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FISCAL IMPACT REPORT

ORIGINAL DATE 3/7/19

SPONSOR HJC LAST UPDATED _____ HB 470/HJCS

SHORT TITLE Appearances for Electronic Notary Acts SB _____

ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Up to \$50.0			Nonrecurring	General Fund

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses to Original Bill Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 Secretary of State (SOS)

SUMMARY

Synopsis of HJC Amendment

House Judiciary Committee Substitute to House Bill 470 amends sections of the Notary Public Act, the Uniform Law on Notarial Acts and the Electronic Authentication of Documents Act.

Section 1: amends Section 14-12A-2 NMSA 1978, the Notary Public Act, expanding the definitions of “acknowledgment,” “affirmation” and “jurat” to include documents presented through an online, electronic certified platform, pursuant to rules and standards adopted by the Secretary of State.

The definition of “electronic certified platform” is created, requirements are established for the transmission of documents and the collection of document review and signing information as well as the requirements for securely storing such information.

Section 2: amends Section 14-14-2 NMSA 1978, Uniform Law on Notarial Acts, in “taking an acknowledgment”, “taking a verification” and “witnessing or attesting a signature” strikes “appearing before the officer and”, adding a provision for the signature to be certified a true signature through an online, electronic certified platform pursuant to rules and standards adopted by SoS.

Section 3: amends Section 14-15-1 NMSA 1978, Electronic Authentication of Documents Act, providing for clarifying language.

Section 4: amends Section 14-15-5 NMSA 1978, Electronic Authentication of Documents Act, requiring SoS to work in consultation with DoIT to adopt rules and standards to implement HB470/HJCS.

Section 5: amends Section 14-15-6 NMSA 1978, Electronic Authentication of Documents Act, allowing for SoS in consultation with DoIT to contract for the provision of services.

Section 6: creates a new section of the Electronic Authentication of Documents Act, establishing secure storage requirements of documents electronically authenticated as required by the electronic certified platform provider.

Section 7: adding new material, providing for the electronic acknowledgement of documents relating to real property transactions. All deeds, mortgages, leases of an initial term plus option terms in excess of five years, or memoranda of the material terms of such leases, assignments or amendments to such leases, leasehold mortgages, United States patents and other writings affecting the title to real estate *shall not be performed* on an online electronic certified platform. Any of these instruments that are affixed with an electronic acknowledgement or stamp on an electronic certified platform are invalid.

FISCAL IMPLICATIONS

Modifications or upgrades would be required in the SoS Business Filing System. Cost cannot be determined unless a full scope is defined but would likely not exceed \$50 thousand.

There will be minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

HB470/HJCS will allow for some notarial acts to be submitted electronically. The Secretary of State is tasked with implementing the rules and standards for such electronic platforms.

New Mexico notaries would need to be verified by the SoS when they apply to the electronic certified platform.

Real property transactions of deeds, mortgages, leases of an initial term plus option terms in excess of five years, or memoranda of the material terms of such leases, assignments or amendments to such leases, leasehold mortgages, United States patents and other writings affecting the title to real estate shall not be performed electronically.

ADMINISTRATIVE IMPLICATIONS

The SoS in consultation with DoIT would be required to adopt rules to accomplish the purpose of the Electronic Authentication of Documents Act.

SoS in consultation with DoIT will be required to securely store in a permanent, tamper-evident electronic format any electronically authenticated documents and all identity verification materials, document review and signing information and other relevant information.

VKH/al/sb