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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-26-09

SPONSOR Rehm LAST UPDATED \_\_\_\_\_ HB 785

SHORT TITLE Help America Vote Act State Agency Duties SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
County Clerks Affiliate (CCA)

#### No Responses Received From

Secretary of State (SOS)  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 785 adds a new section to the Motor Vehicle Code requiring the director to enter into an agreement with social security commissioner for the purpose of verifying the accuracy of voter registration applications, in accordance with federal law. It also amends Section 1-5-30 NMSA 1978 requiring the Secretary of State to enter into an agreement with motor vehicle division director for the purpose of verifying information on voter registrations by matching the information in the statewide voter registration database with that in the motor vehicle division database.

### SIGNIFICANT ISSUES

The County Clerks Affiliate is concerned that the new material requiring database matching and the requirement to match to the social security database in “accordance with federal law”. New Mexico and six other states fought hard during the formulation of HAVA for a specific exemption to this matching requirement and it was written into HAVA. There is no requirement

for New Mexico to match with any other data base. Near the end of Section 303 of HAVA and just before the section on requirements for those who register by mail, is a paragraph (D), which reads:

Special rule for certain states.—In the case a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with Section 7 of the Privacy Act of 1974 (552a note), the provisions of this paragraph shall be optional.

New Mexico's use of the SSN as a voter ID number began well before the passage of the Privacy Act of 1974 and so it and six other states were grandfathered. The appropriate section of the Privacy Act reads:

(2) the disclosure of a social security number to any federal, state or local agency maintaining a system of records in existence and operating before January 1, 1974, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of the individual.

The other states which are exempted from the matching requirements of HAVA and the Privacy Act of 1974 are Hawaii, Georgia, Kentucky, Tennessee, Virginia and South Carolina.

The County Clerks Affiliate who has a representative appointed to a panel of the National Academy of Science, which is undertaking a study on matching voter data on behalf of the US Election Assistance Commission, noted a panel discussion regarding an incident that had taken place with the Social Security Administration in mid-October. Basically, the Social Security Administration shut down its entire network and all the states that were connected, and were at the end of their open registration period for the presidential election, were cut off. States could not enter a single voter just before the close of voter registration. It was described as utter chaos and all the pleas from the states to SSA to delay their "routine maintenance" fell on deaf ears.

The County Clerks also raise concern that the phrase "match" has been used for political purposes by one of the political parties to keep voters off the rolls and effectively disenfranchise them. Florida, in particular, has one of the worst laws, called "No Match, No Vote" by some. What it means is that if you register to vote with your middle initial, but did not use it for social security or driver's license, you don't get registered and can't vote until you bring in documentation to prove who you are. Other states have varying levels of strictness on this, but the word "match" is subjective and tricky to use in legislation, because some will try to use it for an exact match. If this bill should become law, we might be looking at the disenfranchisement of tens of thousands of New Mexicans.

EO/mc