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FISCAL IMPACT REPORT

SPONSOR Reps. Block, Lord, and Duncan/Sens. Lanier and Block **LAST UPDATED** _____
ORIGINAL DATE 03/18/2025
SHORT TITLE Require Voter I.D. **BILL NUMBER** House Bill 170
ANALYST Gygi

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
ID Fees	(\$690.0)	(\$690.0)	(\$690.0)	(\$690.0)	(\$690.0)	Recurring	MVD Suspense Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
SOS	0.0	\$81.0 to \$161.0	\$161.0 to \$323.0	\$362.0 to \$604.0	Recurring	General Fund
SOS startup costs		\$120.0		\$120.0	Nonrecurring	
MVD	0.0	\$115.0	\$115.0	\$330.0	Recurring	MVD Suspense Fund

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

Conflicts with Senate Bills 16, 26, and 218

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 Taxation and Revenue Department (TRD)
 Secretary of State (SOS)

SUMMARY

Synopsis of House Bill 170

House Bill 170 (HB170) would amend multiple sections of the Election Code to implement a restricted voter identification law that would eliminate most current categories of documents sufficient to register to vote, including identification issued by an Indian nation, tribe, or pueblo. It also removes the ability for a voter to utilize an expired photo identification. Under the bill, qualified electors would be required to have a current driver's license or photo identification card issued by the Motor Vehicle Division (MVD).

HB170 adds language allowing for challenges related to the identification documentation, in which instance the voter must provide a copy of an MVD document for the voter's provisional ballot to be counted.

The bill would require MVD to provide free identification cards to eligible voters. It also requires that a photocopy of a voter identification document be provided by the state on request at no charge "when the voter presents the document during normal business hours at any city, county or state government office that is capable of making such copies."

Further, HB170 repeals current law directing suspension of voter identification requirements other than those imposed by federal law if a voter is in line for over 45 minutes, which suspension is subject to challenge by certain members of the election board.

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

FISCAL IMPLICATIONS

There is no appropriation with HB170. Should the bill be enacted, both MVD and the Secretary of State (SOS) report significant fiscal impacts. MVD estimates that providing customers with a free voter ID would result in an annual revenue loss of \$690 thousand to the MVD suspense fund. This number represents the average revenue from the past five calendar years for identification card for individuals 16 to 74 years old.

SOS estimates that providing a free copy of the required voter identification document would range from \$81 thousand to \$323 thousand (in an election year) for printing supplies and administration costs to coordinate with county clerks and state agencies. SOS would also have to modify its software and processes for the mailed ballot application at an estimated one-time cost of \$120 thousand

The Administrative Office of the Courts (AOC) indicates a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. The agency also indicates increase caseloads for the courts resulting from HB170 would also increase costs, but the associated costs are not quantified.

SIGNIFICANT ISSUES

Current law provides a much broader range of voter identification types that may be submitted, including:

- Original or a copy of a current and valid photo identification with or without an address (which does not need to match the registration certification);
- Original or a copy of a utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo that shows the name and address of the voter (which does not need to match the registration certification); or
- A verbal or written statement by the voter of the voter's name, registration address and year of birth.

HB170 removes all these methods of identification except for an MVD-issued document, or, in the case of an absentee ballot registering online, the voter's social security number. However, MVD states it is unclear whether the intent is to create a separate voter identification card solely for voter registration identification purposes or to designate existing state-issued identification cards for use in voting. Also, it is unclear whether a New Mexico resident can request a voter identification card for voting purposes and still retain a valid driver's license. Per Section 66-5-401 NMSA 1978, New Mexico is a one credential state, and a New Mexico resident can only hold a valid driver's license or a valid identification card.

Unlike previous versions of bills with strict photo identification requirements, HB170 provides for free identification cards to be issued to eligible voters. Nevertheless, SOS anticipates not allowing alternatives to photo identification would likely dramatically reduce turnout among qualified electors in New Mexico's elections. For example, senior citizen voters often have no current physical identification issued from the MVD. These groups rely on current provisions in Section 1-1-24 NMSA 1978 to vote, which allow for original physical identification or verbal or written statements related to identity.

Voter identification requirements have been found to disproportionately impact people of color, the elderly, the poor and other classes of people (see "Other Substantive Issues"). AOC, the New Mexico Attorney General (NMAG), and SOS anticipate legal challenges due to infringement on the Constitutional right to vote, violation of federal voter registration law, and lack of equal protection.

