals judges.

PERFORMANCE IMPLICATIONS

SOS notes this legislation provides clarification to the election process that will allow SOS and county clerks to administer elections in a consistent manner. Creating a simplified process that is aligned with updated technology, SOS suggests, may result in additional voter participation.

Further, SOS believes that by creating a fund to cover the costs of statewide elections and allowing for a centralized funding source for election costs will streamline the process.

CONFLICT, RELATIONSHIP

NMAG provides this listing of pending legislation that conflicts with or relates to HB 407:

Conflict

SB 52 allows qualified electors to register to vote up to three days before an election. It also amends Section 1-4-5.1 in conflict with HB 407’s amendments of that same section.

SB 86 adds a new section to the election code which allows qualified electors to register to vote on election day at a polling place and at an early voting site, as defined by the bill, while HB 407 makes changes to registration requirements and does not authorize registration on election day.

SB 416 introduces guidelines on the procedures for redistricting different than those proposed in this bill.

SB 418 amends several statutes in the election code differently than this bill does.

Relationship

HB 55 amends Section 1-15-4 of the Election Code to make corresponding changes to current law setting forth the process for selecting presidential electors.

HB 57 relates to this bill as it directs the repeal of Section 1-4-27.1 NMSA 1978, which implements the cancellation of felons’ voting registration.

HB 84 and its duplicate SB 50 address automatic voter registration (opt in versus opt out) at the Motor Vehicle Department.

HB 93 amends the election code to allow voters not affiliated with a major political party, as evidenced by their voter registration certificate, to cast a ballot in primary elections

HB 211 addresses municipal bond elections regarding the taxation of gasoline, while this bill addresses who can vote in those elections.

HB 249 convenes a Native American voting information task force.

HB 292 amends two sections of Article 6 of the election code governing absentee voting.

SB 99 amends language in the election code.

SB 410 amends language in the election code.

SB 320 amends the definition of “registration agent” as used in the election code to require the registration agent be either a state or federal employee who provides voter registration at a state agency or tribal registration office or an individual who is a qualified elector and registered to vote in the state of New Mexico. (Under current law, any individual who assists someone in completing a voter registration application is considered a registration agent.)

OTHER SUBSTANTIVE ISSUES

Because this bill creates a new fund in Section 109, it should be referred to the House Appropriations and Finance Committee.

Whether or not HB 407 is enacted, SOS warns, future elections will require additional appropriations from the state in order to close the funding gap, and reports that for FY20, the Secretary of State has requested such a special appropriation. Further, SOS points to language in the bill directing that if there is insufficient funding, the SOS may apply to the Board of Finance for an emergency grant to cover those costs pursuant to Section 6-1-2 NMSA 1978. The SOS disagrees with this course of action for insufficient funding, maintaining instead that the legislature should provide adequate appropriation and supplemental funding as necessary. The board of finance has a mandate to provide emergency funding for unforeseen occurrences or circumstances severely affecting the quality of government services and requiring the immediate expenditure of money that is not available to the requesting agency and cannot await appropriation by the next regular session. The SOS contends that elections are not unforeseen circumstances or unforeseen emergencies. They are regularly occurring events governed by the election code and should be appropriately funded.

MD/sb/gb/al/gb

ATTACHMENT 1: Secretary of State's Section-by-Section Summary of HB 407

Section 1 – 8 contains either clarifying language to existing definitions or defines new terms within the Election Code.

Section 9 outlines procedures for the qualification and counting of signatures on nominating petitions.

Section 10 -12 contains either clarifying language to existing definitions or defines new terms within the Election Code.

Section 13 details nominating petition requirements prior to the signing by voters.

Section 14 – 18 contains either clarifying language to existing definitions or defines new terms within the Election Code.

Section 19 – 34 proposes to amend language associated with election officials and election board members. The term precinct board is changed to election board. Procedures on how to appoint and fill vacancies of the election board members are clarified and the school of instruction section has been modified to account for present day training needs. Election messengers will be required to take an oath of office, which in many counties is common practices. Additionally, language is added to expand upon the location of challengers, watchers and observers during the counting of ballots.

