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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Munoz/Rodriguez</u>	<b>LAST UPDATED</b> <u>1/29/24</u>
	<b>ORIGINAL DATE</b> <u>1/24/24</u>
<b>SHORT TITLE</b> <u>Distribution to Election Fund</u>	<b>BILL NUMBER</b> <u>Senate Bill 108/aSFC</u>
	<b>ANALYST</b> <u>Torres, Ismael</u>

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Appropriation Account or Operating Reserve		(\$9,000.0) to (\$15,000.0)	(\$9,000.0) to (\$15,000.0)	(\$9,000.0) to (\$15,000.0)	(\$9,000.0) to (\$15,000.0)	Recurring	General Fund
Earmarked General Fund		\$9,000.0 to \$15,000.0	\$9,000.0 to \$15,000.0	\$9,000.0 to \$15,000.0	\$9,000.0 to \$15,000.0	Recurring	State Election Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files  
Secretary of State Annual Audits

Agency Analysis Received From  
Taxation and Revenue Department (TRD)  
Secretary of State (SOS)

## SUMMARY

### Synopsis of SFC Amendment to Senate Bill 108

The Senate Finance Committee (SFC) amendment to senate bill 108 changes the funding mechanism from a distribution from the tax suspense fund to the general fund. The amendment also reduces the maximum amount of the transfer from \$20 million to \$15 million.

### Synopsis of Original Senate Bill 108

Senate bill 108 (SB108) creates a new distribution from the tax administration suspense fund, which is the recipient fund of nearly all general fund tax revenues, to the state election fund. The distribution is to occur at the end of every fiscal year in the amount needed to raise the balance of the state election fund to \$20 million.

The effective date of this bill is July 1, 2024

## FISCAL IMPLICATIONS

If revenues exceed appropriations in a given year, the transfer contained in SB108 will occur from the appropriation account within the general fund and will reduce the excess amount transferred to the operating reserve at the end of the fiscal year. It is unclear whether the transfer would still occur if there are insufficient revenues in a given fiscal year, as the bill does not authorize transfers from the operating reserve. However, transfers to the appropriation account from the operating reserve are authorized in the event of insufficient revenues, which would like occur to cover the transfer authorized in SB108 if revenues are less than appropriations in a given year. In both cases, end-of-year reserves will be less the amount transferred to the state election fund.

Under Section 1-11-19(C) NMSA 1978, money for the state election fund can come from various sources: the Legislature, federal funds, local government reimbursements, and others. The fund is spent by the Secretary of State's office and by counties.

According to the Secretary of State's 2023 annual audit, the fund ended FY22 with a \$3 million deficit. After an appropriation to the fund in FY23 of \$21.9 million, the fund ended the year with a balance of \$11 million. Assuming the fund is not overspent again, and no additional appropriations are made to the fund, the fund could receive up to \$20 million each year, in an automatic transfer from the general fund under the provisions of this bill. The audit also showed annual expenses of over \$9 million in FY23, which represents the lower end of the cost estimated on page 1.

The bill does not include a recurring appropriation, but diverts or "earmarks" the general fund, representing a recurring loss to the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

## SIGNIFICANT ISSUES

The Secretary of State (SOS) notes:

SB108 provides SOS with a distribution amount necessary to continue to fund secure and accessible elections while meeting inflationary demands. It would also allow for immediate responses to emergencies impacting elections, such as pandemics and wildfires, etc.

The changes in SB108 will also help stabilize SOS's annual budget requests. The number of statewide elections varies each fiscal year. In odd-numbered fiscal years, there is one General Election; in even-numbered fiscal years, there is one Regular Local Election (RLE) and one Primary Election.

The Election Fund will continue to contain funds for paying the costs of conducting and administering statewide elections required by the Election Code; reimbursing the counties for the costs of conducting and administering statewide elections required by the Election Code; paying the administrative costs of the office of the secretary of state for administering elections required by the Election Code and for administering the election fund; and carrying out all other specified provisions of the Election Code not already

covered by another fund administered by the secretary of state.

In 2023, SOS conducted rulemaking to establish the procedure for election grants, reimbursements and reporting between the SOS and county clerks for the purposes of paying statewide election costs. The codified rule, 1.10.36 NMAC Election Fund Grants, Reimbursements and Reporting, includes requirements for expense documentation and memorandums of understanding procedures before and after each election.

## **Performance Implications**

SOS complies with the Model of Accounting Principles (MAPS), published by the Department of Finance and Administration (DFA), as well as other state and federal requirements. All expenditures are subject to internal expenditure tracking and audits as well as separate oversight approval from DFA in the SHARE financial system.

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