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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/12

SPONSOR Hamilton LAST UPDATED \_\_\_\_\_ HB 235

SHORT TITLE Voter ID Requirements SB \_\_\_\_\_

ANALYST Hanika-Ortiz

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

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$5.0 - \$25.0				General Fund
<b>Total</b>		\$5.0 - \$25.0				Local Governments

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Secretary of State (SOS)  
 Administrative Office of the Courts (AOC)  
 Office of the Attorney General (AGO)

### SUMMARY

#### Synopsis of Bill

House Bill 235 proposes changes to NMSA 1978 related to voter identification requirements. The bill proposes to:

- amend Section 1-1-24 to clarify that “voter identification” includes an original or copy of a valid New Mexico driver’s license, military identification (ID) card, U.S passport, or ID card issued by the Motor Vehicle Division (MVD) *or*, official ID as a member of an Indian Nation, Tribe or Pueblo that includes a name and address *or*, with the exception of new voters requesting to vote absentee who registered by mail and who did not submit a copy of the required ID, a verbal or written statement from the voter, which includes the last four digits of their social security number;
- amend Section 1-4-5.1 to clarify that voter information state that a first time applicant must submit the voter registration form with the required ID;
- amend Section 1-6-4 relating to absentee ballot applications to include the proposed changes in ID requirements;

- amend Section 1-6-8 to require an absentee ballot envelope to contain a window slot to hold the copy of the required voter ID;
- amend Section 1-6-9 to add the term “required voter identification” to the information which must be included with an absentee ballot;
- amend Section 1-6-14 relating to absentee ballots submitted without the proper ID and requires county clerks to post information regarding such ballots within 24 hours and, allows voters to submit the required ID by 5:00 p.m. on the second day following an election, for their ballot to be counted;
- amend Section 1-12-7.3 to require that the last four digits of each voter’s social security number be added to a precinct’s checklist of voters; and
- amend Section 1-12-20 to include the failure to provide the required voter ID to the reasons for which a vote may be challenged by a precinct board or party challenger.

## **FISCAL IMPLICATIONS**

The bill will no longer allow a voter to provide an original or copy of a utility bill, bank statement, government check, paycheck, student ID, etc. as their physical form of voter ID.

The SOS was unable to attribute a definitive cost to add a window slot to an absentee ballot envelope. As reflected in the table above, it is assumed the county clerks will shoulder the expense alongside the SOS to implement the amendments in the bill.

An original birth certificate or notarized copy, military ID or passport, Social Security card, and proof of residence must be provided in person to obtain a New Mexico ID card. Issuance fees are \$10 for four years. Fees are waived for applicants 75 or older.

AOC notes that new laws have the potential to increase caseloads in the courts. Efforts to quantify specific fiscal impact by case are underway, but information is not available at this time.

## **SIGNIFICANT ISSUES**

The bill provides for specific photo voter ID requirements for non-Indian people; and in lieu of the required ID, permits the voter to provide a verbal or written statement that includes the last 4 digits of their social security number. As such, it may not require the issuance of free ID cards by MVD.

The SOS reports that the bill provides for stricter requirements for first time voters who register by mail than are required under the federal Help America Vote Act by requiring ID to conform to the voter ID requirements as defined in the bill, rather than allowing current utility bills, bank statements, government check, paycheck, student ID, or other government documents to be used, as is currently allowed under state law.

Failure to provide ID becomes a basis for imposing a challenge to the counting of a voter's ballot.

## **PERFORMANCE IMPLICATIONS**

The AG provided the following comments:

Whether the requirement that a person who votes by mail who puts the ID not under the flap (or it slips beyond the view of the flap, etc) is disenfranchised, makes the bill vulnerable to legal challenge on grounds of disenfranchisement of voters.

Whether a person who does not have a NM driver's license or US Passport must obtain a picture ID from MVD, makes the bill vulnerable to legal challenge on grounds of disparate treatment of voters.

Whether a person who votes in-person may give a Social Security Number number (last four digits), yet a person who votes by mail may give the birth year, makes the bill vulnerable to legal challenge on grounds of disparate treatment of voters.

## **ADMINISTRATIVE IMPLICATIONS**

The SOS reports that the bill should not require the issuance of free ID by MVD.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The AOC further notes that HB 207 is more restrictive and detailed in terms of what is required of voters than HB 235.

## **OTHER SUBSTANTIVE ISSUES**

The SOS office further believes that voter ID will increase the confidence in the fairness and integrity of elections.

The National Council of State Legislatures reports that the United States Department of Justice (DOJ) has denied South Carolina's request for pre-clearance of its voter identification law. The D.O.J. found the law discriminatory because the state's minority voters are 20 percent more likely than white voters to lack a photo I.D. that meets the standard for voting.

Thirty-one states require voters to show identification before voting at the polls. In 15 of these, the identification must include a photo of the voter; in the remaining 16, non-photo forms of identification are acceptable.

AHO/svb