HOUSE BILL 931

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

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AN ACT

RELATING TO VOTING SYSTEMS; UPDATING STATUTES CONCERNING VOTING
SYSTEMS; PROVIDING STANDARDS FOR CERTAIN VOTING SYSTEMS;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

        Section 1.   Section 1-9-1 NMSA 1978 (being Laws 1969,
Chapter 240, Section 184, as amended) is amended to read:

        "1-9-1.   SECRETARY OF STATE--DUTIES.--The secretary of
state shall study, examine and approve all voting [machines]
systems used in elections for public office in New Mexico. Any
type of voting [machines] systems not approved by the secretary
of state shall not be used in any election for public office in
New Mexico."

        Section 2.   Section 1-9-2 NMSA 1978 (being Laws 1969,

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1   Chapter 240, Section 185, as amended) is amended to read:

2   "1-9-2.   SECRETARY OF STATE--MANNER OF APPROVAL.--

3   A.   Any person desiring to have a type of voting

4   [machine] system approved for use in New Mexico may apply to

5   the secretary of state to have [such machine] the system

6   examined and approved. At the time application is made, the

7   applicant shall [pay to the secretary of state an examination

8   fee of three hundred dollars ($300)] direct the independent

9   testing authority to submit its report on the system to the

10   secretary of state.

11   B.   Upon receipt of the [application and examination

12   fee] report from the independent testing authority, the

13   secretary of state shall examine and study the [machine]

14   system. As part of the examination, the secretary of state

15   shall require the [machine] system to be independently

16   inspected by two [mechanical] voting system experts and shall

17   require from each of them a written report on the results of

18   their inspection.

19   C.   Upon completion of [her] his examination, the

20   secretary of state shall make a written report on the result of

21   [her] his examination and findings and shall file such report,

22   together with the inspection reports of the two [mechanical]

23   voting system experts, in the office of the secretary of state.

24   Such reports and findings are public records.

25   D.   The secretary of state shall inform the

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1   applicant in writing of the findings. If the findings show

2   that the voting [machine] system type is adequate for the

3   election needs of New Mexico, it shall be deemed approved for

4   use at elections in this state."

5   Section 3.   Section 1-9-5 NMSA 1978 (being Laws 1969,

6   Chapter 240, Section 188, as amended) is amended to read:

7   "1-9-5.   REQUIREMENT TO PURCHASE AND USE VOTING

8   [MACHINES] SYSTEMS.--

9   A.   Voting [machines] systems shall be used in all

10   precincts in all statewide elections.

11   B.   The county clerk of each county shall provide

12   one voting [machine] system in each precinct for use in the

13   general and primary elections when the total number of

14   registered voters in that precinct amounted to [less] fewer

15   than four hundred at the close of registration.

16   C.   At least one additional voting [machine] system

17   shall be provided in such precinct for every four hundred

18   registered voters in that precinct.

19   D.   When authorized by the state board of finance,

20   the board of county commissioners may acquire new or previously

21   owned voting or electronic vote tabulating [machines] systems,

22   as tested and approved by the secretary of state pursuant to

23   the provisions of Section 1-9-14 NMSA 1978, which [machines]

24   systems may be used in any election for public office. The

25   acquisition of these [machines] systems may be in excess of the

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1   number provided in this section.

2   E.   Except for intercounty acquisitions of equipment

3   approved by the secretary of state, a previously owned voting

4   or electronic vote tabulating [machine] system shall have a

5   warranty equal to the warranty required of a new voting or

6   electronic vote tabulating [machine] system."

7   Section 4.   Section 1-9-6 NMSA 1978 (being Laws 1975,

8   Chapter 255, Section 116, as amended) is amended to read:

9   "1-9-6.   VOTING [MACHINES] SYSTEMS--USE IN OTHER

10   ELECTIONS.--

11   A.   The county clerk may provide for the use of

12   voting [machines] systems in other elections or for educational

13   purposes; provided, however, that the county clerk shall make

14   available:

15   (1)   to the school district for use in the

16   school district election, a sufficient number of voting

17   [machines] systems necessary to conduct the election in those

18   polling places located within that county; and

19   (2)   to a municipality located in the county, a

20   sufficient number of voting [machines] systems to conduct the

21   municipal election.

22   B.   The county clerk shall schedule the use of the

23   voting [machines] systems."

