

LFC Requester:

Hilla, Emily

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/4/2025

Check all that apply:

Bill Number: SB 218Original Correction Amendment Substitute Sponsor: Katy M. Duhigg
Heather Berghmans

Agency Name

and Code

Secretary of State - 370

Number:

Short

Person Writing

Lindsey Bachman

Title:

ELECTION CHANGESPhone: 505-479-2626Email lindsey.bachman@sos.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$60-\$100	\$20	\$80-\$120	Nonrecurring Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 170, SB 16 and SB 85 impact similar sections of law but for different purposes.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 218 amends different sections of the Election Code, Chapter 1 NMSA 1978.

Section 1 clarifies that addresses designated confidential by public officials may be disclosed as part of a challenge brought pursuant to the Election Code and upon completion of a notarized affidavit that affirms the address will not be utilized for any other purpose. Further amendments expand the ability to designate addresses as confidential to election administrative staff and defines public official for the purposes of the designation program.

Section 2 requires the SOS to establish an election certification program for County Clerks to be completed within 12 months of election, re-election or appointment. It requires the Secretary of State's Office (SOS) to review the content of the training every four years and upon the passage of new election laws. County Clerks currently in office would have until July 2026 to complete the training.

Section 3 gives presiding judges the ability to administer oaths of office to poll workers appointed to an Election Day polling location on Election Day by a County Clerk.

Section 4 clarifies the autonomy and independence of the existing Security Division at the SOS, which absorbed the responsibilities of the election security program previously managed by the Elections Bureau.

Section 5 requires the SOS to create a secure internet application by July 2026 for the collection of petition signatures for the purposes of forming a political party.

The bill's repeal of 1-8-21.1 NMSA 1978 as well as amendments in Sections 6 – 16 and 26 eliminate preprimary conventions in the state.

Section 12 also adds a requirement that if a candidate designates an agent to file on their behalf that it be done on a form prescribed by the SOS.

Section 17 clarifies that ballot randomization requirements in existing statute and administrative rule apply to federal and presidential contests.

Sections 18 and 19 reduce the required labeling on ballots for write-in candidates to "Write-in:" and clarify that voter notifications sent prior to each election are required to be mailed to eligible voters.

Sections 20 and 21 clarify that a provisional ballot shall be issued for the precinct for the address provided by the voter at the time of issuance and create a requirement that the

provisional ballot roster be provided as soon as practicable when requested by a candidate or political party chair for a party represented in the election.

Section 22 streamlines automatic recount calculations for non-federal and non-statewide contests to one-half of a percentage.

Sections 23 – 25 formalize the process and requirements for political parties to communicate presidential and vice-presidential candidates to the SOS, fill vacancies on the ballot for presidential and vice-presidential candidates before a primary election, and fill vacancies on the ballot for those contests before a general election.

Sections 27 – 30 make changes to the Voter Action Act, which outlines public financing opportunities for judicial candidates in New Mexico. The bill's amendments require all certified candidates to return unused funds received for a primary election within 30 days after that election, define a qualifying period for judicial candidates who are eligible for public financing and who were appointed to fill a vacancy on a general election ballot occurring after a primary election, and create a requirement that the legislature notify the SOS when new offices covered by the Voter Action Act are created.

The bill repeals 1-22-3.1 and amends 1-22-3 NMSA 1978 in Section 31 to eliminate the municipal officer election that occurs in March of even-numbered years and effectively add those elections to the Regular Local Election in odd-numbered years.

Section 32 clarifies that special elections require canvassing and certification by the county canvassing board and requires a copy of the certification by submitted to the SOS.

Section 33 formalizes emergency election procedures in the event of a state of emergency declaration.

The bill removes the filing of a pauper's statement as a third option for candidates running for county offices and removes 1-12-7.1 which contains outdated and repetitive provisions.

The bill contains no effective date.

