

Altamirano Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/07

SPONSOR Altamirano LAST UPDATED _____ HB _____

SHORT TITLE Election of President By Popular Vote SB 666

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)

No Responses Received From
Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 666 would enact and enter New Mexico into the "Agreement Among the States to Elect the President by National Popular Vote" compact which would generally require each participating state to award all of its electoral votes to the presidential "slate" (President and Vice-President) receiving the most popular votes nationwide (in all 50 states and the District of Columbia).

The popular vote counts from all 50 states and the District of Columbia would be added together by the Secretary of State to obtain a national grand total for each presidential slate. Then, state elections officials in all participating states would award their electoral votes to the presidential and vice-presidential candidates who receive the largest number of popular votes in all 50 states and the District of Columbia.

The compact will take effect when states cumulatively possessing a majority of the electoral votes have enacted its terms into law.

SIGNIFICANT ISSUES

The Attorney General's Office reports that this compact is being proposed by National Popular Vote Inc., a 501(c)(4) non-profit corporation whose stated purpose is to study, analyze and educate the public regarding its proposal to implement a nationwide popular election of the President of the United States. <http://www.nationalpopularvote.com>. It was drafted as an alternative to the Electoral College system for electing Presidential and Vice-Presidential candidates. That system reflects the voters' state-by-state choices for President in 48 states, while reflecting the voters' district-by-district choices in Maine and Nebraska. Although ballots list the names of the presidential candidates, voters within the 50 states and the District of Columbia are actually choosing Electors from their state when they vote for President and Vice President. These Presidential Electors in turn cast the official (electoral) votes for those two offices. That system was the subject of controversy after the 2000 Presidential Election in which Al Gore won the popular vote but lost the Electoral College Vote, and the therefore the Presidency.

The AGO adds, to date the compact has not been enacted by any state. The California legislature enacted the compact in 2006 but it was vetoed by the Governor. The bill has been introduced for consideration in approximately nineteen states.

Article II, Section 1, Clause 2 of the U.S. Constitution provides: *“Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.”* (emphasis added) National Popular Vote, Inc. relies upon the highlighted language as legal authority for this bill.

However, New Mexico has enacted the Electoral College system into state law. NMSA Sections 1-15-1 to 1-15-9. If enacted, this bill would conflict with those state law provisions.

POSSIBLE QUESTIONS

If no states have enacted this and New Mexico does, what would be the impact?

EO/csd