

**FIFTY-FOURTH LEGISLATURE
FIRST SESSION, 2019**

March 1, 2019

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE BILL 407

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 2, line 2, after "VOTING;", strike the remainder of the line and strike line 3 through "PROGRAM;".

2. On page 2, line 10, after "ELECTIONS;", insert "CHANGING THE NAME OF THE LOCAL ELECTION FUND AND PROVIDING FOR BUDGETARY AUTHORITY OVER THE FUND BY THE SECRETARY OF STATE;".

3. On page 2, line 20, after "AMENDMENTS;", strike the remainder of the line.

4. On page 3, line 13, after "ELECTIONS;", insert "CHANGING PROVISIONS RELATING TO WATER AND SANITATION DISTRICT BOARD ELECTIONS;".

5. On page 3, line 25, after "party", insert "in an election in which the political party is represented on the ballot".

6. On page 16, line 2, strike "regularly" and insert in lieu thereof "when changed".

7. On page 34, line 10, strike "shall" and insert in lieu thereof "may".

8. On page 34, line 11, after the second occurrence of "precinct", strike the remainder of the line, strike lines 12 and 13 in their entirety and strike line 14 through "precinct".

9. On page 41, line 21, after the period, insert the following:

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"The board of county commissioners shall give due consideration to input received from any local public body in the county regarding the location of voter convenience centers.".

10. On page 53, between lines 3 and 4, insert the following new section:

"SECTION 45. Section 1-4-1.1 NMSA 1978 (being Laws 2015, Chapter 145, Section 19) is amended to read:

"1-4-1.1. AUTHORIZATION TO VERIFY VOTER REGISTRATION INFORMATION--INVESTIGATION AND RECONCILIATION.--

A. The secretary of state may:

(1) provide to the chief election officer of another state or a consortium of chief election officers of other states information that is requested, including social security numbers, dates of birth, driver's licenses and identification card numbers and other information that the secretary of state deems necessary for the chief election officer of that state or for the consortium to maintain a voter registration list, if the secretary of state is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list; and

(2) request from the chief election officer of another state or a consortium of chief election officers of other states information that the secretary of state deems necessary to maintain the statewide voter registration list.

B. The secretary of state may enter into a written agreement with an agency or political subdivision of this state or with a department of the federal government pursuant to which the state agency, political subdivision or federal department shall provide to the secretary of state information that is in the possession of the state agency, political subdivision or federal department and that the secretary of state deems necessary to maintain the statewide voter registration list.

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C. The secretary of state [~~may~~] shall enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to 42 U.S.C. Section 15483 (now 52 U.S.C. Section 21083), for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall only disclose information received from the secretary of state pursuant to this subsection to complete an investigation pursuant to this section.

E. The county clerk shall investigate or reconcile the information received from the secretary of state. The secretary of state shall develop and maintain a manual for county clerks that describes best practices in investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters."".

11. On page 68, between lines 24 and 25, insert the following new section:

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"SECTION 53. Section 1-4-24 NMSA 1978 (being Laws 1969, Chapter 240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--
GROUNDS.--The county clerk shall cancel certificates of
registration for the following reasons:

A. death of the voter;

~~[B. legal insanity of the voter;~~

~~G.]~~ B. a felony conviction of the voter;

~~[D.]~~ C. at the request of the voter; or

~~[E.]~~ D. at the direction of the board of
registration.""

12. On page 76, between lines 12 and 13, insert the
following new paragraph:

"(6) permit a proper filing officer to upload
declarations of candidacy and candidate qualification
documents, as prescribed by the Election Code, and resolutions
approving a ballot question within one day of being filed with
the proper filing officer;"

13. Renumber the succeeding paragraphs accordingly.

14. On page 98, line 10, strike "Returned" and insert in
lieu thereof "If returned".

15. On page 104, line 14, after "signature", insert "or
the required voter identification".

16. On page 104, line 18, before "in", insert "or
"Rejected--Missing Required Voter Identification"."

17. On page 105, line 6, strike "or".

18. On page 105, between lines 6 and 7, insert the
following new paragraph:

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"(3) the official mailing envelope does not contain the required voter identification; or".

19. Renumber the succeeding paragraph accordingly.

20. On pages 113 through 115, strike Section 75 in its entirety.

21. On page 151, line 11, strike "three" and insert in lieu thereof "two".

22. On page 170, line 13, after the period, insert the following:

"Money in the fund is appropriated to the office of the secretary of state for the purposes authorized in Subsection A of this section.".