24   Section 5.   Section 1-9-7 NMSA 1978 (being Laws 1969,

25   Chapter 240, Section 190, as amended) is amended to read:

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1   "1-9-7.   VOTING [MACHINES] SYSTEMS--ACQUISITION.--

2   A.   Ninety days prior to each primary and general

3   election, the board of county commissioners of each county

4   shall make application to the state board of finance for those

5   additional voting [machines] systems required by the Election

6   Code.

7   B.   The additional voting [machines] systems shall

8   be of a type approved by the secretary of state.   They shall be

9   purchased by the state board of finance.   The cost of the

10   voting [machines] systems, including all transportation costs,

11   shall be paid out of the electronic voting [machine] system

12   revolving fund.   The state board of finance shall cause to be

13   delivered to each county clerk the additional voting [machines]

14   systems."

15   Section 6.   Section 1-9-8 NMSA 1978 (being Laws 1969,

16   Chapter 240, Section 191, as amended) is amended to read:

17   "1-9-8.   BOARD OF FINANCE--LEASE-PURCHASE CONTRACT--

18   TERMS.--

19   A.   The state board of finance shall execute a

20   lease-purchase contract with the county for purchase of

21   additional voting [machines] systems upon receipt of the

22   application of the board of county commissioners.

23   B.   The lease-purchase contract shall include, but

24   not be limited to, the following terms:

25   (1)   the county agrees to purchase from the

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state board of finance the specified number of voting
[~~machines~~] systems;

          (2)   the county will pay therefor the cost of
[~~such machines~~] the voting systems, including reimbursement for
costs of transportation;

          (3)   the term of the lease-purchase contract
shall not exceed twenty years;

          (4)   the care, custody and maintenance of
[~~such~~] the voting [~~machines~~] systems is the responsibility of
the county; and

          (5)   upon good cause shown, the terms of the
lease-purchase contract may, at any time, be renegotiated."

    Section 7. Section 1-9-12 NMSA 1978 (being Laws 1975,
Chapter 255, Section 120, as amended) is amended to read:

    "1-9-12.   CARE AND CUSTODY OF [~~MACHINES~~] SYSTEMS--CARE AND
CUSTODY OF KEYS AND SEALS--RESPONSIBILITY FOR TRANSPORTATION--
REPAIR AND PROGRAMMING--CHARGE FOR SUCH USE, TRANSPORTATION OR
PROGRAMMING.--

    A.   The county clerk shall have custody of all
voting [~~machines~~] systems, shall keep [~~such machines~~] them in
good repair and shall be responsible for [~~the~~] their
transportation [~~of voting machines~~] to and from polling places.

    B.   The county clerk shall have care and custody of
and be responsible for the keys and seals for the voting
[~~machines~~] systems and shall be responsible for the programming
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underscored material = new
[bracketed material] = delete

1   of [such machines] the systems.   All keys for the voting

2   [machines] systems shall be kept in a secure place in the

3   county clerk's office until such time as supplies are available

4   to program or maintain the voting [machines] systems.   When

5   voting [machines] systems are being programmed for any election

6   or maintained after an election, the county clerk or the county

7   clerk's assigned deputy who is knowledgeable [of] in the

8   procedure of programming voting [machines] systems shall have

9   custody of the keys and shall assure the security of the keys

10 at all times during the period the voting [machines] systems

11 are being programmed or maintained.   In any event, all keys

12 shall be returned to the office of the county clerk at the end

13 of each day for safekeeping; providing that if the deputy is

14 programming the voting [machines] systems outside of the county

15 seat and it is impractical for [such] the deputy to return the

16 keys at the end of the day, the county clerk may give written

17 authorization in advance to [such] the deputy to retain the

18 keys for as long as is needed to program [such] the voting

19 [machines] systems outside of the county seat, and a copy of

20 [such] the authorization with the deputy named therein shall be

21 kept on file in the county clerk's office subject to public

22 inspection.   The county clerk shall submit an affidavit to the

23 secretary of state describing the method to be used in keeping

24 the voting [machine] system keys secure.   This affidavit shall

25 be submitted to the secretary of state in January of each even-

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1   numbered year for the secretary of state's approval or

2   disapproval.   The security method approved by the secretary of

3   state shall be the only method of safekeeping the voting

4   [machine] system keys until a new affidavit is submitted and

5   approved.   Failure of the county clerk to assure the security

6   of voting [machine] system keys in his custody shall constitute

7   a neglect to discharge the duties of his office.

8   C.   A reasonable fee may be charged by the county

9   for the use, transportation and programming of the voting

10   [machines] systems, but in no case shall such fee exceed the

11   actual cost to the county."

