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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 01/22/14  
**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Ortiz y Pino **HB** \_\_\_\_\_

**SHORT TITLE** Early Voting Site Voter Registration **SB** 72

**ANALYST** Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Technology & Licenses		\$200.0	\$0.0	\$200.0	Nonrecurring	General Fund
Licensing fees		\$35.0	\$35.0	\$70.0	Recurring	General Fund
<b>Total</b>		\$235.0	\$35.0	\$270.0		General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (AGO)

Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 72 enacts a new section of the Election Code (Chapter 1 NMSA 1978), and amends other sections, to provide for voter registration at early voting sites. If the early voting site has real time access to the statewide voter file, the voter would be allowed to vote on a regular ballot. If the site does not have real time access, the voter would be required to vote on a provisional ballot which would be counted upon completion of the voter registration process.

SB 72 also amends NMSA 1978, Section 1-1-24 regarding the definition of “Required Voter Identification” requiring that any photo identification presented must be not only current and valid but “government-issued.”

A section-by-section analysis of the bill is available in Attachment 1.

## **FISCAL IMPLICATIONS**

SOS files indicate there were 106 early voting sites in the 2012 general election. The SOS IT director estimates the fiscal impact of SB 72 to upgrade equipment and purchase additional Citrix licenses would be approximately \$150 thousand to \$200 thousand with an additional annual recurring cost of about \$35 thousand for license fees and maintenance.

## **SIGNIFICANT ISSUES**

SB 72 enables qualified electors to register to vote during early voting and to vote the same day.

The software for the State voter registration system exists on the Secretary of State's servers. In the 2010 election, those servers were insufficient to handle requests from clerks for signature rosters, and required updating. The current servers were purchased in 2011. Together with 250 Citrix licenses and the VREMS software, they comprise the voter registration system.

According to analysis by the SOS, during peak times in a general election the State of New Mexico approaches the current maximum number of licenses for users on the system. This includes work being performed in the county clerk's offices during the time that registration is closed but registrations are still being input, updating of the daily absentee registers and distribution to parties and candidates. It also includes work being done in the SOS's office to research questions from county clerks and fulfill requests for voter lists and absentee registers from the parties, candidates and others. Thus there is the need for more licenses and equipment to achieve real-time access to the statewide voter file at early voting sites.

In the absence of real time access to the statewide voter file, this bill requires provisional ballots. Under current law, such voters can currently cast provisional ballots, but those ballots cannot be counted. This bill would amend the law to allow these provisional ballots to be counted, presumably only if the voter registration is accepted as complete and processed by the county clerk.

## **PERFORMANCE IMPLICATIONS**

SOS analysis states:

The SOS is working to implement an in-house voter registration system that would accommodate the number of users necessary to implement legislation such as this. The state of South Dakota provided a platform to the State of New Mexico for the development of such a system. Full development is dependent on a request for \$950,000 in capital IT funding. In the absence of significant funding, it is unlikely the SOS would be able to offer the type of voter registration contemplated by this bill - real time access to the statewide voter file at early voting sites.

An alternative means of complying with the bill would be upgrading the current obsolete system solely for the purpose of meeting the requirements of the bill. The SOS IT Director estimates the fiscal impact of that upgrade would be \$200,000 with an additional annual recurring cost of about \$35,000 for license fees and maintenance.

## AMENDMENTS

AGO analysis recommends consideration of an amendment as “Section 4, NMSA 1978 § 1-4-8, “still allows for a 28 day period of closed registration. This would appear to conflict with the intention of the Bill, which is to allow voters to register during this period immediately preceding an election.”

SB 72 also requires photo identification to be government-issued. Prior analysis by the AGO of a similar bill recommended that the term “government-issued” may need to be defined to avoid confusion as to whether it is inclusive of documents issued by institutions of higher education.

## OTHER SUBSTANTIVE ISSUES

According to the National Conference of State Legislatures (NCSL) ten states plus the District of Columbia presently offer same-day registration (SDR) allowing any qualified resident of the state to go to the polls or an election official's office on Election Day, register that day, and then vote. California has enacted same-day registration but has not yet implemented it. Montana voters will have a chance to repeal same-day registration via a legislative referendum on the November 2014 ballot. In most other states, voters must register by a deadline prior to Election Day. The deadline varies by state, with most falling between 10 and 30 days before the election.

Additional NCSL analysis on SDR may be found at <http://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx#intro> .