23. On page 173, line 3, after "is", insert "recompiled as Section 1-8-66 NMSA 1978 and".

24. On page 173, line 5, strike "1-12-19.1" and insert in lieu thereof "1-8-66".

25. On page 176, line 3, after "register", insert a comma and strike "and".

26. On page 176, line 4, after "counted", insert "and the voter registration certificate shall be processed following the canvass of the election".

27. On page 176, line 17, strike "at a polling place".

28. On page 176, line 18, strike "voter's designated polling place" and insert in lieu thereof "ballot of the voter's correct precinct".

29. On page 177, line 23, after the paragraph designation "(1)", insert "the number on the numbered seal affixed to secure the ballot box or".

30. On page 178, line 19, after "place", insert "the

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number on the numbered seal affixed to secure the ballot box or".

31. On page 188, line 5, strike "seventeenth" and insert in lieu thereof "seventh".

32. On page 188, line 6, before the comma, insert "and no later than the last business day before the first day of the new term of office".

33. On pages 207 through 211, strike Section 139 in its entirety.

34. On page 226, line 2, strike "by the municipal clerk" and insert in lieu thereof "pursuant to the ordinances or charter of the municipality".

35. On page 227, line 16, strike "country" and insert in lieu thereof "county".

36. On page 228, strike line 3 in its entirety and on line 4, before "requirements", insert "candidate qualification".

37. On page 228, line 15, before the comma, insert "and other candidate qualification documents".

38. On page 228, line 24, strike the closing quotation mark.

39. On page 228, between lines 24 and 25, insert the following:

"E. Until December 31, 2019, a municipality with a population greater than one hundred thousand, based on the latest federal decennial census, shall use the provisions of this section that existed prior to the effective date of this 2019 act. After December 31, 2019, all municipalities shall use the provisions

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of
this section as it exists on the effective date of this 2019
act."

SECTION 145. Section 1-22-3.2 NMSA 1978 (being Laws
2018,
Chapter 79, Section 35, as amended by Section 144 of this act)
is repealed and a new Section 1-22-3.2 NMSA 1978 is enacted to
read:

"1-22-3.2. [NEW MATERIAL] MUNICIPALITIES--MUNICIPAL
ELECTION PROVISIONS--ADJUSTMENT OF DATES AND CHARTER
AMENDMENTS FOR PROCEDURES AFFECTED BY THE ELECTION CODE--
PUBLIC FINANCING.--

A. Election provisions or procedures in the laws of
a municipality that operate in addition to and do not conflict
with the provisions of the Election Code continue in effect as
long as such provisions do not conflict with the Election Code
or until amended or repealed by the municipality. Election
provisions or procedures in an ordinance or charter of a
municipality that conflict with the Election Code or other
applicable state or federal law are not operable and shall not
be enforced. Election provisions or procedures in an
ordinance or charter of a municipality that do not conflict
with the Election Code shall be administered pursuant to the
ordinances or charter of the municipality, unless the
municipal clerk and the county clerk have signed a memorandum
of understanding for the county clerk to conduct election
provisions or procedures on behalf of the municipality.

B. A municipality with election provisions or
procedures in an ordinance or its charter that do not conflict
with the Election Code shall adjust the calendar dates that
implement those election provisions and procedures to accord
with the schedules imposed by the Election Code. At the
discretion of the municipality, the adjustment of calendar
dates may be done administratively, by ordinance or as
otherwise provided by the charter of the municipality. The
municipal clerk shall post the adjusted dates no later than
June 30 of each odd-numbered year.

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C. At the discretion of the municipality, a municipality with a charter may amend its charter by ordinance or as otherwise provided by the municipality to conform its ordinances or charter with the requirements of the Election Code and other applicable state or federal laws related to elections.

