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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/2007  
 LAST UPDATED 3/12/2007    HB 1140/aHHAGC/aHVEC

SPONSOR Martinez, K.

SHORT TITLE Alternative Native American Voting Locations    SB \_\_\_\_\_

ANALYST Moser

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of HVEC Amendment

House Voters and Elections Committee amendment to House Bill 1149 as amended makes minor technical corrections to the Bill.

#### Synopsis of HHGAC Amendment

House Health and Government Affairs Committee amendment to House Bill 1149 changes Section 1-6-5.6, pertaining to alternate voting locations, and the proposed Subsection E, to require that the Secretary of State adopt rules to “require county clerks to provide at least one alternate early voting location on Indian nation, tribal or pueblo land if requested by the Indian nation, tribe or pueblo.”

#### Synopsis of Original Bill

House Bill 1140 amends Section 1-6-5.6, pertaining to alternate voting locations, to add a Subsection E, which requires that the Secretary of State adopt rules to “require county clerks to provide at least one alternate voting location on Indian nation, tribal or pueblo land if requested by the Indian nation, tribe or pueblo.”

## FISCAL IMPLICATIONS

This Bill will not impact state funding but may increase costs for impacted Counties.

## SIGNIFICANT ISSUES

HB 1140 is supported by the N.M. Constitution<sup>1</sup> which provides, in part, that:  
“The legislature ... shall regulate the manner, time and places of voting.”  
(Emphasis added).

This Bill is further supported by Montoya v. Bolack<sup>2</sup>, which held that there is no constitutional prohibition to the location of polling places on the Navajo Indian Reservation which is within the exterior boundaries of the state. The Court dismissed, as speculative, arguments pertaining to difficulties that might arise in the event of a violation of New Mexico’s Election Code occurring on the reservation. The Court stated:

“It is our considered judgment that the granting of the right to vote and the location of polling places on the reservation in no way interferes with reservation self-government or impairs any right granted or reserved by federal law.” The Court further stated: “[W]ith respect to the location of polling places, legislative provision could be made to forestall any possible conflict as to jurisdiction between the state and tribal officials.”

The Attorney General’s Office states that “We leave it to the considered judgment of the Legislature whether further legislative provision in HB 1140 is necessary to avoid any possible jurisdictional conflict in terms of enforcing the provisions of the Election Code on tribal lands.”

The Secretary of State indicates support of this bill.

GM/mt

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<sup>1</sup> NM Constitution Article VII section 1

<sup>2</sup> 70 N.M. 196, 372 P.2d 387 (1962)