

<b>LFC Requester:</b>	<b>Charlene Cerny</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

<p><i>Check all that apply:</i></p> <p><b>Original</b>    <input checked="" type="checkbox"/> <b>Amendment</b>    <input type="checkbox"/></p> <p><b>Correction</b>    <input type="checkbox"/> <b>Substitute</b>    <input type="checkbox"/></p>	<p><b>Date</b></p> <p><b>Prepared:</b> <u>February 24, 2015</u></p> <p><b>Bill No:</b> <u>SB 617-305</u></p>
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Sen. Daniel Ivey-Soto and

<p><b>Sponsor:</b> <u>Rep. James E. Smith</u></p> <p><b>Short Title:</b> <u>Election Code Changes</u></p>	<p><b>Agency Code:</b> <u>Attorney General's Office</u></p> <p><b>Person Writing</b> fsdfs <u>Analysis:</u> <u>Sally Malavé</u> (505)827-6031</p> <p><b>Phone:</b> <u>8276031</u>    <b>Email:</b> <u>smalave@nmag.gov</u></p>
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		


(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 151 (primary voting for some 17 year-olds; HB 249 (16 year-olds voting in school elections); HB 338 (change certain election dates); HB 346 (change primary election dates and process); SB 354 ( change precinct boards to election boards); and SB 650 (allow open primary elections).

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis: Senate Bill 617 proposes to add new material and make amendments to the state Election Code and to other provisions of law relating to local elections as follows:

- SB 617 adds new material expressly prohibiting the use of proxies for any transaction concerning elections, including voter registration, petition signature, registration cancellation or absentee ballot requests.
- Amends NMSA 1978, Section 1-2-12, to authorize county clerks to appoint teams of presiding and election judges for “recount” precinct boards and to appoint county clerk employees to assist a precinct board.
- Amends NMSA 1978, Section 1-2-20, by adding “removable media storage devices” to the materials that a messenger appointed by a county clerk shall collect from a polling place.
- Amends NMSA 1978, Section 1-3-4, by adding “sufficient check-in stations to accommodate voters” to the list of requirements that each consolidated precinct polling place must have, and making other stylistic changes.
- Amends NMSA 1978, Section 1-4-5, to delete language making only a properly executed and accepted certificate of registration an official public record.

- Adds new material requiring each election-day polling place to be in a location that is ADA-compliant; to have at least one voting system available to assist disabled voters; for each precinct polling place located within a single polling place to have a separate precinct board and signature roster and at least one optical scan tabulator for the precinct.
- Amends NMSA 1978, Section 1-4.5.1, by requiring the Secretary of State (SOS) to send certificates of registration and county clerks to send certificates of registration of another county to the county clerk in the county where the qualified elector resides “within one business day after receipt”; clarifying that a qualified elector complies with a voter registration deadline established by the Election Code when a properly filled out certification of registration is received by the county clerk or SOS, without regard to the date it is processed; and changing the question contained the certificate of registration form related to the applicant’s age “on or before election day” to “on or before the next general election.”
- Amends NMSA 1978, Section 1-4-5.5, by adding definitions for “election campaign purposes,” governmental purposes,” mailing labels,” “special voter list” and “voter data.”
- Amends NMSA 1978, Section 1-4-11, by adding a new subsection that requires county clerks to reject any certificate of registration that does not contain certain personal identifier information and in which the question of U.S. citizenship is not answered or answered in the negative.
- Amends NMSA 1978, Section 1-4-12, by disallowing county clerks from processing certificates of registration when the registration books are closed and during certain other periods, provided the voter credit shall be entered no later than 45 days following an election.
- Amends NMSA 1978, Section 1-5-14, by requiring the SOS, rather than the county clerk, to file and update file maintenance reports of additions, deletions and changes, if any, to each of the county registers; to store a digital version of the file maintenance reports for at least one year; and to provide such reports an updated voter files in a “manipulable digital format.”
- Amends NMSA 1978, Section 1-5-31, by adding a new subsection that requires the SOS to provide to each county clerk, through an agreement with the Motor Vehicle Division (MVD) of Taxation and Revenue Department, access to MVD’s driver’s license data base for the propose of verifying voter registration, processing absentee ballots and qualifying provisional ballots.
- Amends NMSA 1978, Section 1-8-8, to permit county or state central committees in the event of a vacancy on the general election ballot to make appointments as provided in the party rules.
- Amends NMSA 1978, Section 1-8-14, to require posting of the primary election proclamation and any amended proclamation on the SOS’s web site.
- Amends NMSA 1978, Section 1-8-16, allowing the Governor in the event of a vacancy to amend the primary election proclamation “when such vacancy occurs no later than the last Friday before the first Tuesday in March.”
- Amends NMSA 1978, Section 1-8-26, to require declarations of candidacy for judicial officers to be filed in certain instances on the “twenty-third day after the primary election.”
- Amends NMSA 1978, Section 1-9-5, by requiring the SOS to provide at least one optical scan tabulator and two check-in stations for use in each polling location in the general and primary elections; at the request of a county clerk, to provide additional optical scan tabulators, and a sufficient number of check-in stations, which number shall be determined using historical data regarding the number of voters who appeared to vote in

the same election 4 years earlier; and by date certain to determine how many voters a check-in station can accommodate in a day and develop a formula to ensure that a check-in station is in use no more than 75% of the time.