D. In any municipality implementing public financing for its municipal elections consistent with this section and notwithstanding any provision to the contrary in the ordinances or charter of the municipality:

(1) the municipality shall require as a precondition to the receipt of public financing that a person first be qualified as a candidate;

(2) if the date in the ordinances or charter of the municipality for submitting documents to be approved for public financing is an earlier date than the filing date for declarations of candidacy provided in the Local Election Act, the municipal clerk shall accept declarations of candidacy and other candidate qualification documents from persons seeking to be approved for public financing on the date provided in the ordinances or charter of the municipality upon which the municipal clerk shall deliver to the county clerk the candidate qualification documents of each person seeking to be approved for public financing;

(3) the county clerk shall notify the municipal clerk in writing no later than 5:00 p.m. on the third day following receipt of the candidate qualification documents that the certificate of registration of the candidate, the declaration of candidacy and the petition, if any, are in proper order and whether the person, based on those documents, is qualified to be a candidate;

(4) any voter may challenge the candidacy of a person seeking election to municipal office by the county clerk for the reason that the person does not meet the candidate qualification requirements by filing a petition in the district court within seven days after the deadline for the municipal clerk to approve candidates to receive public

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financing. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(5) on the day provided in the Local Election Act to submit declarations of candidacy, any qualified person may file a declaration of candidacy for municipal office and other candidate qualification documents, including a person who failed to be approved for public financing but who otherwise qualifies to be a candidate, but not including a person who previously sought public financing in the same election but was not qualified to be a candidate; provided that any candidate qualification requirements imposed by the municipality other than those pertinent to public financing and the date for filing a declaration of candidacy must be fulfilled by a person who submits a declaration of candidacy on the day provided in the Local Election Act."".

40. On page 248, line 19, strike "Twenty-two days" and insert in lieu thereof "Between the twenty-seventh and twenty-fifth day".

41. On page 249, line 3, strike "twenty-one" and insert in lieu thereof "twenty-two".

42. On page 251, line 21, before the comma, insert "or has provided the county clerk with written documentation that the local public body has made arrangements for payment with an election vendor".

43. On page 271, line 16, strike "171 through 176" and insert in lieu thereof "172 through 177".

44. On pages 318 through 330, strike Sections 192 through 196 in their entirety and insert in lieu thereof the following new sections:

"SECTION 193. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6, as amended) is amended to read:

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"5-11-6. ORDER FORMING DISTRICT--FORMATION
DETERMINATION--ELECTION.--

A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general plan and then ordering that a formation determination be conducted and an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.

B. Before submitting the question of formation of the district to the qualified electors of the proposed district, a formation [election] determination shall [include] be conducted by the governing body among the owners unless a petition is presented to the governing body pursuant to Subsection [F] F of Section 5-11-7 NMSA 1978. In the formation determination, each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district. [The right to vote on the question of formation of the district shall not be assigned or delegated to the property owners signing a petition submitted to the governing body for formation of a district or related entities of such property owners.]

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The

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governing body or the district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations made by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

D. Should the formation determination by the owners result in a three-fourths' majority vote in favor of formation, the question shall also be submitted to a vote of the [resident] qualified electors of the proposed district. The conduct of a formation election by qualified electors shall meet the requirements of Section 5-11-7 NMSA 1978.

E. The right of the qualified electors to vote on the question of formation of the district shall not be assigned or delegated to the property owners, or related entities of the property owners, signing a petition submitted to the governing body for formation of a district."

SECTION 194. Section 5-11-7 NMSA 1978 (being Laws 2001, Chapter 305, Section 7) is amended to read:

"5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

A. Any election by qualified electors pursuant to the Public Improvement District Act shall be a nonpartisan election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation in the municipality or county, or, if there is no newspaper so circulated in the municipality, in a newspaper of general circulation in the county in which the municipality is located once a week for two consecutive weeks before the election] conducted and canvassed pursuant to the provisions of the Election Code. In addition to those matters required for notice as provided in the Local Election Act, the notice of election shall state:

[~~(1) the place of holding the election and provisions for voting by mail, if any;~~

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~~(2) the hours during the day, not less than six, in which the polls will be open;~~

~~(3)]~~ (1) if the election is a formation election, the boundaries of the proposed district;

~~[(4)]~~ (2) if the election is a bond election, the amount of bonds to be authorized for the district, the maximum rate of interest to be paid on the bonds and the maximum term of the bonds, not exceeding thirty years;

~~[(5)]~~ (3) if the election is a property tax levy election pursuant to Section ~~[19 of the Public Improvement District Act]~~ 5-11-19 NMSA 1978, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

~~[(6)]~~ (4) that a general plan is on file with the clerk;

~~[(7)]~~ (5) the purposes for which the property taxes or the special levies will be imposed, and the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, special levies, district revenues or bond proceeds; and

~~[(8)]~~ (6) that the imposition of property taxes or special levies will result in a lien for the payment thereof on property within the district.

