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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/06
 SPONSOR Sandoval LAST UPDATED 2/1/06 HB 527
 SHORT TITLE Election Reforms SB _____
 ANALYST Medina

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$1,041.8*	Non-Recurring	Appropriation Contingency Fund
	(*See Fiscal Implications)		

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Election Code

Relates to a Special Appropriation in the General Appropriation Act of 2006

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AG)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Bill 527 amends and repeals sections of the Election Code (Chapter 1, NMSA 1978) as recommended by the Election Reform Task Force. The proposed changes to the Election Code revisit a number of changes made during the last legislative session and enacted as Laws 2005, Chapter 270. This bill carries an emergency clause.

The bill:

- allows the Secretary of State to have separate detachable sections in its training manual for different voting systems;
- removes “voter identification card” from the list of items that a new registrant can show as identification when registering to vote;
- makes the state Election Code compliant with federal election law as it relates to uniformed services voters, overseas voters and voters with disabilities in that they only have

to show name, year of birth, and unique identifier as part of voter identification procedures;

- removes the provision that absentee ballots be allowed to be transmitted electronically,
- removes the provision that voter's have the opportunity to provide an absentee ballot to the precinct and for absentee precinct boards to receive these types of ballots,
- requires voter verifiable and auditable paper trail elections in New Mexico. However, non-paper trail ballot elections are permissible until December 31, 2007 or until sufficient federal, state or local funds are available to replace the current inventory of systems without a paper trail. Non-paper trail systems are permitted if those purchased meet federal HAVA requirements and have auditory system to verify ballot choices. The voter verifiable and auditable paper trail are to be considered ballots and are to be used for recount purposes;
- requires the Secretary of State to issue voter identification cards 75 days prior to the general election, rather than between 40 and 60 days;
- allows a voter's receipt of registration (who is not registered) to be used as an investigative and prosecutorial tool by the district attorney and the Secretary of State;
- transfers the responsibility for establishing a free access system that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted or not from the county clerks to the Secretary of State and provides that the vote be informed on how to appeal that decision to the Secretary of State;
- removes the requirement that the Secretary of State issue rules concerning the review of the qualification of ballots; and
- repeals Sections 1-6-4.3 and 1-12-8.2 NMSA 1978 (Laws 2005, Chapter 270) which relate to third party agents collecting absentee ballot applications and to the procedures for Election Day delivery of absentee ballots by voters.

FISCAL IMPLICATIONS

The General Appropriation Act of 2006 (House Bill 7) contains a non-recurring appropriation of \$431.4 from the general fund for the purpose of funding mandated election reforms and operating the 2006 primary election, and an additional \$1,041.8 from the appropriation contingency fund, contingent on the failure to enact this bill or similar legislation repealing the provision that the Secretary of State print voter ID cards for *primary* elections and conduct random recounts for primary elections. The contingent appropriation relates to Section 9 of this bill. Section 9 of this bill changes the requirement that the Secretary of State distribute voter identification cards prior to *general* elections, rather than *primary* elections. Thus, the Secretary of State will receive an additional \$1,041.8 in order to print and distribute voter identification cards, should this legislation not be enacted.

SIGNIFICANT ISSUES

According to the Secretary of State, if this legislation is not enacted, each county clerk will be responsible for mailing voter identification cards and a many of them would use different processes to carry out this mandate. The Secretary of State also notes that this bill will hopefully allow the county clerks to report absentee results along with the rest of their unofficial results on election night.

According to the Attorney General's Office, the changes proposed in Section 3 will ensure New Mexico law is in accord with federal law.

The Attorney General's Office supports the policy choice of going to a uniform paper ballot system instead of a voter verifiable and auditable paper trail. The AGO believes it is the better system to restore public confidence in elections and a uniform system will create greater consistency in the administration of elections. The AGO believes this will decrease election litigation filed against the Secretary of State.

The AGO states that a voter verifiable and auditable paper is a worthwhile alternative, but may be financially and technologically prohibitive to get to New Mexico right away.

The AGO also notes that there is current litigation against the Secretary of State (Lopategui, et al v. Secretary of State, CV 2005-00443, State District Court) requesting the out-right prohibition of touch screen systems in New Mexico. The case is currently in discovery and may have a trial date before June 2006.

The Attorney General's Office also supports tighter controls on the absentee ballot process in order to avoid absentee ballot fraud and the deletion of Section 1-6-4.3 appears to create looser controls.

RELATIONSHIP

This bill is related to a \$1,041.8 contingent special appropriation in the General Appropriation Act of 2006. (See Fiscal Implications)

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The General Appropriation Act of 2006 includes an appropriation contingent upon the failure to enact of this bill, the Secretary of State will receive an additional \$1,041.8 from the appropriation contingency fund in order to print and distribute voter identification cards for the 2006 primary election, should this legislation not be enacted.

DXM/yr