- Amends NMSA 1978, Section 1-10-8, prescribing the order of offices on the ballot;
- Amends NMSA 1978, Section 1-10-10, by requiring county clerks to make available sample ballots in printed or electronic format as prescribed by the SOS.
- Amends NMSA 1978, Section 1-12-15, by making it a misdemeanor for a person to provide to a voter when the person knows that the voter does not require assistance.
- Amends NMSA 1978, Section 1-12-31, to provide for the delivery of a removable storage device to the county clerk.
- Amends NMSA 1978, Section 1-12-69, to specify the length of time county clerks must hold intact, for those precincts where a recount or judicial inquiry is sought, paper ballots and other voting records; to create a limited exemption from disclosure under the Inspection of Public Records Act for paper ballots and other voting records until after all recounts, contests, judicial inquiries or canvassing is completed, whichever is later.
- Amends NMSA 1978, Section 1-12-71, by disallowing local elections within 50 days of any statewide general or primary election.
- Amends NMSA 1978, Section 1-13-9, by deleting the authority of a county canvassing board to unlock a voting machine for the purpose of rechecking and comparing the election results shown on the official returns.
- Amends NMSA 1978, Section 1-13-13, by adding three days to the length of time a county canvassing board has to complete the canvass of returns and declare the results of an election.
- Amends NMSA 1978, Section 1-13-21, to authorize county clerks to transfer ballots from locked ballot boxes to other locations beginning 45 days after the adjournment of the state or county canvassing board or 45 days after the completion of a recount or judicial inquiry.
- Amends NMSA 1978, Section 1-14-6, to provide that voting system checks are waived for any office for which a recount is conducted; to authorize the auditor qualified by the State Auditor to direct the appropriate county clerks to open the unlocked ballot boxes, remove the ballots from the selected precincts for the purpose of comparing the original machine count precinct vote totals.
- Amends NMSA 1978, Section 1-14-16, to authorize a county clerk to appoint a recount precinct board upon receipt of an order of the appropriate canvassing board, and to require the county clerk to keep a log of how each person required to be notified was notified and confirmation that the log was received.
- Amends NMSA 1978, Section 1-14-23, regarding recount procedures, providing that if the results of a hand tally and electronic vote tabulating system differ, the electronic vote tabulating system shall not be used in the recount and the remaining ballots shall be counted by hand or on a different electronic tabulating system in which the results did not differ.
- Amends NMSA 1978, Section 1-14-24, to require automatic recounts when the canvass of returns in a primary or general election for federal or statewide office or a judicial office in a county with more than 200,000 registered qualified electors (essentially Bernalillo County), indicates the margin between two candidates receiving the greatest number of votes is one-fourth of one percent of the total votes cast for that office in that election; an automatic recount is required when the canvass of returns for any other state office indicates that the margin between the top two vote-getting candidates is less than one percent of the total votes cast for that office; for an office in which ballots were cast

in one county only, to require the SOS to file notice with the state canvassing board within 7 days after receiving notice from the county clerk that an automatic recount is required, and for an office in which ballots were cast in more than one county, upon completion of the state canvass.

- Amends NMSA 1978, Section 1-22-3, relating to school board elections, to provide that elections on ballot questions held at any time other than the date for a regular school district election shall be a special school district election called, conducted and canvassed as provided in the Election Code.
- Amends NMSA 1978, Section 1-22-5, to revise the information that must be included in a local school district board's proclamation calling for an election.
- Amends NMSA 1978, Section 1-22-6, to limit to no more than 20 the number of precincts that may be included in a consolidated precinct in a school district election.
- Amends NMSA 1978, Section 22-5-3.1, to reduce the terms of office of local school board members to four-year terms under certain circumstances after a seven-member school board has adopted a resolution to reduce its membership to five qualified electors.
- Amends NMSA 1978, Section 22-5-9, to clarify that only qualified "electors" shall be appointed to fill vacancies on local school boards until the next regular election.
- Amends NMSA 1978, Section 22-7-13, to extend to 120 days the length of time for setting the date for a special recall election after the determination of the county clerk.
- Amends NMSA 1978, Section 27-5-9, to extend certain timelines related to county elections on the question of imposing an indigent and Medicaid health care levy.

**FISCAL IMPLICATIONS** None to this office.

**SIGNIFICANT ISSUES** None.

**PERFORMANCE IMPLICATIONS** None to this office.

**ADMINISTRATIVE IMPLICATIONS** None to this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP** Relates to HB 151 (primary voting for some 17 year-olds; HB 249 (16 year-olds voting in school elections); HB 338 (change certain election dates); HB 346 (change primary election dates and process); SB 354 ( change precinct boards to election boards); and SB 650 (allow open primary elections).

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL** Status quo.

**AMENDMENTS**