B. The district board or, in the case of a formation election, the governing body, shall determine the date of the election ~~[and the polling places for the election and may consolidate county precincts. The district board or governing body may establish provisions for voting by mail.~~

~~C. Voter lists shall be used to determine the resident qualified electors. If the district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at~~

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~~those precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

~~D. For all elections held pursuant to the Public Improvement District Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed district and stating the area of land in acres owned by the prospective elector. Precinct board members may administer oaths or take all affirmations for these purposes] by passing a resolution to place the ballot question on a regular local election or general election ballot or by adopting a proclamation calling for a special election.~~

~~[E.]~~ C. Except as otherwise provided by this section, the election shall comply with the ~~[general election laws of this state]~~ Local Election Act. The ballot material provided to each ~~[voter]~~ qualified elector shall include:

(1) for a formation election, an impartial description of the district improvements contemplated and a brief description of arguments for and against the formation of the district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain but not necessarily all public infrastructure improvements and services that may be needed or desirable within the district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and ~~[resident]~~ qualified electors; and

(3) for a formation election, the ballot, which shall pose the question to be voted upon as "district,

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yes" and "district, no"; for a bond election, "bonds, yes" and "bonds, no"; for a property tax election, if no tax is in place, "property tax, yes" and "property tax, no"; and for an election to change an existing maximum or eliminate an existing tax, "tax change, yes" and "tax change, no", specifying the type of tax to which the proposed change pertains.

~~[F. The governing body or, if after formation, the district board, may provide for the returns of the election to be made in person or by mail.~~

~~G. Within thirty days after an election, the governing body, or if after formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors.]~~

D. At least a ~~[three-fourths]~~ three-fourths' majority of the votes cast by qualified electors at the election shall be required for formation, issuing the bonds, imposing the tax or special levy or changing the tax or special levy. ~~[The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.]~~ Failure of a required majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election.

~~[H.]~~ E. If a person listed on the assessment roll is no longer the owner of land in the district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner for the purposes of the Public Improvement District Act.

~~[I.]~~ F. Notwithstanding any other provision of the Public Improvement District Act, if a petition for formation is signed by owners of all of the land in the district described in the petition and is approved by the municipality or county, the municipality or county may waive any or all

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requirements of posting, publication, mailing, notice, hearing and owner ~~[election]~~ determination. On receipt of such a petition, and after approval by an election of ~~[resident]~~ qualified electors, if any, the municipality or county shall declare the district formed without being required to comply with the provisions of the Public Improvement District Act for posting, publication, mailing, notice, hearing or owner ~~[election]~~ determination.

~~[J.]~~ G. If no person ~~[has]~~ is registered to vote within the district or proposed district areas within ~~[fifty]~~ seventy days immediately preceding any scheduled election date, ~~[any]~~ the election required to be held pursuant to the Public Improvement District Act shall be ~~[held by vote of the owners. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.]~~

~~K. In any election held pursuant to the Public Improvement District Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes to which he is entitled as an owner and shall not be entitled to an additional vote as a result of residing within the district] canceled. Under such circumstances, when the question is on the formation of the district, the results of the formation determination of the owners shall prevail, unless the formation determination was waived by the governing body pursuant to Subsection F of this section. To the extent allowable by the constitution of New Mexico, when the question is on any other allowable action otherwise requiring a vote of the qualified electors, the owners or the owners of the proposed district areas shall make a determination, the result of which shall prevail."~~

SECTION 195. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:

"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

A. The governing body, at its option, may authorize

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the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term ~~[of]~~ to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term ~~[of]~~ to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve ~~[four-year]~~ the longer terms and which shall serve ~~[six-year]~~ the shorter terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the vacancy, who shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

~~[B. A director may be a director of more than one district.~~

G.] B. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an election of new directors by majority vote of the qualified electors ~~[and owners]~~ or if the election is canceled pursuant to Subsection G of Section 5-11-7 NMSA 1978, an owner's determination conducted by ballot shall decide the new directors."

SECTION 196. Section 5-11-13 NMSA 1978 (being Laws 2001, Chapter 305, Section 13) is amended to read:

"5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL PLAN.--

A. ~~[After the formation election]~~ Following formation of the district, an area may be deleted from the district only following a hearing on notice to the owners of land in the district given in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners and voter approval by the [owners and resident] qualified electors as provided in ~~[Sections 6 and 7 of the Public Improvement~~

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~~District Act]~~ the local Election Act and the Public Improvement District Act. Lands within the district that are subject to the lien of property taxes, special levies or other charges imposed pursuant to the Public Improvement District Act shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.