Section 35 adds language providing guidance with regard to splitting and combining precincts. The SOS must maintain and provide a geographical boundary of the current precincts and the local government, representative district and senatorial district within each county.

Section 36 provides a timeline for the designation of polling places for primary, general and regular local elections by each county commission.

Section 37 replaces the term “consolidated precinct polling location” with “Voter Convenience Center”.

Sections 38-39 revises the procedures used by county commissions to add, divide, abolish or combine precincts and requires that voting precincts be designated by whole number only. Each proposed precinct change shall be reviewed by the SOS. The protest period for precinct boundary is changed.

Section 40 is amended to require public school buildings used as a polling location to be exclusively used for the election purposes and requires adequate parking for voters.

Section 41 includes amendments that require the redistricting of federal, state and local political subdivisions in the calendar year when the results of a federal decennial census are received by either the legislature or county commission, depending on the district.

Section 42 provides the SOS with a deadline to review all county precinct maps following the federal decennial census results.

Sections 43- 44 amends language related to polling place physical inspections. The polling location requirements are extended to all statewide elections.

Sections 45-46, as it relates to voter registration forms, distinguishes between a “qualified resident” and a qualified elector, and provide direction on how to handle a registration form for a qualified resident (under 18) prior to becoming a qualified elector. SOS must send a notification advising such residents of the opportunity to register to vote six months prior to their eighteen birthday. (This clarification is necessary to accommodate 17 year olds who will be 18 on or before Election Day.) It removes the “*will you be 18 years of age on or before the next general election*” question, since the registration form already requires a full date of birth.

Sections 47-49 directs SOS to prescribe an online registration form and details what information shall be on the form. SOS must post a Privacy Act notice in conformance with the federal Privacy Act of 1974 on the website. They also clarify procedures related to the deadline for processing voter registration forms and for the handling of registration forms when a social security number is not provided.

Section 50 acknowledges that the SOS issues the proclamation for an election.

Section 51 extends the timeframe (from 90 days to 120 days) the SOS may challenge the validity of a registered voter in district court, and directs SOS to report the court decision to the Election Administration Commission and the Department of Justice.

Section 52 adds language to the national change of address program to instruct clerks to process the postcards from a differing county in the same manner they do all other voter registration forms. (This codifies current practices.)

Sections 53- 56 amends the Board of Registration appointment process to include increasing the quantity of members and modifying qualification requirements of those who are appointed. They clarify who shall serve as secretary of the board of registration, and define the terms of office for members of the board of registration. The meetings of the board of registration must comply with the Open Meetings Act. Certain records are not subject to the Inspection of Public Records Act.

Section 57 permits the SOS to provide access to the voter registration electronic management system to local governments through a Memorandum of Understanding for election related purposes.

Sections 58-74 contain amendments to: clean up language to absentee voting by mail and in-person at early voting location procedures; delineate between absentee ballots and those ballots mailed for the purpose of a special election; address electronic absentee applications; clarify the last day a mailed ballot can be requested and the handling of situations when a voter doesn't receive a requested absentee ballot; address the obligation that county clerks maintain a ballot register for special elections; require updates to the mailed ballot envelope and that postage be paid for all returned mailed ballots; require SOS implement an absentee ballot tracking system

for voters; require secured containers to be available at clerks offices (and other locations) for mailed ballots to be returned; clarify the counting of absentee ballots; define “immediate family members” and clarify the timeframes within which an election board can process returned ballots.

Section 75 allows for a county clerk, with SOS authorization, and contingent upon funding, to send a notice to voters at least 42 days before an election informing that a ballot for the regular local election will not be sent to them unless they update their registration records or submit an application for a ballot. Guidelines for this practice must be drafted by the SOS.

Sections 76-85 provide clean up language to the processing of ballot requests and returned ballots for Uniform Military and Overseas Voters, as well as first responders. Such revisions include making clear that qualified UOCAVA voters should be sent an absentee ballot for regular local elections. They also add language requiring the SOS maintain a web page dedicated to federal qualified electors.

Section 86 acknowledges that the SOS issues the general election proclamation as directed in Section 89 of this bill.

