

- Section 25 – Proposed language would allow a challenger to be appointed by any political party with a candidate on the ballot to observe the determination made by the county clerk when verifying the last four digits of the social security number and the signature on a mailed ballot.
- Section 48 – Proposed language requiring that a person must provide a finding to the court that good cause exists in order to impound ballots has been removed. Further changes have been made that require impoundment costs to be per polling location instead of per precinct, and providing that impoundment can be done at the courthouse or the clerk’s office. Finally, proposed language requires that the clerk shall be present during the review of the ballots.

In addition, the bill includes the following new sections:

- Section 64 allows conservancy districts to reorganize their boards and modify the number of elected members. A conservancy district that reorganizes shall file a certificate with SOS by the end of 2021. The district shall continue to govern with the organization and number of elected members existing prior to this date and shall implement procedures to become compliant with the regular local election.
- Section 65 provides that watershed district members should be appointed by the board of the soil and water conservation district instead of elected.

The provisions of the bill apply to the procedures for conducting any election occurring on or after the effective date of this act.

The effective date of Section 11 of the bill, which relates to same-day voter registration, is July 1, 2025. There is no effective date for the other sections. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

SB454/SRCS/SRCS does not contain an appropriation.

SOS estimates a recurring general fund expense of approximately \$500 thousand for each regular local election, primary election, and general election for the required notices of mailed ballots that county clerks must send. SOS notes that coordinating these materials through SOS will likely result in discounts by using a single vendor and bulk mail discounts.

SOS also indicates a need for two FTE for the Election Security Program. Currently, one FTE is funded with federal grant money, and SOS plans to hire a second, also funded with federal grant money. However, when the grant funding runs out at the end of 2023, SOS will require general fund appropriations to continue the program. The cost of funding two FTEs is estimated at \$180 thousand, based on the average cost of an FTE in the elections program. Because the grant funding would run out at the end of 2023, SOS would require general fund support for the positions for the second half of FY23.

It is not clear what the fiscal implications for TRD would be, but the agency noted in its analysis of SB48 that requiring MVD and SOS to work together to create a list of eligible but unregistered voters would cost approximately \$33 thousand in staff time to develop, test, and implement the necessary changes to its IT systems.

SIGNIFICANT ISSUES

SB454/SRCS/SRCS makes numerous, substantive changes to the Election Code, with components from several 2021 legislative session bill. SOS notes that the original version of SB48 represents a unified consensus between the SOS and the New Mexico County Clerk Affiliate, including changes needed to modernize and strengthen the Election Code. SOS considers these changes necessary for the efficient administration and conduct of elections.

SOS also indicates that all amendments proposed stem from actual experiences of election administrators and are non-partisan, intended to provide needed clarity for election administrators to efficiently and uniformly administer all publicly-funded elections in the state.

SB454/SRCS/SRCS proposes to make permanent several temporary provisions from Senate Bill 4, passed during the 2020 first special legislative session to address voting needs during the Covid-19 public health emergency. According to SOS, many of these changes were effective from a performance and administrative standpoint and should be made permanent.

PERFORMANCE IMPLICATIONS

SOS notes multiple provisions from SB4, which enacted temporary provisions in 2020, that simplified and streamlined the conduct of elections, provisions which are also included in SB454/SRCS/SRCS, including:

- Moving the voter registration re-open date from 35 days after an election to the Monday after allowed county clerks to avoid significant registration back logs while maintaining the voter roll.
- Setting hours for the absent voter election board allowed for absent voter precinct boards to wrap up at a reasonable time on election day, get some rest, and continue working reasonable hours post-election until all absentee ballots are processed and counted. This change helps to avoid absent voter precinct boards from becoming overworked and provides consistent ballot processing across all counties in the state.
- Establishing an election board to count provisional ballots, write-in ballots, and other ballots that may not have already been included in the county canvass ensured consistency in that an election board is used to count all ballots rather than the county clerk.

SOS identifies additional changes to the Election Code in SB454/SRCS/SRCS that could improve the administration and conduct of elections include:

- Standardized use of voter convenience centers in all counties, allowing for precincts that do not have internet to be changed to all-mail precincts.
- The abolishment of third-party absentee application forms. Absentee applications sent from third party advocacy groups have caused voter confusion and controversy in general elections over the last several years, as the mailings may contain inaccurate or incomplete information. By changing the law to only allow for the official form or online equivalent, the SOS believes this will benefit the voter and reduce the workload on the clerk.
- Automatic update of voter registration address from the MVD. If a voter provides updated address information to the MVD, the information will be transmitted to the SOS and the county clerk shall update the voter registration record without requiring the person to complete a full certificate of voter registration. This automated process is expected to streamline voter registration updates completed by the clerk and also improve

the accuracy of the voter rolls.

ADMINISTRATIVE IMPLICATIONS

SOS would need to identify and add artesian conservancy districts to the statewide voter registration and election management system (SERVIS) and associate these voting districts with voters qualified to vote in this districts. This work will need to be completed prior to the November 2021 Regular Local Election.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Contains provisions from SB48, HB231, SB284, HB290.

AN/rl/al