B. ~~[At any time after adoption of a resolution creating a]~~ Following formation of the district, an area may be added to the district upon [the approval of] a determination by the owners of land in the proposed addition area and the [resident] approval of the qualified electors residing therein, as well as a determination by the owners of land in the district and approval of the [resident] qualified electors [in the same manner as required for the formation of a district] of the district, as provided in the Local Election Act and the Public Improvement District Act.

C. The district board, following a hearing on notice to the owners of real property located in the district given in the manner prescribed for the formation hearing, may amend the general plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. No election shall be required solely for the purposes of this subsection."

SECTION 197. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:

"5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--EXCEPTION.--

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order ~~[and call]~~ that the question of authorizing the issuance of general obligation bonds to provide money for public infrastructure purposes consistent with the general plan be presented to the owners

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for a determination and that a general obligation bond election be called to submit the question to the [owners and] qualified electors. [the question of authorizing the district to issue general obligation bonds of the district to provide money for any public infrastructure purposes consistent with the general plan.] The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election shall be held pursuant to the provisions of the Local Election Act and may be held in conjunction with the formation election.

B. If general obligation bonds are approved by a determination of the owners and approved at an election, the district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.

C. Bonds may be sold in a public offering or in a negotiated sale.

D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner

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as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any obligations secured thereby.

E. Subject to the determination and election [~~requirements~~] provisions of this section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No determination or election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."".

45. On pages 343 through 352, strikes Sections 199 through 201 in their entirety and insert in lieu thereof the following new sections:

"SECTION 200. Section 5-15-7 NMSA 1978 (being Laws 2006, Chapter 75, Section 7) is amended to read:

"5-15-7. PUBLIC HEARING.--

A. At a public hearing conducted pursuant to the Tax Increment for Development Act, the governing body shall hear all relevant evidence and testimony and make findings. A record of the hearing shall be kept and may consist of a transcription by a court reporter, an electronic recording or minutes taken by a designated person. The record shall be

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preserved in the official records of the governing body and shall be open to public inspection pursuant to the Inspection of Public Records Act.

B. Testimony at a hearing is not required to be given under oath.

C. At the conclusion of a hearing, the governing body shall determine whether the tax increment development district should be formed based upon the interests, convenience or necessity of the owners, the residents of the proposed tax increment development district and the residents of the municipality or county in which the proposed tax increment development district is to be located. The governing body shall make the following findings before adopting a resolution to approve the formation of a district:

(1) the tax increment development plan reasonably protects the interests of the governing body in meeting its goals to support:

(a) job creation;

(b) workforce housing;

(c) public school facility creation and improvement, including the creation and improvement of facilities for charter schools; and

(d) underdeveloped area or historical area redevelopment;

(2) the tax increment development plan demonstrates elements of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to benefit community development;

(3) the tax increment development plan incorporates sustainable development considerations; and

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(4) the tax increment development plan conforms to general or long-term planning of the governing body.

D. If the governing body determines that the district should be formed, it shall:

(1) adopt a resolution ordering that the tax increment development district be formed; [~~and shall~~]

(2) order that a formation determination among the owners of real property within the proposed district be conducted or declare that the formation determination is waived pursuant to Subsection B of Section 5-15-8 NMSA 1978; and

(3) set the matter for an election or declare that an election is [~~waived, as provided in the Tax Increment for Development Act~~] canceled pursuant to Subsection I of Section 5-15-8 NMSA 1978."

SECTION 201. Section 5-15-8 NMSA 1978 (being Laws 2006, Chapter 75, Section 8) is amended to read:

"5-15-8. FORMATION DETERMINATION--ELECTION.--

A. The formation determination and election procedures set forth in this section shall be used for:

(1) formation of a new tax increment development district;

(2) [~~election~~] selection of a district board member;

(3) adoption of a property tax levy by a tax increment development district;

(4) use of property tax increment financing by a tax increment development district; or

(5) issuing of property tax increment bonds to

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be repaid by funds raised by property tax increments.

B. ~~[An election]~~ A formation determination may be waived and a tax increment development district shall be formed upon the governing body's adoption of a resolution to form a tax increment development district if a petition is presented to a governing body in accordance with the Tax Increment for Development Act and if the petition contains the signatures of all owners of the real property within the proposed tax increment development area and states that the owners waive the right to ~~[an election]~~ a formation determination.

