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## FISCAL IMPACT REPORT

SPONSOR Ortíz y Pino DATE TYPED 2/10/05 HB \_\_\_\_\_

SHORT TITLE Voter Identification and Ballot Counting SB 718

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		Indeterminate		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Election Code

Relates to HB 266, HB 686, SB 735 (absentee and provisional voting)

Partially Duplicates HB 18, HB 41, HB 63, HB 208, HB 329, HJR 11, and SB 40 (voter identification)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State

Attorney General

### SUMMARY

#### Synopsis of Bill

Senate Bill 718 amends the Election Code. The following is a summary of key points in the bill, by section of the bill:

#### Section 1:

- A “voter identification card” is defined as a voter card sent by the county clerks to voters that includes a voter’s name, address, and precinct number.

#### Section 2:

- A “registration agent” is defined as a state or federal employee or any other individual that assists in voting registration.

Section 3:

- Amends Section 1-1-16 NMSA 1978 to include a provision that registration officers includes state employees conducting duties under the National Voter Registration Act of 1993.

Section 4:

- Requires that the county clerks send out voter identification cards 40-60 days before each statewide election. The Secretary of State is to reimburse the county clerks for associated costs. The Secretary shall issue a rule to ensure all registered voters receive such a card.

Section 5:

- Amends Section 1-4-5 NMSA 1978 to require a newly registered voter to receive an exact copy of the completed form when registering. This copy is to contain a traceable number.

Section 6:

- Amends Section 1-4-5.1 NMSA 1978 to require a voter, if not submitting the registration certificate in person, or if he is registering for the first time, to submit a voter identification card, or identification issued by an Indian nation, tribe or pueblo, a current and valid photo identification or utility bill, bank statement, government check, paycheck or other government document. Additionally, the amendment requires a voter to submit a statement to swear or affirm the information supplied on the registration certificate by the applicant is true.

Section 7:

- Requires the Secretary of State shall review statewide voter database for duplicates at least 45 days before an election. If there are duplicates, the last certificate of registration will be the valid one.

Section 8:

- Requires that the election judge ask all voters for identification.
- Acceptable forms of identification include a utility bill, bank statement, government check, paycheck or other government document, including identification issued by an Indian nation, tribe or pueblo that shows the name and address of the applicant OR voter identification card or current/valid photo identification.
- If a voter cannot provide the required identification, that voter is to vote by provisional ballot.

Section 9:

- Requires county clerks to notify all absentee voters that they must present the required identification with their ballot.
- If a voter applies for an absentee ballot in person and presents the required identification, the voter will get a regular absentee ballot. If not, the voter will get a provisional ballot.
- The Secretary of State shall step up procedures for submittal of identification with mail-in absentee ballots.
- A voter may request an absentee ballot via electronic transmission.
- Current law on clerks processing federal write-in absentee ballots from overseas voters in accordance with federal law is deleted.

Section 10:

- A mail-in absentee ballot must include required identification in the official mailing envelope.

Section 11:

- All voting systems shall use paper ballots. Voting systems owned or used by a county on the effective date of this bill, that do not use paper to directly record the voter's preferences may be used until funding becomes available or by December 2009, whichever occurs first.

Section 12:

- A person may vote like any other voter if the voter is not on the signature roster, but presents a copy of his registration in the right precinct. The county clerk will later ask the voter to provide a copy of his registration if the clerk cannot find the original.

Section 13:

- A voter who does not present the required identification shall vote on a provisional ballot.

Section 14:

- The county clerk shall notify by mail each person whose provisional ballot was not counted of the reason it was not counted.

Section 15:

- Amends Section 1-20-3 making a registration offense a third degree felony rather than a fourth degree felony.

Section 16:

- Makes false voting a third degree felony rather than a fourth degree felony.

Section 17:

- Falsifying election documents is to be considered a third degree felony rather than a fourth degree felony.

Significant Issues

The Secretary of State raises the following concerns:

“**Section 1:** the county clerks currently send out a voter ID card containing a persons name, address and precinct number for all new registrants and any registrant making a change to his original registration.

**Sections 2 & 3:** are aligned with proposed legislative changes from the Secretary of State

**Section 4:** The Secretary of State currently pays for all voter identification cards issued by the counties. The cost to issue a new card 40-60 days prior to each statewide election to all registered voters is substantial. Based on the postage rate of \$0.34 multiplied by 1,100,000 registered voters equals approximately \$364,000 per election just for postage

and does not include the cost of printing the cards.

**Section 5:** The Secretary of State prescribes, prints and pays for the voter registration forms and further plans to revise the form with a detachable receipt for the voter.

**Section 6:** There are many other voter identification bills requiring the same type of identification as proposed in this bill.

**Section 7:** By April 2005, all 33 counties will be online in the statewide voter registration system that will automatically search, delete duplicates and notify the appropriate county clerks.

**Section 8:** This Section is redundant as a person who's name appears on the voter list and shows proper form of identification can already vote regardless of having a certificate of registration.

**Section 9:** The Secretary of State agrees that identification be required to vote absentee but that the identification be required at the absentee application level.

**Section 10:** The Secretary of State agrees that identification be required to vote absentee but that the identification be required at the absentee application level.

**Section 11:** There are a number of voting systems used in New Mexico.

**Section 12:** Under the Help America Vote Act of 2002 (HAVA) if a person is not on a signature roster at his precinct he is issued a provisional ballot. The proposed amendment conflicts with this federal requirement.

**Section 13:** There are many other voter identification bills requiring the same type of identification as proposed in this bill.

**Section 14:** HAVA requires that a voter who votes on a provisional ballot and would like to know if it was counted or not must call the Secretary of State's office for that information not the county clerk.

**Sections 15, 16 & 17:** Increasing the penalties may deter election related offenses."

## **FISCAL IMPLICATIONS**

The Secretary of State states that the provisions in this bill may require an appropriation to the Secretary of State to cover the costs of reimbursing the counties for issuing voter identification cards. According to the Secretary of State, the cost of issuing a new voter identification card 20-60 days prior to each statewide election is approximately \$364 thousand per election for postage only. This does not include the cost of printing the cards.

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

HB 266, HB 686, and SB 735 relate to absentee and provisional voting, and HB 18, HB 41, HB 63, HB 208, HB 329, HJR 11, and SB 40 relate to voter identification.

## **OTHER SUBSTANTIVE ISSUES**

According to the Attorney General's staff analysis, it should be considered that one concise section that provides a clear recitation of the voter identification requirements, rather than addressing voter identification requirements in a number of different sections of the Election Code as this bill does. The Attorney General's staff analysis further states that:

“Consideration should be given so that the section expressly states the propositions that:

- (a) a photo identification does not have to include ANY address;
- (b) all other identification has to include an address;
- (c) the address does not to have match the address on the roster;
- (d) a voter without identification shall receive a provisional ballot; and
- (e) a voter who votes on a provisional ballot without providing identification will not have his vote counted.

A lack of exact clarity will likely result in county clerks, election workers, and political party lawyers creating a non-uniform application of the law and this will have an effect on over a million voters.

It should be clearly stated when a voter must submit the identification. It appears there are three options. First, a first-time applicant by mail may provide ID when registering to vote. Second, an absentee voter may provide ID when applying for an absentee ballot. Third, a voter or absentee voter may provide ID when casting a vote.”

## **ALTERNATIVES**

Election reform legislation can be analyzed during the interim allowing for more input from voters and others concerned with election reform.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

The Election Code will continue without the proposed amendments.

**DXM/lg**