

LFC Requester:	Emily Hilla
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: February 22, 2025 *Check all that apply:*
Bill Number: HB 572 Original Correction
 Amendment Substitute

Sponsor: Mejia; Block; Terrazas; Zamora; Montoya **Agency Name and Code Number:** Administrative Office of the District Attorneys 264
Short Title: Soliciting a non-citizen to register to vote/vote/disclaimer **Person Writing Phone:** Donald Gallegos 5757703120 **Email:** dgallegos@questalaw.

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 572:

- Will enact a new section in the Election Code that will make it a fourth-degree felony should a person knowingly solicit a non-US citizen to register to vote and/or encourage that person to vote.
- Provides a disclaimer.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.
 None

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

This bill addresses instances where persons are soliciting noncitizens to register to vote and encouraging them to vote.

The use of the word “knowingly” makes this a specific intent crime. The State will have to prove that the person knew that the person they are soliciting to register to vote is a non-citizen. Specific intent can be proven by circumstantial evidence.

Solicitation is defined in Subsection A, page 1, line 25 and page 2, lines 1-4.

Each act of solicitation constitutes a separate offense (page 2, lines 13-14). For example, if John Doe knowingly registers 10 noncitizens to vote, he can be charged with 10 separate counts. Additionally, it appears that if John Doe knowingly registers 10 noncitizens to vote and then those 10 noncitizens vote, John Doe can be prosecuted for 20 violations of the statute.

The penalty for fourth degree felony is up to 18 months in prison and a \$5000 fine.

“Qualified elector” and “voter” are defined in Sections 1-4-4, 1-1-4.1, 1-1-5 and 1-1-5.1, NMSA 1978.

The Attorney General or a district attorney may prosecute under these provisions.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Section 1-1-1 et seq., NMSA 1978 (Election Code).
Article VII Section 1, New Mexico Constitution.
Amendments I, XIV, XV, XIX, United States Constitution.

TECHNICAL ISSUES

Deleting Subsection D, page 2, lines 15-19, may make it easier for prosecutions and still address the problem addressed by this bill (non-citizens registering and voting). See below.

OTHER SUBSTANTIVE ISSUES

Subsection D, page 2, lines 15-19, is problematic. For example, A person, whether part of an organization or not, puts out flyers recommending that persons register to vote and vote and includes a disclaimer that a person cannot vote if they are not a citizen or a qualified elector. The provisions of this bill provide that if that person is prosecuted for violating Subsection B, they cannot use as a defense that they included the disclaimer in the flyer. It should be expected that defense attorneys will claim this language is unconstitutional as it may violate First Amendment provisions.

Paragraph D may not be needed as all the prosecution will need to prove is that the person “knowingly” solicited another. In other words, the prosecution will have to show that the person intended to solicit a noncitizen to register and to vote. Once that is shown, the language in Paragraph D may not be necessary.

It can be argued that the liability for committing election fraud type cases lies on the noncitizen. It is reasonable to expect that criminal defense attorneys will make that argument. Subsection B does not seem to present the legal issues that Subsection D does. So, in defending persons accused of violating Subsection B, the defendants will most likely argue that the person charged did not “knowingly” solicit a noncitizen to register to vote and/or to vote.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