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The governing body or district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

~~[G.]~~ D. An election by the qualified electors pursuant to the Tax Increment for Development Act shall be a nonpartisan election called, [by posting notices in three public places within the boundaries of the district not less than twenty days before the election. Notice shall also be published in a newspaper of general circulation once each week for two consecutive weeks before the election in the municipality or county in which the proposed district is located] conducted and canvassed pursuant to the provisions of the Election Code.

~~[D.]~~ E. In addition to the notice requirements in the Local Election Act, the notice of election shall state:

~~[(1) the place of holding the election and provisions for voting by mail, if any;~~

~~(2) the hours during the day during which the polls will be open;~~

~~(3)]~~ (1) if the election is a formation

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election, the boundaries of the proposed tax increment development district;

~~[(4)]~~ (2) if the election is a bond election, the purpose for which the bonds are to be issued and the amount of the issue;

~~[(5)]~~ (3) if the election is a property tax levy election, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

~~[(6)]~~ (4) that an approved tax increment development plan is on file with the clerk of the governing body;

~~[(7)]~~ (5) the purposes for which property taxes will be imposed and for which the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, bond proceeds or other revenues of the tax increment development district; and

~~[(8)]~~ (6) that the imposition of property taxes will result in a lien for the payment on property within the district.

~~[E.]~~ F. The district board, or, in the case of a formation election, the governing body, shall determine the date of the election, ~~[and the polling places for the election and may consolidate county precincts. The district board or the governing body may establish provisions for voting by mail.~~

~~F. Voter lists shall be used to determine the resident qualified electors. If a district or proposed district includes land lying partly in and partly out of any county election precinct, the voter lists may contain the names of all registered voters in the precinct, and the precinct boards at these precincts shall require that a prospective elector execute an affidavit stating that the elector is also a resident qualified elector.~~

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~~G. For an election held pursuant to the Tax Increment for Development Act, a prospective elector who is not a resident qualified elector shall execute an affidavit stating that the elector is the owner of land in the proposed or existing district and stating the area of land in acres owned by the prospective elector. If the prospective elector is not an individual, the affidavit shall provide that the individual casting the vote is the designated representative of the corporation, association, partnership, limited liability company or other legal entity entitled to vote in the election. Precinct board members may administer oaths or accept affirmations for those purposes.~~

~~H. Except as otherwise provided by this section, the election] which shall comply with the [general election laws of the state] provisions of the Local Election Act. The ballot material provided to each [voter] qualified electors shall include:~~

(1) for a formation election, an impartial description of the tax increment development plan and a brief description of arguments for and against the formation of the tax increment development district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each ~~[resident]~~ qualified elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain, but not necessarily all, public improvements that may be needed or desirable within the tax increment development district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and ~~[resident]~~ qualified electors;

(3) for an election concerning the use of property tax increment financing, an impartial description of

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the estimated increment to be generated over the life of the project and the nature and extent of the public improvements to be constructed and maintained using such financing;

(4) for a formation election, the question to be voted upon as "district, yes" and "district, no";

(5) for a property tax imposition election, the question to be voted upon as "property tax, yes" and "property tax, no";

(6) for an election to change an existing maximum tax or eliminate an existing tax, the question to be voted upon as "tax change, yes" and "tax change, no" and shall specify the type of tax to which the proposed change pertains; and

(7) for an election concerning the use of property tax increment bonds, the ballot shall pose the question to be voted upon as "bonds, yes" and "bonds, no".

~~[I. The governing body or, if after district formation, the district board, may provide for the returns of the election to be made in person or by mail.~~

~~J. Within thirty days after an election, the governing body, or if after district formation, the district board, shall meet and canvass the returns, determining the number of votes properly cast by owners and resident qualified electors. A majority of the votes cast at the election shall be required. The canvass may be continued for an additional period not to exceed thirty days at the election of the governing body or district board for the purpose of completing the canvass.]~~

G. Failure of a majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election; provided that an election on the same question shall not be held within one year of the failure of a majority to vote in favor of that question.

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~~[K.]~~ H. If a person transfers real property located in a district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner of the real property for the purposes of the Tax Increment for Development Act.

~~[L.]~~ I. If there are no persons registered to vote within a district or proposed district areas within ~~[fifty]~~ seventy days immediately preceding a scheduled election date, an election required to be held pursuant to the Tax Increment for Development Act shall be ~~[held by vote of]~~ canceled and the determination made by the owners of property within the district or proposed district areas shall prevail, unless an election is otherwise required by the constitution of New Mexico or the determination was waived by the governing body pursuant to Subsection B of this section. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.