NMAG advises:

HB170 impacts the free exercise of the right to vote, which is a fundamental constitutional right. The U.S. Supreme Court has permitted voter ID laws to remain in effect. See *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181. However, a challenge to voter ID laws could potentially be sustained under provisions of the New Mexico Constitution which guarantee: "All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

SOS notes HB170 may be vulnerable to challenge under the National Voter Registration Act's findings section, which states:

Discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and

disproportionately harm voter participation by various groups, including racial minorities” (52 USC 20501(a)(3)). The provisions also likely violate federal law (52 USC 2108), which requires provisional voting be provided as [an] option to voters for whom an “election official asserts that the individual is not eligible to vote.”

NMAG comments:

Photo identification requirements place a disproportionate burden on minorities, people of color, the elderly, and the economically disenfranchised. If enacted HB170 will likely be subjected to litigation under equal protection issues. Further, HB170 would have a broad effect, reducing the ability for voters to participate without improved assurances of election integrity. The legislation is not expected to provide significant material gains in election security [which may] contribute to a finding that the HB170 is unconstitutional.

PERFORMANCE IMPLICATIONS

AOC notes the courts are participating in performance-based budgeting. Increased caseloads due to HB170 may impact the following performance measures of the district courts:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

MVD states:

This bill will require MVD to issue a new type of credential, which will require additional screening of the applicant. This will increase MVD transaction times and waiting times by requiring an additional question to be reviewed on the electronic signature pads at the time of issuance. MVD customer wait times are very sensitive to transaction times.

ADMINISTRATIVE IMPLICATIONS

If HB170 passes, the SOS will have additional administration duties associated with education and compliance: “The full funding of the SOS’s budget request is necessary to keep up with the volume of work associated with all of the statutory duties supported by the office.”

NMAG reports it “provides legal representation to SOS and would necessarily be involved in any litigation regarding this legislation and the various constitutional questions of law that would be raised.”

Both MVD and SOS agree: “Considering the effort, the effective due date of 7/1/2025 will not be feasible. A more feasible effective date would be 1/1/2026.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB170 conflicts with Senate Bill 26 (also amending Section 1-4-5.1 NMSA 1978), Senate Bill 16 (also amending Section 1-6-4, Section 1-12-7.1 and Section 1-12-20 NMSA 1978) and Senate Bill 218 (also amending Section 1-12-8 and Section 1-24-3 NMSA 1978).

HB170 is similar to House Bill 110 introduced in the 2023 legislative session and House Bill 223 introduced in the 2024 session.

OTHER SUBSTANTIVE ISSUES

A total of 36 states have laws requiring voters to show some form of identification at the polls.¹ Of those, 22 states request or require voters to show an identification document that has a photo on it, such as a driver's license, state-issued identification card, military ID, tribal ID, and many other forms of ID; and 14 states and the District of Columbia accept non-photo identification, such as a bank statement with name and address or other document that does not necessarily have a photo. Recent studies have found that strict photo identification laws deprive millions of Americans the opportunity to vote and reduce voter turnout under the auspice of addressing unsupported or rare allegations of voter fraud.

- It is estimated that more than 16 million Americans lack government issued identification, with minority voters almost three times more likely to not have an identification.²
- The U.S. Government Accountability Office found that strict photo identification laws reduce turnout by 2 to 3 percent on average, with a higher effect on minority turnout.³
- Voter fraud is exceedingly rare in both number of credible allegations and actual intent to commit fraud.⁴

It is likely that there will be challenges to the HB170 amendments because they involve a fundamental right. In the FIR for 2023's HB110, the Office of the New Mexico Attorney General noted, "Since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." *Reynolds v. Sims*, 377 U.S. at 562, 84 S.Ct. 1362 (1964).

TECHNICAL ISSUES

NMAG points out a number of technical issues with the bill, including confusion about required documentation for online registration and reference to procedures that no longer would exist in statute.

KG/hj/hg/sgs

¹ <https://www.ncsl.org/elections-and-campaigns/voter-id>

² <http://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf>

³ <http://www.gao.gov/assets/670/665966.pdf>.

⁴ Washington Post, August 6, 2014,

<https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter>