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FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/19
 LAST UPDATED 3/06/19 HB 57/HJCS

SPONSOR HJC

SHORT TITLE Restore Felon Voting Rights SB _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal Decrease	Minimal Decrease	Minimal Decrease	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From the Following Regarding the Original Bill:

New Mexico Attorney General (NMAG)
 Secretary of State (SOS)

Responses Not Yet Received From

Association of County Clerks

SUMMARY

Synopsis of Bill

House Bill 57 would change the practice of terminating certificates of voter registration upon a voter's felony conviction by amending, repealing and enacting sections of statute. In addition, it enacts a new section regarding the conditions for the restoration of rights of convicted felons.

In Section 1-4-24 NMSA 1978, felony conviction and legal insanity are removed as reasons for cancellation of voter registration. The only remaining causes for canceling a voter's certificate of voter registration would be

1. The death of the voter
2. At the request of the voter, and
3. At the direction of the board of registration.

Section 2 of House Bill 57 directs the repeal of the current Section 1-4-27.1 NMSA 1978, which implements the cancellation of felons' voting registration. Currently, felons can be register to

vote again, as noted in that statute, when he/she:

- (1) has been unconditionally discharged from a correctional facility or detention center;
- (2) has completed all conditions of parole or supervised probation; or
- (3) has had the conviction overturned on appeal.

In place of this repealed section, a new Section 1-4-27.1 would be enacted, including the following provisions:

- A. A felon is ineligible to vote while imprisoned.
- B. When a felon is about to be released from state prison, he/she will be given the opportunity to register to vote or to update an existing registration through the Motor Vehicles Division. If this does not occur, the Corrections Department is required to make available an online registration portal made available by the Secretary of State or through a paper registration form.
- C. Voter registration cancellation for felons could be cancelled if other criteria for cancellation under Section 1-4 were met. With the suspension of the felon's right to vote, it will be assumed that the voter's address has changed. Section 1-4-28 states that in cases of changed address, the Secretary of State must send by mail an opportunity to change the address on the registration, but this would not be required for inmates about to be released.
- D. Communication between the Corrections Department and the Secretary of State would enable data to be kept up to date on the voter's registration of each person. Persons appearing before a county clerk or her/his representative will be presumed eligible to vote.

Section 31-13-1 NMSA 1978, Felony conviction; restoration of citizenship, also regulates the voting rights of felons. The current section would be repealed and replaced with the following provisions:

- A. Until a felon's rights were restored, he/she could not hold public office
- B. The felon's rights would be restored either on order of the governor or the issuance of a pardon.
- C. Felons convicted in other states would have their rights restored if the other state's governor issued a pardon, or if the governor of New Mexico restored that person's rights.
- D. Persons convicted of a felony in federal court would have their rights restored via a presidential pardon or the New Mexico governor restores that person's rights.

FISCAL IMPLICATIONS

No fiscal implications are noted by NMAG; however, a minimal decrease in Secretary of State personnel time might occur if that office no longer were to be required to maintain the list of those convicted of felonies, to remove them from the rolls of voters registered, and then to reinstate them at the completion of their sentences.

SIGNIFICANT ISSUES

The National Conference on State Legislatures indicates that states vary in their revocation of voting rates for felons, as noted in the following chart, copied from the NCSL website (<http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>):

RESTORATION OF VOTING RIGHTS AFTER FELONY CONVICTIONS

NEVER LOSE RIGHT TO VOTE	LOST ONLY WHILE INCARCERATED AUTOMATIC RESTORATION AFTER RELEASE	LOST UNTIL COMPLETION OF SENTENCE (PAROLE AND/OR PROBATION) AUTOMATIC RESTORATION AFTER	LOST UNTIL COMPLETION OF SENTENCE IN SOME STATES A POST-SENTENCING WAITING PERIOD ADDITIONAL ACTION REQUIRED FOR RESTORATION (1)
Maine	District of Columbia	Alaska	Alabama
Vermont	Hawaii	Arkansas	Arizona
	Illinois	California (2)	Delaware
	Indiana	Colorado	Iowa
	Maryland (3)	Connecticut	Kentucky
	Massachusetts	Florida(4)	Mississippi
	Michigan	Georgia	Nebraska
	Montana	Idaho	Nevada
	New Hampshire	Kansas	Tennessee
	North Dakota	Louisiana	Virginia
	Ohio	Minnesota	Wisconsin
	Oregon	Missouri	Wyoming
	Pennsylvania	New Jersey	
	Rhode Island	New Mexico	
	Utah	New York (5)	
		North Carolina	

As a result of House Bill 57, New Mexico would appear to move from the third column, “Lost Until Completion of Sentence; Automatic Restoration After” to the fourth column, “Lost Until Completion of Sentence; additional action required for restoration,” but the procedures for doing so would be systematized and facilitated.

NCSL indicates a trend among states to move to the left (i.e., to make it easier for felons or ex-felons to vote) over the last several years. As noted in an article posted on Politifact (<https://www.politifact.com/truth-o-meter/article/2018/apr/25/understanding-felon-voting-rights-restoration/>), one argument for this trend is the disproportionate effect of incarceration on minority groups and the poor.

OTHER SUBSTANTIVE ISSUES

It is unclear whose responsibility it would be to “give the inmate the opportunity to register to vote” or how that would be done.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Convicted felons would continue to be unable to vote in New Mexico while incarcerated and their ability to return to full voting rights would not be facilitated.

LAC/al/sb