~~[M. In an election held pursuant to the Tax Increment for Development Act, an owner who is also a resident qualified elector shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner and shall not be entitled to an additional vote as a result of residing within the district.]"~~

SECTION 202. Section 5-15-9 NMSA 1978 (being Laws 2006, Chapter 75, Section 9, as amended) is amended to read:

"5-15-9. FORMATION OF A DISTRICT.--

A. If the formation of the tax increment development district is approved ~~[by a majority of the voters casting votes at the election, or if an election is held by vote of the owners of property within the district or proposed district]~~ in accordance with the provisions of Section 5-15-8 NMSA 1978, the governing body shall deliver a copy of the

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resolution ordering formation of the tax increment development district to each of the following persons or entities:

(1) the county assessor, the county treasurer and the clerk of the county in which the district is located;

(2) the school district within which any portion of the property located within a tax increment development area lies;

(3) any other taxing entities within which any portion of the property located within a tax increment development area lies;

(4) the taxation and revenue department;

(5) the local government division of the department of finance and administration; and

(6) the director of the legislative finance committee.

B. A notice of the formation showing the number and date of the resolution and giving a description of the land included in the district shall be recorded with the clerk of the county in which the district is located.

C. A tax increment development district shall be a political subdivision of the state, separate and apart from a municipality or county."

SECTION 203. Section 5-15-10 NMSA 1978 (being Laws 2006, Chapter 75, Section 10, as amended) is amended to read:

"5-15-10. GOVERNANCE OF THE DISTRICT.--

A. Following formation of a tax increment development district, a district board shall administer in a reasonable manner the implementation of the tax increment development plan as approved by the governing body.

B. The district shall be governed by the governing

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body that adopted a resolution to form the district or by a five-member board composed of four members appointed by that governing body; provided, however, that the fifth member of the five-member board is the secretary of finance and administration or the secretary's designee with full voting privileges.

C. Two of the appointed directors shall serve an initial term ~~[of]~~ to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term ~~[of]~~ to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve ~~[four-year]~~ the longer terms and which shall serve ~~[six-year]~~ the shorter terms. If a vacancy occurs on the district board because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

~~[D.— A director may be a director of more than one district.~~

~~E.]~~ D. In the case of an appointed board of directors that is not the governing body, at the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of ~~[owners and]~~ qualified ~~[resident]~~ electors in accordance with the Local Election Act and the Tax Increment for Development Act. ~~[Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner.]~~ If the election is canceled pursuant to Subsection I of Section 5-15-8 NMSA 1978, a determination by the owners conducted by ballot shall select the new directors."

SECTION 204. Section 5-15-13 NMSA 1978 (being Laws 2006, Chapter 75, Section 13) is amended to read:

"5-15-13. AUTHORITY TO IMPOSE PROPERTY TAX LEVY.--A

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district has the power to establish a property tax levy upon real property located within the tax increment development area, with the following limitations:

A. the maximum property tax levy a district may impose is five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, which may be used for operation, maintenance and capital improvements, in furtherance of the purposes of the Tax Increment for Development Act;

B. a district may impose a property tax levy only after authorization through a determination made by the owners of real property in the district and by a majority of votes cast by the [~~owners of real property and~~] qualified resident electors of a district in an election held in accordance with the Local Election Act and the Tax Increment for Development Act; and

C. a property tax levy imposed by a district shall not be effective for more than four years."".

46. On pages 354 through 358, strike Sections 203 and 204 in their entirety and insert in lieu thereof the following new sections:

"SECTION 206. Section 5-15-18 NMSA 1978 (being Laws 2006, Chapter 75, Section 18) is amended to read:

"5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

A. Subject to the limitations and in accordance with Article 9 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and dispose of property tax increment bonds for the purpose of securing funds for undertaking tax increment development projects within the purposes of the Tax Increment for Development Act.

