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FISCAL IMPACT REPORT

SPONSOR Moore/Tallman/ **ORIGINAL DATE** 2/26/19
 Fajardo **LAST UPDATED** 3/01/19 **HB** _____

SHORT TITLE Redistricting Act **SB** 416/aSRC

ANALYST Glenn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate			See Fiscal Implications

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

Secretary of State’s Office (SOS)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of SRC Amendment

The Senate Rules Committee Amendment to Senate Bill 416 removes the deadline of “December 31 of each year ending in zero” in Section 3(B) for the Legislative Council Service to obtain data needed for redistricting from the U.S. census bureau.

Synopsis of Original Bill

Senate Bill 416 enacts the Redistricting Act, which establishes requirements and procedures for drawing congressional, legislative, Public Regulation Commission, and Public Education Commission redistricting plans districts on the basis of each decennial federal census.

By December 31 of each year ending in zero, SB 416 requires the Legislative Council Service (LCS), to obtain federal census data needed for redistricting that the U.S. Census Bureau is required to provide under federal law, and to use the data to prepare redistricting plans required by the Redistricting Act. Once a bill embodying a redistricting plan is introduced in the Legislature, the Redistricting Act provides an expedited procedure and timetable for voting on and amending the bill.

SB 416 provides standards for districts reflected in a redistricting plan. Legislative and

congressional districts must each have populations as nearly equal as practicable. District boundaries must coincide with the boundaries of political subdivisions, to the extent possible, and districts must be composed of contiguous territory and be reasonably compact. Districts may not be drawn to favor a political party, incumbent legislator or other person or group or to augment or dilute the voting strength of a language or racial minority group.

SB 416 provides that no later than February 15 of each year ending in one, a five-member temporary redistricting commission shall be established. Four members are appointed by the majority and minority floor leaders of the House and Senate and the fifth member is selected by the other four members. The commission is charged with advising LCS on the preparation of a redistricting plan, establishing policies regarding the dissemination of information about a plan before it is delivered to the Legislature, and conducting public hearings throughout the state once a bill embodying the redistricting plan is introduced.

The bill's effective date is July 1, 2019.

FISCAL IMPLICATIONS

If SB416 is enacted, LCS's responsibilities for collecting data and preparing redistricting plans will likely require additional financial, personnel and other resources.

The temporary redistricting commission will incur costs for per diem and expense reimbursement received by commission members and other costs necessary for the commission to perform its functions under the bill.

SIGNIFICANT ISSUES

NMAG notes that since the 2000 census, New Mexico courts have been called upon to assist in the state's redistricting efforts when redistricting bills introduced in the Legislature have failed or been vetoed. Both the 2001 and 2011 redistricting plans were decided through litigation. According to LCS, litigation related to the 2001 redistricting efforts cost the state more than \$3.5 million. *See* LCS, A Guide to State and Congressional Redistricting in New Mexico (April 2011), available at www.nmlegis.gov/Redistricting/.

SOS notes that Section 5 of SB 416 prohibits a congressional, Senate or House district from varying from the applicable ideal district population by more than one percent. In the event of a court challenge alleging excess population variance, the Legislature has the burden of justifying any variance in excess of the one percent limitation. SOS points out that the New Mexico Supreme Court, in a case related to redistricting after the 2010 census, relied on U.S. Supreme Court precedent holding that a redistricting plan with a maximum deviation of below ten percent from ideal population equality was presumptively constitutional. *Maestas v. Hall*, 2012–NMSC-006, ¶ 22.

TECHNICAL ISSUES

The first sentence of Section 4(D) refers to "Subsection B of this section." The reference should be to Subsection C.

Section 5(H)(4) states that "Traditional race-neutral redistricting principles shall not be

subordinated to racial considerations.” NMAG notes that the meaning of this sentence is not immediately clear and might be defined or otherwise clarified to avoid any confusion and misinterpretation.

BG/al/sb