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| LFC Requester: | Austin Davidson |
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: January 30, 2024
Bill No: HB19

Sponsor: Reps. Gail Chasey and
Janelle Anyanonu and Sen.
Katy Duhigg

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: ELECTION OFFENSE –
FALSE ELECTOR

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY24 | FY25 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY24 | FY25 | FY26 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

House Bill (“HB”) 19 would create two separate criminal offenses relating to elections. Section 1 would create the crime of Disrupting Election Results. This offense consists of knowingly or recklessly suppressing or materially defacing, altering, forging or otherwise falsifying election documents – or preparing or submitting false election documents. The proposed legislation includes five enumerated election documents to which the behavior applies: 1) county canvass report; 2) certificate of canvass; 3) certificate of election; 4) report of the state canvass and/or 5) certificate of ascertainment of appointment of electors. A violation would constitute a third-degree felony offense.

Section 2 would create the crime of Falsely Acting as a Presidential Elector. This proposed section would removes as a potential defense to prosecution that such false representation was made with a qualification that their status as an elected presidential elector is conditional upon a future event.

Both sections confer concurrent jurisdiction in both district attorneys and the Attorney General.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

While Section 1 does not expressly define the documents referenced, they are appropriately defined in and discussed throughout the existing state and federal election code, as follows:

- County Canvass Report – NMSA 1978, Section 1-13-1
- Certificate of Canvass – NMSA 1978, Section 1-13-1
- Certificate of Election – NMSA 1978, Section 1-13-16 and 1-15-4, for example
- Report of the State Canvass – NMSA 1978, Section 1-13-16
- Certificate of Ascertainment – 3 U.S.C. Section 5

Furthermore, the verbs constituting the behavior that would violate the statute (suppressing, defacing, altering, preparing, submitting, etc) come directly from existing NMSA 1978, Section 1-20-9.

The status of being an ‘elected’ presidential elector as stated in Section 2 is derived from NMSA 1978, 1-15-4(C). The nominees of the party whose nominees for president and vice president receive the highest number of votes at the general election are ‘elected’ presidential electors and receive a certificate of election by the state canvassing board.

PERFORMANCE IMPLICATIONS

Both Section 1 and Section 2 confer jurisdiction upon district attorneys and the Attorney General to bring an action in the name of the state to enforce violations.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A