B. Before property tax increment bonds are issued, the district board shall submit the question of authorizing the issuance of property tax increment bonds to the owners for

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~~a determination and to a vote of the [registered] qualified electors within the tax increment development area [and the nonresident electors owning property within the tax increment development area the question of issuing the property tax increment bonds].~~

C. ~~The district board shall give notice of [the time and place of holding the election and the purpose for which the property tax increment bonds are to be issued. Notice of] a property tax increment bond election [shall be given] as required by the Local Election Act and the Tax Increment for Development Act.~~

D. The ballot question shall state the purpose for which the property tax increment bonds are to be issued and the amount of the issue. If property tax increment bonds are to be issued for more than one purpose, a separate ballot question shall be submitted to the voters for each purpose to be voted upon. The ~~[ballots]~~ ballot question shall contain words indicating the purpose of the bond issued and a place for a vote in favor of or in opposition to each property tax increment bond issue. ~~[The ballots shall be deposited in a separate ballot box, unless voting machines are used.]~~

E. Except as otherwise provided in the Tax Increment for Development Act, property tax increment bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the governing body;

(2) may be subject to a prior redemption at the district's option at a time or upon terms and conditions with or without payment of premium or premiums, as determined by the district board;

(3) may mature at any time not exceeding twenty-five years after the date of issuance;

(4) may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in another form, as determined by the district board;

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(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and

(6) may be sold at public or negotiated sale.

F. Except as otherwise provided by law, the district board shall determine the denominations, places of payment, terms and conditions and the form of property tax increment bonds.

G. The secretary and treasurer of the district board shall sign property tax increment bonds.

H. The property tax increment bonds may be executed in the manner provided by the Uniform Facsimile Signature of Public Officials Act."

SECTION 207. Section 5-15-25 NMSA 1978 (being Laws 2006, Chapter 75, Section 25) is amended to read:

"5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

A. [~~After an election to form~~] Following formation of a district, an area may be eliminated from the tax increment development area only following a hearing conducted upon notice given to the owners of land in the tax increment development area in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners of real property within the district to eliminate the area and voter approval by the [~~owners and resident~~] qualified electors as provided in the Local Election Act and the Tax Increment for Development Act. Real property within the tax increment development area that is subject to the lien of property taxes, special levies or other charges imposed pursuant to the Tax Increment for Development Act shall not be eliminated from the district while there are bonds outstanding that are payable by those

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taxes, special levies or charges.

B. ~~[At any time after adoption of a resolution creating]~~ Following formation of a district, an area may be added to the district upon [the approval of] a determination by the owners of real property in the proposed additional area and the [resident] approval of the qualified electors residing therein, as well as a determination by the owners of real property in the district and [resident] approval of the qualified electors, [in the same manner as required for the formation of a district] as provided in the Local Election Act and the Tax Increment for Development Act.

C. The district board, following a hearing conducted upon notice given to the owners of real property located in the district in the manner prescribed for the formation hearing, may, subject to the approval of the governing body that approved the district's tax increment development plan, amend the tax increment development plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. ~~[An]~~ A determination by the owners and an election shall not be required solely for the purposes of this subsection."

47. On page 449, between lines 17 and 18, insert the following new section:

"SECTION 263. Section 73-21-15 NMSA 1978 (being Laws 1977, Chapter 326, Section 2, as amended) is repealed and a new Section 73-21-15 NMSA 1978 is enacted to read:

"73-21-15. [NEW MATERIAL] BOARD INCREASE--APPOINTED MEMBERS.--

A. In every district, three members of the board shall be elected by the qualified electors pursuant to the provisions of the Local Election Act.

B. In those districts that have five board members, the board may by resolution designate two board members to

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serve by appointment. In those districts that have three board members, the board may by resolution expand the board to include two appointed board members. A resolution adopted pursuant to this subsection shall not be rescinded until two regular local elections have passed after adoption of the resolution.

C. The appointment of board members serving pursuant to a resolution adopted pursuant to Subsection B of this section shall be for a term of two years beginning July 1 of each even-numbered year and ending June 30 of the following even-numbered year. Appointed members of the board are not required to be qualified electors nor residents of the district.

D. Appointed board members are authorized to vote on all matters except for a tax or assessment of any kind proposed or approved pursuant to authority granted by Article 8, Section 9 of the constitution of New Mexico, which is limited to a vote of the elected members only."".

48. On page 471, line 20, after "1-8-9,", insert "1-8-10,".

49. On page 472, line 4, after "Sections", insert "159,".

50. On page 472, line 19, before "The", insert the subsection designation "A.".

51. On page 472, between lines 20 and 21, insert the following new subsection:

"B. The effective date of the provisions of Section 145 of this act is January 1, 2020.".

52. Renumber sections to correspond with these amendments.

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Respectfully submitted,

Gail Chasey, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against
Yes: 10
No: 0
Excused: Armstrong, D., Chandler, Cook, Egolf
Absent: None

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