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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Townsend/Lanier/Thorton/Gallegos      **ORIGINAL DATE** 3/3/25

**BILL**

**SHORT TITLE** Registration of Non-Citizens to Vote      **NUMBER** Senate Bill 452

**ANALYST** Hilla

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Costs to State (NMCD)	No fiscal impact	Up to \$32.7	Up to \$65.4	Up to \$103.8	Recurring	General Fund
Cost to Counties	No fiscal impact	Up to \$19.2	Up to \$38.4	Up to \$57.6	Recurring	See Fiscal Implications
<b>Total</b>	<b>No fiscal impact</b>	<b>Up to \$51.9</b>	<b>Up to \$103.8</b>	<b>Up to \$161.4</b>	Recurring	<b>See Fiscal Implications</b>

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Duplicates House Bill 572. Relates to House Bill 573 and Senate Bill 453.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Secretary of State (SOS)  
 New Mexico Attorney General (NMAG)  
 New Mexico Corrections Department (NMCD)

## SUMMARY

### Synopsis of Senate Bill 452

Senate Bill 452 (SB452) adds a new section to the Election Code to make it unlawful for a person to knowingly solicit to another person who is not a citizen of the United States to either register to vote in the state or cast a ballot in the state. A person who violates this is guilty of a fourth-degree felony and shall pay a fine of up to \$5,000, with each solicitation constituting as a separate offense. The New Mexico Attorney General (NMAG) or a district attorney may institute criminal proceedings for a violation.

The effective date of this bill is July 1, 2025.

## FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so the primary fiscal implications examined in this analysis relate to changes in the number of individuals in prison and the length of time served in prison that might result from this bill. The creation of any new crime, increase

of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and long-term costs to the general fund. In addition to the potential of new crimes to send more individuals to prison, increased sentence lengths decrease releases relative to the rate of admissions, pushing the overall prison population higher. The New Mexico Corrections Department reports the average cost to incarcerate a single inmate in FY24 was \$57.6 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, Legislative Finance Committee staff estimate a marginal cost (the cost per each additional inmate) of \$32.7 thousand per inmate per year across all facilities and estimates a marginal cost (the cost per additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. SB452's amendments are anticipated to increase the number of incarcerated individuals and increase the time they spend being incarcerated.

Overall, this analysis estimates Senate Bill 452 will result in additional incarceration costs of up to \$86.4 thousand per year per individual charged under the revised statute, based on the costs to incarcerate a single inmate at both NMCD and county jails. This analysis estimates the fiscal impact of the changes proposed by SB452 based on the costs of incarcerating one additional person annually.

## **SIGNIFICANT ISSUES**

The Secretary of State (SOS) notes that non-U.S. citizens are not allowed to register to vote in the state of New Mexico. SOS states that all voters seeking to register or update registration must attest they are a citizen of the U.S. pursuant to both state and federal regulations. Pursuant to 1-4-11, NMSA 1978, county clerks shall reject any certificate of registration in which citizenship questions are not answered or are answered in the negative. Additionally, violating voter registration laws (including false voting) is already a fourth-degree felony. SOS indicates that if a section of the Election Code does not impose a specific penalty for violation, the violation results in a petty misdemeanor.

NMAG adds that SB452 could be a violation of the First Amendment of the United States Constitution and Article II, Section 7 of the state's constitution, given the precedence of courts recognizing the act of helping others to register to vote to be protected as expressive conduct. NMAG states that "these potential overbreadth challenges would be of greater possible concern because SB452 would define solicitation to encompass a greater range of conduct than is included in the ordinary definition of criminal solicitation and would not include some of the affirmative defenses to a solicitation prosecution."

## **ADMINISTRATIVE IMPLICATIONS**

NMAG may need additional personnel to carry out the provisions of the bill.

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

House Bill 572 duplicates this bill. SB452 relates to Senate Bill 453 and House Bill 573, which both prevent SOS or a county clerk from sending a notice of eligibility for voter registration to non-U.S. citizens.