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FISCAL IMPACT REPORT

ORIGINAL DATE 03/07/11

SPONSOR Brown LAST UPDATED _____ HB 577

SHORT TITLE Voter Identification SB _____

ANALYST Aledo

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|-------------------|----------|----------|----------------------|----------------------------------|
| FY11 | FY12 | FY13 | | |
| | (\$25.0) | (\$25.0) | Recurring | State Road Fund |
| | (\$15.0) | (\$15.0) | Recurring | MVD Enhanced Drivers License |
| | (\$10.0) | (\$10.0) | Recurring | Road Fund and MVD and Fee Agents |

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|-------|--------|--------|-------------------|----------------------|---------------------------|
| \$0.0 | \$15.0 | \$0.0 | \$15.0 | Nonrecurring | TRD-ITD operating budget |
| \$0.0 | \$50.0 | \$50.0 | \$100.0 | Recurring | TRD –MVD operating budget |

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 308 and SB 363

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

Taxation and Revenue Department (TRD)

Attorney General's Office (AGO)

County Clerks Affiliate (CCA)

SUMMARY

Synopsis of Bill

House Bill 577 changes voter identification requirements. Acceptable forms of identification would be required to include the following: a photo of the voter, issued by the state of New Mexico or the United States or any public post-secondary educational institution, with an unexpired expiration date or an identification without a photo if issued by an Indian nation, tribe or pueblo, which includes the person's tribal enrollment number. The name on the document must conform to the name in the person's voter registration record.

The bill eliminates the following forms of identification: utility bills, bank statements, government checks, and student identification cards. Verbal and written statements would also no longer be acceptable forms of identification.

For voters who register for the first time in New Mexico by mail, the voter is required to submit a copy of the required voter ID with their registration. If they fail to do so, they are required to submit the required voter ID when voting by absentee mail. When applying for an absentee ballot, as well as when submitting an absentee ballot, voters are required to include a copy of the required voter ID. If a county clerk receives an absentee ballot application that does not contain a copy of the required voter ID, the clerk shall notify the voter that the voter must submit the ID with the absentee ballot. An absentee ballot that is returned without a copy of the required voter ID will be handled as a provisional ballot. The bill provides that the Secretary of State shall establish procedures for submission of the required voter ID with mailed-in absentee ballots.

Failure to provide a required voter ID constitutes a reason for interposing a challenge by a member of the precinct board or a party challenger. The bill also provides procedures for challenging a voter's identification.

HB 577 provides fee exceptions for voters who will be at least 18 years of age on the date of the next general election and signs a statement declaring that he/she is unable to pay for the card or is indigent. The bill also repeals Section 1-12-4.1 NMSA 1978 which relates to the suspension of certain voter identification requirements in the event voter waiting times exceed 45 minutes.

Lastly, HB 577 requires the state to provide a voter with a free xerographic copy of the voter's required voter identification document when the voter presents the document during normal business hours at any state office that is capable of making such copies.

FISCAL IMPLICATIONS

The Tax and Revenue Department assumes needing to issue approximately 5,000 free identification cards. The total production and processing cost to the Motor Vehicle Division would be \$10 per card. Three funds will be affected including the State Road Fund. TRD expects to see revenue drop by \$100,000 over the next two years (FY12 and FY13) across the three funds. The Department also anticipates implementation having a moderate fiscal impact on the agency. MVD would have to develop and implement a new statement of indigency form for those who are unable to pay for an ID card. Implementation would also impact TRD-ITD by requiring MVD 2.0 and User Acceptance Testing for 300 hours at \$50/hour, totaling \$15,000.

There are also additional costs for voter education and training to avoid voter confusion and to ensure legitimate voters are not turned away at the polls. Other costs can include an increase in the number of provisional ballots, which are more expensive to process and potential legal expenses if the law is challenged. In Missouri and Wisconsin similar legislative voter identification initiatives have been proposed and accompanying fiscal impact analysis indicate significant associated costs.

The County Clerk Affiliate asserts that this bill needs an appropriation for state agencies to provide copies of identification, the MVD providing free identification cards, the enormous voter education effort necessary, enhanced poll worker training, updating forms and websites, and county staff training. The CCA contends that this proposal represents too great a change to the election system to accomplish it effectively without proper funding. The CCA notes that according to the National Conference of State Legislators February, 2011 newsletter, the State of Indiana by enacting photo voter ID, experienced a “revenue loss” of \$2,187,432 for production costs, manpower, transaction time and manufacturing. Indiana currently has approximately twice the number of registered voters as New Mexico, so the state may experience a revenue loss of over \$1,000,000.

SIGNIFICANT ISSUES

The Attorney General’s Office and the County Clerks Affiliate contend that the use of the verb “conform” in Section 1(A) (1) is vulnerable to legal challenge on grounds it is vague and subject to subjective interpretation by election workers and election lawyers. The AGO also notes that HB 577 is susceptible to legal challenge on grounds of disparate treatment of voters because a non-Native American voter must show picture identification but a Native American voter does not have show picture identification.

CCA is also concerned that HB 577 includes a provision allowing members of precinct boards to determine if the information on an individual’s document “sufficiently matches” the information on the voter’s certificate of registration. This provision is subjective and would be impossible to fairly administer throughout the state.

The bill also neglects that other religious and cultural groups, besides Native Americans tribes, have similar photographic sensitivities.

The Secretary of State’s office believes that voter ID will increase the confidence in the fairness and integrity of elections, which will result in higher voter turnout. A report written by a professor at the Truman School of Public Affairs in December 2007, regarding voter ID in Indiana, indicated that there was an overall county-level turnout increase of almost two percentage points, no consistent evidence indicating that there is decreased turnout in counties with a greater percentage of minority populations, poor populations, or those with a greater percentage of elderly or less educated votes.

Currently, according to the National Council of State Legislators, only nine states require photo identification to vote.

OTHER SUBSTANTIVE ISSUES

The County Clerk Affiliate states that because there is no appropriation for voter education, county clerks will be inundated with absentee-provisional ballots because the voter failed to include identification. The dates to complete the canvass of election may have to be extended.