



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

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis: House Bill 340 amends various sections of the state Election Code to limit the form of voter identification that may be accepted when a person offers to vote in person. If passed, the only form of identification that would allow a person to vote in person is a physical form identification issued by an agency or department of the state or federal government, a federally recognized Indian nation, tribe or pueblo, or a New Mexico educational institution that contains a photograph of the voter that reasonably resembles the person offering to vote and the name of the voter that reasonably conforms to the name on the voter’s certificate of registration. If a person does not have required form of voter identification, they will be allowed to vote on a provisional ballot, as provided in NMSA 1978, Section 1-12-8. However, the provisional ballot shall not be qualified unless the person presents to the county clerk or election judge the required identification before 5:00pm on the second day following the election.

HB 340 would require the Secretary of State (SOS) to provide voter information, including voter identification requirements and a statement of the right of a person offering to vote to use a paper ballots, and to conduct statewide efforts to educate voters regarding the voter ID requirements. The SOS and county clerk of each county that maintains a website also would be required to provide notice of the voter ID requirement on their respective websites in each language in which the voter registration materials are available. County clerks would be required to post physical copies of the notice in the clerk’s office.

HB 340 amends NMSA 1978, Section 1-1-25.2, by making clear that voters whose paper ballots were not counted have the right to appeal the county clerk’s decision to the district court. If the voter provides sufficient proof for the district to determine that was a duly registered qualified voter at the time of the election, the voter’s provisional ballot shall be qualified. Prior to that appeal, the voter registration form from the provisional ballot envelope will be accepted a new voter registration application.

HB 340 amends NMSA 1978, Section 1-19A-10, authorizing the use of the Public Election Fund to reimburse the state Motor Vehicle Division (MVD) for the cost of issuing identification cards to voters with charge pursuant to the provisions of NMSA 1978, Section 66-5-408. HB 340 also includes new material mandating MVD provide to the SOS a record of all identification cards issued to voters pursuant to the provisions of NMSA 1978, Section

66-5-408, and the SOS reimburse MVD with money from the Public Election Fund for the costs of issuing voter ID cards without charge. It also amends Section 66-5-408 of the Motor Vehicle Code to include certain additional requirements for persons to obtain an identification card from MVD free of charge.

**FISCAL IMPLICATIONS** There appear to be no fiscal implications to this office.

**SIGNIFICANT ISSUES**

While state laws requiring government-issued photo identification to vote have survived challenges on constitutional grounds if the state's interests for enacting the law are sufficiently weighty, see *Crawford v. Marion County Election Board*, 128 S. Ct. 1610 (2008), similar laws have been found unconstitutional, as applied, and violative of the Voting Rights Act, if the law is found to have a disparate impact on a subgroup of the voters that cannot be mitigated by certain safe harbor procedures such as provisional balloting, see, e.g., *Veasey v. Perry*, 2014 WL 5090258, \_\_\_ F. Supp. 3d \_\_\_ (S.D. TX 2014). It is uncertain how the New Mexico Supreme Court would rule if asked to review a statute like HB 340. Thus, it is an open question, even with the provisional balloting included in this bill, if it would be ruled constitutional by the NM Supreme Court based in particular on its interpretation of state constitutional principles and rights.

**PERFORMANCE IMPLICATIONS** There appear to be no performance implications to this office.

**ADMINISTRATIVE IMPLICATIONS** There appear to be no administrative implications to this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP** Related to HB 61 and HB 150.

**TECHNICAL ISSUES**

It is not clear whether the new material found in Section 10 of HB 340 would be added to Article 19A of the Election Code or to Article 5 of the Motor Vehicle Code.

**OTHER SUBSTANTIVE ISSUES** None.

**ALTERNATIVES** None.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL** Status quo. Various forms of identification are permitted for persons offering to vote.

**AMENDMENTS** None.