FISCAL IMPLICATIONS

Automatic recounts are important transparency tools built-in to the state's electoral process that help build public confidence in election results. SB 218's proposed amendments to 1-14-24 NMSA 1978 are a direct response to unintended consequences of statutory changes that resulted in a dramatic increase in the number automatic recounts in the state following the 2023 Regular Local Election, from 11 in 2021 to 39 in 2023. The sharpness of the increase arguably could have adversely impacted voter confidence and might have resulted in significant unforeseen costs for that election. It is impossible to know how many automatic recounts will occur during an election, however, if passed, SB 218 could reduce costs associated with automatic recounts while maintaining their value as important tenants of the democratic process in New Mexico.

Although the municipal officer election that occurs in March of even-numbered years is not a statewide election, its administration often requires significant support from the SOS and County

Clerk offices. The consolidation of all municipal officer elections into the Regular Local Election will free up essential time, personnel and financial resources during a crucial point in the election cycle.

The bill's amendments in Section 5 would require enhancements to existing systems and a slight increase in ongoing maintenance costs.

SIGNIFICANT ISSUES

SB 218 includes many changes to the New Mexico's Election Code based on the real experiences of election administrators from across the state during the past two years.

The bill's amendments to confidential address designations provisions would provide meaningful protections for election administrators statewide. Staff members at County Clerks' Offices and the SOS continue to experience alarming activity as a result of their home addresses being publicly available, and some have expressed fear of being registered to vote and appearing on public lists associated with election activity. These reports are a part of a larger, national trend. A May 2024 survey¹ of local election officials by the Brennan Center for Justice found that instances of reported threats, harassment or abuse rose eight percent in a year. It found, "Safety concerns have reached or exceeded levels from the last federal election year. 54 percent are concerned about the safety of their colleagues and staff, and 28 percent are concerned about their family or loved ones being threatened or harassed."

Under existing law, the SOS is responsible for the education of County Clerks regarding elections. In order to meet this obligation, the office continues to build upon the training opportunities it offers throughout each year, in addition to providing statutorily required instruction prior to each statewide election. The security, uniformity and continuity of election administration in New Mexico would be greatly bolstered by a general, standardized certification for newly elected or appointed County Clerks as well as for those re-elected to their positions. County clerks will be responsible for the administration of at least one election during their first year on the job. The certification program outlined in SB 218 would help provide invaluable information to new County Clerks while also providing an opportunity for them to connect and learn from other election administrators.

SB 218 consolidates all municipal officer elections into the Regular Local Election by eliminating the municipal officer election, which occurs in March of even-numbered years. Less than ten municipalities used the municipal officer election to elect officers in 2023 and fewer are anticipated to continue to do so in future years. As mentioned above, even though it is not a statewide election, the administration of the municipal officer election demands significant state and local resources. An alignment of election timelines benefits communities and administrators, as voters can plan for on a regular date and time for all of the local elections for which they are eligible to vote, and administrators can leverage resources more efficiently and uniformly.

1. Brennan Center for Justice, "Local Election Officials Survey — May 2024," May 1, 2024.
<https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-may-2024>

The final section of the bill creates election procedures during a declared state of emergency. Although New Mexico's elections have proceeded securely and accessibly, natural disasters have threatened to impact the conduct of elections in recent years. Fires in Lincoln County and extreme flash-flooding in Chaves County last year again highlighted potential impacts to security and accessibility. When fires raged in Mora County in 2022, a polling location was relocated during Early Voting. The SOS has the statutory authority to maintain the uniformity of the democratic process in New Mexico. Still, extraordinary weather events might mean extraordinary measures to ensure the continuity of elections for voters in impacted areas. A codified procedure for determining and making public changes to election procedures in light of these natural disasters is extremely important.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Should SB 218 pass, the SOS will have additional administration duties associated with education and compliance. The full funding of the SOS's budget request is necessary to keep up with the volume of work associated with all of the statutory duties supported by the office and the systems maintained by the SOS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 170, SB 16 and SB 85 impact similar sections of law but for different purposes.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The SOS will continue to administer elections securely and accessibly in accordance with state statute and federal law.

AMENDMENTS