## POSSIBLE QUESTIONS

County clerks would be required to provide staff that are trained and authorized to process voter registrations at early voting sites. SOS analysis questions whether this amendment to the Election Code “affects other elections, requiring municipalities, special districts and school district elections to also offer voter registration at early voting sites. If not, will the closing date of the voter registration books for those elections remain the same?”

CAC/jl

## SB 72 Attachment 1

**Section 1:** [new material] EARLY VOTING—REGISTRATION PROCEDURES provide for a qualified elector who is not registered to vote or needs to update his or her registration to do so at an early voting site for a primary or general election in the county in which the qualified elector resides, provided that the qualified elector: presents a physical form of identification as defined in subsection A of Section 1-1-24 NMSA 1978; or completed a certificate of registration form and the registration information is entered into the statewide electronic voter file’ and subscribes an application to vote.

Subsection B: If the early voting site does not have real-time access to the statewide electronic voter file, and the elector fulfills the conditions outlined in Section 1, Subsection A (above), the voter shall be issued a provisional ballot.

Subsection C: stipulates that a voter shall not be allowed to change party affiliation at an early voting site during a primary election.

Subsection D: defines “early voting site” for registration purposes as “an alternate voting site of the office of the County Clerk during the time when in-person absentee voting is being conducted.”

**Section 2:** amends Section 1-1-24 of the Election Code, titled REQUIRED VOTER IDENTIFICATION, changes “voter” to “qualified elector” and amends the language regarding acceptable forms of identification in subsection A (1) to read “an original or copy of a current and valid government-issued photo identification with or without an address, which address is not required to match the qualified elector’s registration address.”

Section 2 A (2) is amended to stipulate that alternate forms of identification such as 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, must be current.

**Section 3:** amends Section 1-4-5.1 as follows:

Subsection B: adds new language to reflect that a person may request certificate of registration forms at a county clerk or the clerk’s authorized representative at an early voting site.

Subsection E: add new language to provide that completed certificates of registration may be (2) mailed or presented in person by the registrant or any other person to the county clerk of the county in which the registrant resides, or (3) completed at an early voting site and presented to the county clerk or the clerk’s authorized representative at the early voting site in the county in which the qualified elector resides.”

Subsection F: add the provision that if a registrant wishes to vote in an election the signed certificate of registration may either be delivered or mailed and postmarked at least twenty-eight days before the election to the county clerk or representative OR completed at an early voting site in the county in which the qualified elector resides.

Subsection I (4) is amended to read that if the certificate of registration form is being submitted by mail along with a current and valid photo identification, that it must be a government-issued photo identification.

**Section 4:** amends Section 1-4-8 DUTIES OF COUNTY CLERK and adds EARLY VOTING SITE REGISTRATION to the title of the section.

Subsection A (2) is amended to contain new language that stipulates “during the period when early voting sites are open, the county clerk shall accept for filing a certificate of registration from any qualified elector who registers to vote at an early voting site in the county in which the qualified elector resides.”

**Section 5:** amends subsection B to provide for a person to vote on a provisional ballot if the person is not registered, or is not registered in the correct precinct; attempts to register to vote at an early voting site but the early voting site does not have real-time access to the statewide electronic voter file; and would otherwise be eligible to vote at the early voting site.

**Section 6:** amends 1-12-20 CONDUCT OF ELECTION –INTERPOSING CHALLENGES

Subsection A: adds new language so that it is clear that a challenge may be interposed if “A. the person offering to vote is not registered to vote and is not a qualified voter.”

**Section 7:** amends 1-12-25.4 PROVISIONAL PAPER BALLOTS--DISPOSITION

Subsection B: adds language such that a provisional paper ballot shall not be counted if the voter did not sign either the signature roster or in the case of a person who registered to vote at an early voting site, the application to vote or the ballot’s envelope.

Subsection C: clarifies the language regarding individuals for whom there is no record of registration in the county, changing “voter” to person, offering them the opportunity to register and states that their paper ballot shall not be counted, and adds new language that states: provided that this subsection does not apply to a provisional ballot of a qualified elector who registered to vote at an early voting site.

Subsection G: clarifies that if a county clerk finds that the voter who voted on a provisional paper ballot has also voted another ballot in the election (not just an absentee ballot), the provisional paper ballot will not be counted.

**Section 8:** stipulates that the effective date of the bill would be July 1, 2014.