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## FISCAL IMPACT REPORT

SPONSOR Sandoval DATE TYPED 2/02/05 HB 362

SHORT TITLE Election Code Cleanup SB \_\_\_\_\_

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Election Code

### SOURCES OF INFORMATION

LFC Files

Responses Received From

### SUMMARY

#### Synopsis of Bill

House Bill 362 updates language in Articles 4, 5 and 12 of the Election Code. A number of clarifications of definitions are included in the bill. The following is a summary of key points in the bill, by section of the bill:

Section 1:

- Establishes a definition for a “registration agent” as a state or federal employee who provides voter registration at a state agency or any other individual who assists another person with completing a voter registration application.

Section 2:

- Modifies the definition of a “registration officer” to include state employees who perform registration duties in accordance with the Help America Vote Act of 2002 or Section 1-4-5.2 NMSA 1978.

Section 3:

- Clarifies that county clerks shall hold schools instruction for presiding judges, precinct boards and others officially concerned with the conduct of elections.

Section 4:

- Makes amendments to prohibit county commissions from splitting precincts into two or more districts and a requirement that precincts be designated solely by whole number.

Section 5:

- Allows a qualified elector in addition to a registration officer to fill out a voter registration certificate.

Section 6:

- Clarifies that county clerks can accept for filing certificates of voter registration as late as 5:00 PM on the twenty-eighth day preceding the election rather than the Friday immediately following the close of registration.

Section 7:

- Provides for the conformance to the National Voter Registration Act of 1993 and allows the Secretary of State to issue rules on inactive list maintenance in accordance with the federal Act.
- Removes the provision mandating voters who fail to vote in at least one statewide or local election in a two-year period to be placed on an inactive voter list.

Section 8:

- Removes the term “automated” from the Automated Voter Records System Act.

Section 9:

- Clarifies and adds a number of definitions to the Voter Records System Act.

Section 10:

- Clarifies that the Voter Records System Act must be implemented in all counties by order of the Secretary of State rather than by the boards of county commissioners in accordance to the Help America Vote Act of 2002.
- Requires the Secretary of State to maintain the official state voter file and provide access to the file to the county clerks.

Section 11:

- Clarifies that county clerks shall provide for preparation of precinct voter lists and signature rosters generated from the official state voter file.

Section 12:

- Allows for only the last four digits of a voter’s social security number to be displayed on the precinct voter list and signature roster.

Section 13:

- Allows for two of the three copies of the precinct voter list to contain only the last four digits of the voter’s social security number. According to the Secretary of State, the remaining copy does not show a voter’s social security number.

Section 14:

- Removes a redundant requirement that county clerks furnish a copy of the voter file to the Secretary of State at least one time each month beginning the first Monday of February of an election year.

Section 15:

- Changes the term to “Voter Registration System Software” from “Program Records” relating to its use in controlling the process of information derived from the voter file.

Section 16:

- Allows the Secretary of State to provide the county clerk means for the preparation of voter lists.
- Specifies that the Secretary of State, rather than the county clerks, is to procure and preserve sufficient duplicate voter registration system software.

Section 17:

- Clarifies the duties of the designated data processor. The data processor will be the person responsible for preserving and safeguarding voter files and voter registration system software.
- Removes the responsibility of the data processor to provide county clerks with data processing services in the implementation and maintenance of the unofficial election canvassing system.
- Relieves the Secretary of State of the duties of testing the unofficial election canvassing system.

Section 18:

- Clarifies that those with access to the voter file that are prohibited by law from disseminating its contents to those not authorized by the Voter Records System Act to have possession of the voter file.

Section 19:

- Adds recording media, the voter registration system software and other relevant software as inclusive components in the definition of items that are prohibited from being altered or destroyed.

Section 20:

- Adds the Secretary of State to the list of those who shall furnish or receive voter data, mailing labels or special voter lists for qualified written requests.
- Removes language that a requestor sign an affidavit that the data shall not be used for unlawful purposes as this language becomes redundant with the amendments with regard to unlawful use of voter data.

Section 21:

- Removes the term “unlawful use of statistical data” and clarifies the unlawful use of “voter data” according to the Automated Voter System Act.

Section 22:

- Clarifies that the Secretary of State shall be the one to enter into a written contractual agreement with the data processor instead of each county.

Section 23:

- Clarifies that the statewide computerized registration system must comply with the federal Help America Vote Act of 2002.

Section 24:

- Removes the requirement that the Secretary of State is to provide for the update of voter files at each polling place as this is now to be done by providing the computer software to county clerks.

Section 25:

- Recompile Section 1-5-10 NMSA 1978 as 1-12-7.1 NMSA 1978 then amends it relating to voter lists, signature rosters and their use during an election.
- Clarifies that a judge assigned to the precinct voter list shall determine that each person offering to vote is registered and shall do so by confirming the voters name on the voter list.
- Removes the use of so-called “eligibility” certificates issued by the county clerk, which are no longer in use.

Section 26:

- Allows a voter to be eligible for assistance in operating a voting machine.

Section 27:

- The amendment will allow a person to be assisted by two persons of a precinct board of different political parties. The person providing assistance shall record his name on the voter roster.

Section 28:

- Places a fourth degree felony penalty on anyone who willfully destroys, defaces, alters without authorization or improperly disposes of signature rosters.

Section 29:

- Simplifies the use of emergency paper ballots in a general election. The amendment removes all language in the Subsections dealing with “if” and “then” and establishes new language that the voter mark the ballot in accordance with the “instructions for that ballot type.”

Section 30:

- Temporary Provision; serves only to recompile Section 1-5-12 NMSA 1978 as 1-12-7.2 NMSA 1978

Section 31:

- Repeal of Sections of the NMSA. 1-5-9; Signature Rosters; certificate, 1-5-13; Signature Roster; use by board of registration, 1-5-15; Voter File; duplicate voter file; use, 1-5-20; Registration; filing, 1-5-27 through 1-5-29; Automated Voter Record System Advisory

Committee; creation, duties, compensation; meetings and 1-6-21; Consolidation of absent voter precincts.

Section 32:

- The effective date of the provisions of this act is July 1, 2005.

### Significant Issues

House Bill 362 amends portions of the Election Code to conform to a number of provisions of the federal Help America Vote Act of 2002.

### **PERFORMANCE IMPLICATIONS**

According to the Secretary of State this bill will serve to instill a greater level of confidence in the election process in New Mexico and make New Mexico's election code less prone to abuse.

### **OTHER SUBSTANTIVE ISSUES**

According to the Secretary of State:

“This bill reforms sections of New Mexico's Election Code by addressing several key issues affecting the conduct of elections. In this Substantive Issues section, only major changes the bill implements are substantiated.

A so-called “fix” included in this bill is the deadline for registration. If enacted, this bill will specify uniformly that the close of registration is the 28<sup>th</sup> day before the election.

This bill clarifies in several sections that the Secretary of State shall provide for compliance with the Help America Vote Act of 2002.

Only the last four digits of a voter's social security numbers will be placed on the precinct voter list and signature rosters to further protect voter identity and possible abuse.

The bill clarifies unlawful disposition of the voter file and who is allowed to have access to the file. It also clarifies a fourth degree felony penalty for unlawful destruction or alteration of the file and unlawful use of statistical data.”

### **ALTERNATIVES**

Election reform legislation can be analyzed during the interim allowing for more input from voters and others concerned with election reform.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Election Code cleanup will need to be postponed.

**DXM/sb**