Section 87 adds verbiage to fill a vacancy on the general election ballot (before the primary), for failure of a major political party to nominate a lieutenant governor candidate, after already having nominated a governor candidate, and extends the filing day for vacancies under this section by eight days. It also adds language requiring a declaration of candidacy to be filed by the nominee.

Section 88 acknowledges that the SOS issues the general election proclamation and adds language requiring a declaration of candidacy to be filed by the individual nominated to fill a vacancy on the general election ballot (after the primary).

Sections 89-90 call for the issuance of a proclamation for the primary and general election by the SOS, and outlines the contents of the election proclamation.

Sections 91-96 contains clean-up language to acknowledge that the SOS issues the general election proclamation, as explained above. Language regarding judicial offices has been struck and write-in vote language has been moved to another section.

Section 97 outlines the number of signatures required by independent presidential candidates to be placed on the ballot and adds a provision for an independent candidate to fill a vacancy on the general election ballot.

Section 98 contains clean up language related to the process used by county clerks when preparing ballots for primary, general, regular local and special local elections, as well as, filling a vacancy for U.S. Representative.

Section 99 rewords “printed ballots”.

Section 100 addresses how a candidate’s name shall be printed on the ballot (much of which is already contained in an administrative rule), and requires the year of birth for candidates with the same name to be printed on the ballot. This section also lists the reasons why a candidate’s name

shall not be printed on the ballot.

Section 101 explains that a candidate can only appear on the ballot once, with the exception of a candidate who is also running for U.S. president or vice-president, or a regular local election candidate who is on the ballot for another office in a different local government.

Section 102 is new material pertaining to the order each office will appear on the ballot.

Sections 103 - 104 describes the process to determine how candidates are to be ordered on the ballot, and how write-in candidates appear on the ballot.

Sections 105-108 addresses the notice of an election, to include: allowing the notice by newspaper timeframe to take place 21 days before an election, instead of 12 days; the contents of the notice; the circulation of the notice by county website, and how to handle revisions to the notice in the event of an error or omission.

Section 109 creates a state election fund for the purpose of conducting statewide elections per the Election Code. This section also eliminates the local elections assessment, which was created in 2018 to pay for the elections conducted via the Local Election Act.

Section 110 clarifies that the voting assistance function of the vote tabulators is solely for use by individuals with disabilities.

Section 111 strikes language related to write-in candidates, which is moved to Section 98.

Section 112 calls for a provisional ballot register and shifts the listing of provisional ballot disposition from the canvassing board to the county clerk.

Sections 113-114 expands the language of election returns to codify the current practices.

Section 115 adds language permitting voters, if they choose, to share how they marked their ballots, and makes clear that they shall not be coerced into disclosing their votes. This verbiage will assist county clerks handling this frequent practice.

Section 116 develops procedures for how ballots that were not tabulated and those with write-in votes are to be recorded, transferred and then tallied by the county clerk

Sections 117-118 merely provides clean up language to the disposition of election returns on election night.

Section 119 authorizes the board of county commissioners to designate the board of registration as the county canvassing board.

Sections 120 – 122 changes wording within the post-election duties specifying that the county clerk is responsible for examining the election returns and preparing a canvass report to be presented to the county canvassing board for ultimate approval. The timeframe for certification of election results is modified from “within ten days the date of the election”, to “no earlier than six days, nor later than ten days [or thirteen days for a county with 150,000 voters] from the date of the election”. They describe the issuance of the certificate of canvass by the county canvassing

board.

Sections 123-124 changes wording within the post-election duties specifying that for statewide elections, the secretary of state is responsible for examining the election returns and preparing a canvass report to be presented to the state canvassing board for ultimate approval. Adds language specific to local elections, instructing the secretary of state to issue certificates of election and to canvass the results of all multi-county districts.

Section 125 clarifies that the vote tabulator memory cartridges shall not be cleared until 45 days after the completion of the county or state canvassing board, whichever is later.

Section 126 adds language requiring certificate of election results to be permanently retained in the state archive center and a copy on record in the SOS office.

Section 127 contains new material providing a minimum number of vote for a general, primary, local or special election to fill a vacancy for US representative for an unopposed write-in candidates to be certified as the officer holder.

Section 128 permits the use of ballot images in the event of defective or missing ballots upon district court approval.

