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## FISCAL IMPACT REPORT

SPONSOR López DATE TYPED 2/24/05 HB \_\_\_\_\_

SHORT TITLE Absentee Ballot Processing and Records SB 735

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, House Bills 19, 21, 266\* and 1065

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State (SOS)

Attorney General (AG)

### SUMMARY

#### Synopsis of Bill

Senate Bill 735 amends various sections of the elections code related to absentee ballots. Most significantly, this bill:

- Provides that the Secretary of State shall print and furnish the absentee ballot forms to the county clerks, and that applications for absentee ballots shall be delivered to the county clerk by the applicant in person or by mail.
- Removes the requirement for county clerks to sort absentee ballots by representative district for canvassing purposes.
- Defines “registering of absentee ballots” as “inserting the paper absentee ballot into an electronic voting system for recording and retention until votes may be counted and canvassed,” and creates a new method for processing absentee ballots. According to the Secretary of State, these changes will mean greater efficiency and lead time for counties in

counting absentee ballots

- Removes the requirement that the absentee ballot register be open to public inspection during regular office hours Monday through Friday and instead provides that the register be available for inspection pursuant to the Inspection of Public Records Act.
- Requires the county clerk, on the Thursday prior to election day, to have the special deputy county clerks deliver to the absent voter precinct board the absentee ballots received prior to that day. The language specifies procedures for accounting for the delivery and receipt of the ballots. Further, on election day, the county clerk shall deliver the remaining absentee ballots received prior to 7:00 pm on election day to the absent voter precinct boards and shall observe the listing of the names on the official mailing envelope in the signature rosters. The bill removes the provision requiring the county clerk to remain in the polling place until all of the official mailing envelopes are opened and the ballots deposited in the locked ballot box.
- Removes the requirement that absentee ballots remain in their official inner envelopes and be deposited in the locked ballot box. Instead, under the personal supervision of the presiding election judge, the inner envelope shall be opened and the ballot inserted into an electronic voting system to be registered and retained until votes are counted and canvassed following the closing of the polls on election night. Accordingly, the bill removes the requirements for removing the envelopes from the ballot box and tallying the ballots, and the timeframe for the county clerks to convene the absent voter precinct board to alphabetize, enter, and sort the absentee ballots.
- Removes the requirement that absent voter precincts be created for each state representative district and instead requires an absent voter precinct in each county. Further, the bill removes the provision allowing absent voter precincts to be consolidated.
- Allows the county clerk to deliver for registration the absentee ballots three days prior to election day.

### Significant Issues

The Attorney General's Office notes that in order to assuage concerns about the act of opening of absentee ballot envelopes in advance of Election Day, this bill may want to add: (a) an express provision regarding the right of watchers and challengers to be present during the process; (b) a provision regarding the hours of conduct (i.e. registering of absentee ballots should be limited to business hours).

### **\*DUPLICATION**

This bill is nearly a duplicate of House Bill 266, except that House Bill 266 adds a sentence on page 2, line 16, after the word "applicant", which reads: "The application shall be delivered to the county clerk by the applicant in person or by mail." This serves as a point of clarification but is not included in Senate Bill 735.

**OTHER SUBSTANTIVE ISSUES**

According the Attorney General's Office, Section 1 of this bill will likely be read to mean the Secretary of State has the exclusive right to create the absentee ballot application (and return envelope).

According to the Secretary of State, the reforms in Senate Bill 735 will instill greater confidence in the election process and make New Mexico's election code less prone to abuse.

**DXM/yr**