TITLE 1   GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10   ELECTIONS AND ELECTED OFFICIALS
PART 16   BALLOT QUESTIONS

1.10.16.1   ISSUING AGENCY: Office of the New Mexico Secretary of State.
[1.10.16.1 NMAC - N, 9/10/2019]

1.10.16.2   SCOPE: This rule applies to all state and local ballot questions.
[1.10.16.2 NMAC - N, 9/10/2019]

1.10.16.3   STATUTORY AUTHORITY: This rule is authorized by Sections 1-16-7 and 1-2-1, NMSA 1978.
[1.10.16.3 NMAC - N, 9/10/2019]

1.10.16.4   DURATION: Permanent.
[1.10.16.4 NMAC - N, 9/10/2019]

1.10.16.5   EFFECTIVE DATE: September 10, 2019, unless a later date is cited at the end of a section.
[1.10.16.5 NMAC - N, 9/10/2019]

1.10.16.6   OBJECTIVE: The purpose of this rule is to provide uniform guidelines on how state and local ballot questions are to appear on a ballot.
[1.10.16.6 NMAC - N, 9/10/2019]

1.10.16.7   DEFINITIONS:
        A.   "Ballot question" means a question submitted to the voters of the state or a local government on a ballot pursuant to the provisions of the Election Code and does not include a candidate nomination, election contest or nonpartisan judicial retention election.
        B.   "Form of ballot question" means the final format of the ballot question as it will appear on the ballot.
        C.   "Election official" means either the county clerk or municipal clerk.
        D.   "Local government ballot question" means any:
                (1)   tax authorization for bond issues, mill levy or gross receipts tax, as provided by law;
                (2)   recall of county, school board or certain municipal officers, as provided by law or by municipal home rule charter;
                (3)   petition for the creation of a special district or consideration of a statutory local option, as provided by law;
                (4)   referendum on local government taxation authority, as provided by law;
                (5)   referendum on local government ordinances, as provided by the charter of a home rule municipality, by an incorporated or urban county, or otherwise provided by law;
                (6)   change in the laws of a home rule municipality, as provided by the municipal charter or by law;
                (7)   changes in the charter of an incorporated or urban county, as provided by the charter of the incorporated or urban county or by law; and
                (8)   other questions, as provided by state statute or the constitution of New Mexico.
        E.   "State ballot question" means any:
                (1)   proposed amendment to the constitution of New Mexico, as provided in a joint resolution passed by the legislature;
                (2)   tax authorization for general obligation bonds or mill levy, as provided by law;
                (3)   referendum, as provided in Article 4, Section 1 of the constitution of New Mexico; and
                (4)   other questions, as provided by state statute or the constitution of New Mexico.
[1.10.16.7 NMAC - N, 9/10/2019]

1.10.16.8   THE FORM OF BALLOT QUESTION:
        A.   The form of ballot question shall be stated as a question that seeks permission of the voters to accomplish an act with a legal consequence. The form of the ballot question shall contain such information

necessary to give a reasonably prudent voter notice of the act proposed to be taken by the state or local government proposing the ballot question. The full text of the act, resolution, charter amendment, or ordinance itself is not part of the form of the ballot question and shall not be printed on the ballot.

        B.   The secretary of state shall approve the form of ballot question to be placed on a ballot.

        C.   The ballot question must be written in the form of a question, which must be answerable with a "Yes" or "No," unless otherwise required by state law. The ballot question must be styled in such a manner that an affirmative answer to the ballot question will indicate approval and a negative answer to the ballot question will indicate rejection.

        D.   The appropriate election official shall submit the proposed form of a ballot question to the secretary of state pursuant to Subsection B of Section 1-16-3 NMSA 1978. The proposed form of a ballot question shall include the required information in Subsection G of Section 1.10.16.8 NMAC. The proposed form of the ballot question need not contain language that amounts to an advisory question. When an election official submits a proposed form of a ballot question to the secretary of state, the election official must also submit the full text of the act, resolution, charter amendment, or ordinance. The proposed form of the condensed text for a ballot question must be received by the secretary of state at least 67 days before the election on which the ballot question shall appear.

        E.   The full text of the act, resolution, charter amendment, or ordinance shall be posted on the secretary of state's website for a state ballot question or, for a local government ballot question, on the proposing local government's website and be made available at the election official's office for inspection 10 days after the certification of the ballot question. The full text of the act, resolution, charter amendment, or ordinance may also be posted on the elections official's website.

        F.   A copy of the full text of the proposed ballot question shall be posted in every polling place in a location that is easily accessible to the voters.

        G.   Each ballot question shall appear on the ballot containing the following information:

                (1)   a question number

                (2)   a brief designation of the source of the question;

                (3)   a brief descriptive title in boldface type;

                (4)   the form of ballot question; and

                (5)   the voting choices available to the voter.

        H.   For a proposed constitutional amendment, the form of the ballot question shall include the full title of the joint resolution proposing the constitutional amendment and the constitutional amendment number assigned to the joint resolution by the secretary of state.
[1.10.16.8 NMAC - N, 9/10/2019]

1.10.16.9   **BALLOT POSITION:** Ballot questions shall be printed on the ballot in the order provided in Subsection D of Section 1-10-8 NMSA 1978.
[1.10.16.9 NMAC - N, 9/10/2019]

1.10.16.10   **SEVERABILITY CLAUSE:** If any part of this rule is declared unconstitutional by a court of competent jurisdiction, the remaining parts shall survive in full force and effect.
[1.10.16.10 NMAC - N, 9/10/2019]

History of 1.10.16 NMAC: [RESERVED]