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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13

SPONSOR Maestas/Ivey-Soto LAST UPDATED 03/05/13 HB 600

SHORT TITLE Satisfaction of Conditions for Felons to Vote SB \_\_\_\_\_

ANALYST Cerny

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SJR6

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Office of the Attorney General (AGO)  
 Secretary of State (SOS)  
 New Mexico Corrections Department (NMCD)

#### No Response Received From

New Mexico Sentencing Commission (NMSC)

### SUMMARY

#### Synopsis of Bill

House Bill 600 amends the Election Code in Section 1-4-27.1. That section currently provides that a voter who is convicted of a felon shall have his or her voter registration cancelled. It further provides that such a person shall have his or her voting rights restored when he or she has been unconditionally discharged from a correctional facility or detention center, has completed all conditions of parole or supervised probation, or has had the conviction overturned on appeal.

HB 600 would add a provision such that voting rights would also be restored when the person has been granted a pardon.

HB 600 deletes the language requiring the NMCD, the AOC and the NMSC to provide documentation to the SOS to allow it to track felony convictions and satisfactions of felony convictions.

### **FISCAL IMPLICATIONS**

SOS analysis states that the fiscal implication for the SOS is indeterminate because it is not known what mechanism would be used to replace the current sharing of felony conviction and satisfaction data.

AOC states that there will be minimal administrative cost for statewide update, distribution and documentation of statutory changes.

NMCD states the bill could “minimally lessen NMCD’s administrative costs associated with having to track and having to provide the previously required convicted felon voter eligibility information to the secretary of state.”

### **SIGNIFICANT ISSUES**

AGO analysis states that felon voting is not currently federally regulated. Article 1, Section 2 of the United States Constitution gives authority for determining elector qualifications to the state. As such, each state may set their conditions for reinstatement of voting rights.

This bill deletes the provision in 1-4-27.1 that requires the SOS to maintain a file containing the eligibility status of felons in the statewide voter system. It also deletes the requirement that the NMCD, the NMSC, AOC and the U.S. attorney provide the SOS with information and data regarding felony convictions, as well as information for restoration of voting rights. It is unclear from HB 600 what process is meant to replace this one so that the suspension and restoration of felon voting rights is tracked and acted upon.

AOC states in their analysis that they have for many years generated an automated list of convicted felons and sent it to the SOS on a weekly basis. The bill as currently written removes the ability for the SOS – and thus the county voting registrars – to obtain information about who has been convicted of felonies.

SOS analysis points out that Section 31-13-1 NMSA 1978 also provides for the process by which those convicted of felonies may have voting rights restored, including a pardon by the governor.

### **PERFORMANCE IMPLICATIONS**

Currently, the SOS receives information from the parties listed in the deleted provision D regarding felony convictions and satisfactions. Those files are loaded into a portion of the voter file referred to as "Agency Central". If this bill is adopted, the SOS will have to have other means to meet the requirements of the statute for suspension and reinstatement of felon voting rights.

**AMENDMENTS**

AGO analysis states that Section 303(a) of the Help America Vote Act of 2002 (HAVA) requires states covered by the National Voter Registration Act (NVRA) to coordinate the statewide voter registration database with state records on felony status (42 U.S.C. 15301).

HAVA provides that list maintenance on the statewide database shall be done on a regular basis in accordance with the requirements of the NVRA. AGO states: “Therefore, while codified in federal law, it may be prudent to withhold removal of some language to this effect on Page 2, Lines 9-20.”

CAC/blm