

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR García, M.H. DATE TYPED 2/28/05 HB 1026

SHORT TITLE Require Verifiable Paper Ballots SB \_\_\_\_\_

ANALYST Medina

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Election Code  
 Duplicates Senate Bill 962

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Secretary of State

### SUMMARY

#### Synopsis of Bill

House Bill 1026 amends the Election Code as it relates to voting machines to require that all voting systems used in elections produce a voter-verifiable paper ballot as the form on which a voter records a vote by marking on the ballot. The bill provides that this paper ballot be the official ballot of record for recounts and audits. It also sets a deadline for implementation of July 1, 2008, or until adequate funding for machine replacement is secured, for counties that do not own or use machines that produce a voter-verifiable paper ballots.

This bill further allows for the Secretary of State to test and certify voting systems if they have been previously certified by other states or by the National Association of State Election Directors. It requires testing to be completed within six months. If a voting machine manufacturer has not applied for certification in New Mexico, the manufacturer would not be required to pay for the costs of testing and certification.

Significant Issues

According to the Secretary of State, this bill limits the type of voting machine used in New Mexico to an optical scan type that have not been certified as compliant with the federal Help America Vote Act of 2002 (HAVA) voting system requirements for disabled and language minority populations.

The Secretary of State notes that pursuant to Section 1-9-2 NMSA 1978 a voting machine manufacturer must federally certify and independently test their voting machines. These same manufacturers must apply for certification and testing with the Secretary of State prior to June 1<sup>st</sup> of each odd numbered year. Furthermore, the manufacturer is further required pursuant to Section 1-9-14 NMSA 1978 to pay for the testing and certification of that voting system in New Mexico. Section 1-9-2 NMSA 1978 does not specify a voting system be certified in any other state. However, the statute does require an application for certification in New Mexico. This bill carries an emergency clause.

**FISCAL IMPLICATIONS**

The fiscal implications of this bill are contingent on the type of voting machines/systems purchased. The Secretary of State intends to spend \$8 million to \$9 million in federal funds on voting machine replacement in the 2005 calendar year in order to comply with the federal Help America Vote Act of 2002. The Secretary of State has set the fee for voting system testing at three hundred dollars. Since this bill requires the Secretary of State to pay for testing (or not require manufacturers to pay for testing), the fiscal impact depends on the number of machines the Secretary of State tested.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill duplicates Senate Bill 962.

**TECHNICAL ISSUES**

The Secretary of State suggests that it is important to note Section 1-9-2 NMSA 1978 as it relates to the provisions of this bill. The section reads:

“A. All voting systems approved for use in New Mexico shall meet federal election standards, conform to state information technology rules, standards and practices and be tested by an independent authority.

B. A person desiring to have a type of voting system approved for use in New Mexico may apply to the secretary of state to have the system examined and approved. At the time application is made, the applicant shall direct the independent testing authority to submit its report on the system to the secretary of state.

C. Upon receipt of the report from the independent testing authority, the secretary of state shall examine and study the system. As part of the examination, the secretary of state shall require the system to be independently inspected by two voting system experts and shall require from each of them a written report on the results of their inspection.

D. Upon completion of his examination, the secretary of state shall make a written report on the result of his examination and findings and shall file such report, together with the inspection reports of the two voting system experts, in the office of the secretary of state. Such reports and

findings are public records.

E. The secretary of state shall inform the applicant in writing of the findings. If the findings show that the voting system type is adequate for the election needs of New Mexico, it shall be deemed approved for use at elections in the state.”

Section 1-9-14 NMSA 1978 requires that the applicant manufacturer of voting systems pay for testing its system for certification. The Secretary of State has set this rate at three hundred dollars.

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

A voter-verifiable paper ballot would not be required to be produced and used as the official ballot of record in the state’s elections.

**DXM/lg**