Section 129 expands the automatic recounting of ballots to all offices and ballot questions on the ballot when specific thresholds are not met.

Sections 130 –131 acknowledges that the SOS now issues a proclamation calling for an election to fill a US representative vacancy. Changes the timeframe for when the election can be held to not less than 77 nor more than 91 days after the date of the vacancy. The contents of the proclamation are spelled out, along with instructions on how to handle a vacancy after a candidate has been elected but prior to taking office. It provides for adjusting when military-overseas ballots go out due to the short timeframe by which to conduct the election, when necessary. Also, in cases where there are more than 100 vacancies in the House of Representatives more than 75 days before a regularly scheduled election, the provisions of 2 U.S.C. Section 8(b) shall be used to call an election to fill the vacancy and the SOS is responsible for cost of the election.

Sections 132 –133 consolidates the various types of ballot questions that may be submitted to voters and makes clear that the election used to submit such questions shall be conducted in accordance with the Election Code.

Sections 134-138 outline who the filing officer is for state and local ballot questions, when the questions are to be published and posted and adds further clarification to the ballot spacing in situations where there are multiple questions causing the ballot size to increase.

Section 139 includes minor clean up language to a few of the definitions used in the Campaign Finance Act.

Sections 140-141 simplifies the definition of a local government and makes clear what is meant by a regular local election and a special local election.

Sections 142 -151 contains procedures related to the conduct of regular local elections and municipal officer elections.

Sections 152 - 155 encompass procedures for special elections, including: the timeframe when such elections may be held; the contents, adoption, publication and posting of the proclamation calling the election; the voter notification prior to the mailing of ballots and specifics on which voters get a ballot mailed to them and when the mailing occurs.

Section 156 provides guidance for how the election board is to process, record and preserve the returned ballots.

Section 157 specifies the entity responsible for bearing the cost of a special election, depending on who calls the election. It also allows the county clerk to refuse to print or mail ballots if the local public body does not deposit the monies necessary to conduct the election. The SOS must provide an estimation of what the special election will cost and post the information on its website.

Section 158 - 170 recompiles language from other sections related to procedures for the recall of elected officials into the “Recall Act”.

Sections 171 - 176 adds a new section for procedures related to the retention of judicial officers.

Sections 177- 180 contain clean up language to align the definition of “qualified elector” as provided for in the proposed amendments of section 1-1-4 and 1-1-5, NMSA, 1978 of this bill.

Section 181 references the “Recall Act” for the conduct of a recall election for an elective executive or commissioner in a commission-manager municipality.

Section 182 contains clean up language to align the definition of “qualified elector” as provided for in the proposed amendments of section 1-1-4 and 1-1-5, NMSA, 1978 of this bill.

Sections 183 - 184 eliminates language that allows a person who owns property, but who is not registered to vote in a municipality posing a bond question, to cast a ballot.

Sections 185 – 205 contain clean up language and strike language no longer needed because the elections within these sections are now conducted in accord with the Local Election Act.

Section 206 sets out procedures for the delay of county property tax bills when a property tax levy is imposed at the November 2019 or 2021 Regular Local Election to put the question of imposing or renewing a levy before voters.

Section 207 adds language requiring the SOS to prescribe a form to be filled out by a prospective public regulation commissioner candidate to explicitly list education and experience in line with the qualifications set out in Section 8-8-3.1, NMSA 1978.

Sections 208 – 209 add amended language related to a vacancy in a local office.

Section 210 addresses service credit of elected officials whose term of office was shortened due to the Local Election Act.

Section 211 addressed language related to financial disclosures of those filing declarations of candidacy.

Sections 212 - 230 adds conforming language to incorporate local election procedures to the College District Tax Act, community college district, branch community college, off-campus instruction act, school districts, public school capital improvements act and charter school statutes, including an adjustment to when a tax can be imposed by a school district, by removing the requirement for the tax to commence in the year the election was held.

Sections 231 – 268 also adds conforming and additional language to the conduct of elections for flood control districts, municipal options related to liquor sales, watershed district, lower Rio Grande public water works election, soil and water conservation districts and the solid waste authority.

Sections 270-277 are temporary provisions.

Section 278 lists the sections being repealed.