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FISCAL IMPACT REPORT

SPONSOR Chasey **ORIGINAL DATE** 1/26/21 **LAST UPDATED** 2/16/21 **HB** 74/aHJC/aHFI#1
SHORT TITLE Felon Voting Rights Changes **SB** _____
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	NFI	\$200.0	\$200.0	\$400.0	Recurring	General Fund
MVD	NFI	\$12.4	NFI	\$12.4	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act of 2021

SOURCES OF INFORMATION

LFC Files

National Conference of State Legislatures (NCSL)

Responses Received From

Secretary of State (SOS)

Taxation and Revenue Department (TRD)

New Mexico Corrections Department (NMCD)

No Response Received

Department of Public Safety (DPS)

SUMMARY

Synopsis of HFI#1 Amendment

The House Floor #1 amendment would require that released inmates who are required to register as sex offenders do so, pursuant to the Sex Offender Registration and Notification Act, before SOS updates their voter registration information. The Act requires sex offenders to register with the county sheriff.

SOS notes concerns with the amended bill. Currently, law enforcement ensures compliance with sex offender registration laws. SOS does not have access to information about an individual's sex offender status required to make a determination on whether the individual has properly registered or not. It is not clear how SOS would access this information, nor does SOS have the resources or

capacity to monitor an individual's ongoing sex offender status. In addition, the amendment directs SOS to not update an inmate's voter registration until the inmate has registered as a sex offender. However, SOS notes that it is the responsibility of county clerks to update voter registrations.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 74 adds language clarifying that a released inmate who appears at an MVD office to register to vote is presumed eligible to register and vote, notwithstanding the individual's status in the statewide voter registration management system.

The amendment adds language clarifying that all released inmates who are otherwise qualified to register to vote are automatically presumed eligible to register and vote.

The amendment also adds language clarifying the reference to restoring a convicted felon's rights. The amendment clarifies that the restored rights are the rights to "hold an office of public trust."

Synopsis of Original Bill

House Bill 74 removes a felony conviction as a reason to cancel a certificate of voter registration. The bill repeals a current section of statute (Section 1-4-27.1 NMSA 1978) that cancels a felon's voter registration and replaces it with new material that:

- 1) Makes a voter ineligible to vote or register to vote while in prison;
- 2) Requires that as part of an inmate's release, they will be provided an opportunity to register or update their registration information either via a transaction with the Motor Vehicle Division (MVD) or with the corrections department (NMCD) via a Secretary of State (SOS) online portal or equivalent paper form;
- 3) Specifies that inmates are subject to the provisions of Section 1-4-28 NMSA 1978 such that they will be identified as having changed their residence except that they shall not be cancelled as a voter for this reason; and
- 4) Mandates that NMCD shall deliver inmate data to SOS in order to maintain current inmate eligibility or ineligibly status.

The bill also repeals current Section 31-13-1 NMSA 1978 and replaces it with new material in the Criminal Procedure Code that specifies that until a felon's rights are restored, they cannot hold public office. Felons' rights are restored by order of the governor or issuance of a pardon, or, for felons convicted in other states, if the other state's governor or the New Mexico governor restores that person's rights, or, for persons convicted in federal court, by presidential pardon or if the New Mexico governor restores that person's rights.

SIGNIFICANT ISSUES

NMCD notes that while incarcerated, an inmate's county of residence is the county where their designated facility is located, which is unlikely to be the same county where they will reside once released. The registration form may need to be resubmitted after the inmate's release.

TRD notes that it has occasionally provided in-person services at correctional facilities via its MVD mobile unit. MVD's ability to provide these services depends on adequate staffing and the

operational status of the mobile unit. The mobile unit is typically staffed by MVD agents who work in the Santa Fe MVD field office and has limited ability to provide regular in-person services.

FISCAL IMPLICATIONS

NMCD anticipates requiring \$200 thousand annually to cover costs for personnel, increased reporting, and other administrative functions to ensure compliance. NMCD notes it would need to send reports to SOS more frequently. Currently, it reports on inmate releases monthly to SOS and would likely need to report daily.

TRD estimates a cost of \$12.4 thousand in staff time to test and implement changes to its Tapestry system, the IT system used for MVD transactions, to update the system to include required information for inmate voter registration.

SOS does not anticipate any costs associated with implementing the requirements in HB74.

PERFORMANCE IMPLICATIONS

SOS anticipates that HB74 would simplify current administrative procedures within SOS and county clerk offices related to maintaining and processing felon voter records. Currently, those procedures involve maintaining a master list of convicted felons, matching and cancelling registrations associated with felon records, and researching and reinstating the voter upon receipt of a new certificate of voter registration. Currently, it can be difficult to track and update information for felons who have completed their sentences, resulting in individuals who are eligible to vote being prevented from registering and voting.

ADMINISTRATIVE IMPLICATIONS

If HB74 were passed, SOS anticipates working with NMCD to develop a data sharing process to track inmate eligibility status. Changes would be required to SERVIS, the statewide voter registration and election management system, to maintain and use data to keep voter registration status current. However, SOS does not expect any additional costs to make these changes.

SOS would also have to work with MVD to provide language for voter registration questions asked when an individual registers to vote at an MVD office. TRD would have to update its MVD Tapestry system accordingly.

OTHER SUBSTANTIVE ISSUES

According to the National Conference of State Legislatures (NCSL), state approaches to felon voting rights vary significantly. NCSL notes that as of January 2021, there are three states in which felons never lose their right to vote, even while incarcerated. In 18 states, felons lose their voting rights while incarcerated, but receive automatic restoration upon release (New Mexico would fall into this category were HB74 enacted). In 19 states, including New Mexico currently, felons lose their voting rights during incarceration, and for a period of time after, typically while on parole and/or probation. In 11 states, felons lose their voting rights indefinitely for some crimes, or require a governor's pardon in order for voting rights to be restored, face an additional waiting period after completion of sentence (including parole and probation), or require additional action before voting rights can be restored.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Convicted felons' voter registrations would continue to be cancelled and they would remain ineligible to vote while in prison, or on probation or parole. Once the terms of a person's felony are satisfied, they would be eligible to re-register to vote.

AN/sb/rl/al