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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/09  
 LAST UPDATED 3/14/09      HB \_\_\_\_\_

SPONSOR Ingle

SHORT TITLE Jury Duty Permanent Exemption at Age 70      SB 112/aHJC

ANALYST Hoffmann/Baca

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
		NFI	

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Bernalillo County Metro Court (BCMC)  
 Aging and Long Term Services Department (ALTSD)

#### No Response

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of HJC Amendments

House Judiciary amendments change the permanent exemption age to 75 from 70 and make editorial changes by replacing the word “a” by “an” where applicable in the bill.

#### Synopsis of Original Bill

Senate Bill 112 would amend Section 38-5-2 NMSA to provide a permanent exemption from jury service to any person who is seventy years of age or older who files an affidavit “with a local court” requesting the exemption.

### FISCAL IMPLICATIONS

No fiscal implications are noted by either Bernalillo County Metro Court or the Aging and Long Term Services Department.

## **SIGNIFICANT ISSUES**

With New Mexico being a retirement destination, the Public Defender Department (PDD) notes that retired individuals currently comprise a large percentage of jurors because they do want to serve and they are good jurors. If New Mexico citizens over the age of 70 can easily be exempted from sitting as jurors it may become more difficult to empanel juries.

The PDD further reports that jury pools are so small in some court districts that the courts find it very difficult to select an unbiased jury panel. Jurors are often required to sit through several trials, which is unfair. Jurors are often required to sit even when they have expressed doubts about their ability to be fair and impartial.

The Aging and Long Term Services Department presents a different analysis as follows.

SB112 allows the freedom of choice for citizens aged 70 years or older who wish to use the age exemption for a permanent exemption to serving on a jury. Some elders have significant mobility and/or transportation issues that may limit their ability to get to court. Elders may also have additional hardships such as bad weather or issues with the availability of caregivers who may not be able to assist them in getting to the court house.

The proposed amendment may be beneficial for some seniors that want to and fully understand the choice to exercise their option to be permanently exempt from jury duty. However, if the amendment is intended to make persons 70 years or older permanently exempt from any jury duty in the future, and they later do not later want such a permanent exemption after filing for one, there should be a provision allowing for the withdrawal of the permanent exemption at the senior's request. An added provision allowing for the withdrawal of a permanent jury exemption would also be consistent with constitutional and case law regarding a person's right to serve as on a jury.

The Administrative Office of the Courts observes that the current jury statute allows courts to excuse any person who has a financial or healthcare hardship without creating a group of persons who have an automatic excusal. Our trial system is based on a jury of one's peers. Age is not a certain indicator of a person's ability to serve as a juror. Automatic excusals limit the diversity of the jury based on a group of persons, not the person's actual ability to serve. Excusals from jury service should be based on the ability of a juror to serve on a jury.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The existing jury selection process will remain in place.

CH/mt:mc