12   Section 8.   Section 1-9-13 NMSA 1978 (being Laws 1975,

13   Chapter 255, Section 121, as amended) is amended to read:

14   "1-9-13.   VOTING [MACHINE] SYSTEM TECHNICIANS--APPROVAL OF

15   CONTRACTS.--

16   A.   The secretary of state shall approve all

17   contracts, employment or otherwise, between a county and a

18   voting [machine] system technician.   Approval shall be based on

19   the following:

20   (1)   adequacy of the training and expertise of

21   the voting [machine] system technician; and

22   (2)   reasonableness of the compensation for the

23   contracted services, based upon the type of election and the

24   number of [machines] systems to be used, but in no instance

25   shall [such] compensation exceed thirty-five dollars ($35.00)

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per [machine] system for programming plus ten dollars ($10.00)

for clearing each [lever type] voting [machine] system. The

technician shall receive seventeen dollars [and] fifty cents

($17.50) for each hour of election school and for standby

troubleshooting services. The technician may also be paid

mileage.

B.   Voting [machine] system technicians shall be

certified by the secretary of state as to their adequacy of

training and expertise on [lever voting machines and]

electronic voting [machines] systems.

C.   For purposes of this section, "voting [machine]

system technician" means any person who programs, clears,

inspects and repairs [lever voting machines and] electronic

voting [machines] systems for compensation.

D.   The secretary of state shall adopt rules [and

regulations] governing the use, maintenance and repair of

[lever voting machines and] electronic voting [machines]

systems."

Section 9.   Section 1-9-14 NMSA 1978 (being Laws 1983,

Chapter 226, Section 1, as amended) is amended to read:

"1-9-14.   COMPUTER VOTING DEVICES--AUTHORITY OF THE

SECRETARY OF STATE TO TEST.--

A.   Notwithstanding any other provision of the

Election Code, the secretary of state shall provide for the

testing and evaluation of internal computers designed for the

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1   purpose of recording and tabulating votes within polling places

2   in New Mexico. Any person who has an internal computer which

3   is designed for the purpose of recording and tabulating votes

4   within a polling place may apply on or before June 1 of any

5   odd-numbered year to the secretary of state to have his

6   equipment examined and tested. At the time application is

7   made, the applicant shall pay for testing each [machine] system

8   in an amount that reflects the actual cost of such test. Upon

9   receipt of the application, the secretary of state shall

10   examine and study the computer voting [machine] system. As

11   part of the examination, the secretary of state shall require

12   the [machine] system to be independently inspected by persons

13   or testing laboratories technically qualified to evaluate and

14   test the operation and component parts of an internal computer

15   for recording and tabulating votes and shall require a written

16   report on the results of such testing. The secretary of state

17   may authorize field testing of the equipment in one or more

18   precincts in any state or local government election, provided

19   that such field tests shall be conducted at no cost to the

20   state or any local government. These tests and inspections

21   shall be completed within six months of the date of

22   application.

23   B.   Upon completion of all tests and examination of

24   all written test reports, the secretary of state shall make a

25   written report of the result of the findings and shall submit

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that report for consideration by a committee consisting of the secretary of state, the director of the information systems division of the general services department and a county clerk who is appointed by and serves at the pleasure of the governor and who is appointed with regard to political party affiliation so that no more than two members of the committee are from one political party. The committee shall make recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code. Such report shall be a public record.

C. If the committee recommends that the internal computer for recording and tabulating votes is suitable for use in polling places for the conduct of elections in New Mexico, such equipment shall be deemed approved for use in elections in this state no later than January 1 of the succeeding year.

D. In the event the committee approves the use of internal computers for use in polling places for the conduct of elections in New Mexico, then the secretary of state shall prescribe by [regulation] rule promulgated under the provisions of the State Rules Act specifications for internal computers designed for the purpose of providing for a system of recording and tabulating votes within polling places. The prescribed specifications shall have as their purpose securing the secrecy of the ballot, protecting against fraud in the voting process, preserving in all respects the purity of elections,

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1 facilitating voting by the voters of this state and carrying

2 out the provisions of the Election Code with respect to the

3 administration of the conduct of elections in New Mexico."

4   Section 10.   Section 1-9-15 NMSA 1978 (being Laws 1985,

5 Chapter 207, Section 14, as amended) is amended to read:

6   "1-9-15.   ELECTRONIC VOTING [MACHINES] SYSTEMS--RECORDING

7 AND TABULATING VOTING [MACHINES] SYSTEMS--STANDARDS.--

8   A.   Electronic recording and tabulating voting

9 [machines] systems, as tested and approved by the secretary of

10 state pursuant to the provisions of Section 1-9-14 NMSA 1978,

11 may be used in any election for public office in New Mexico.

12   B.   The electronic recording and tabulating voting

13 [machines] systems shall meet the following standards:

14   (1)   the [machine] system shall be an

15 electronic computer-controlled voting [machine] system which

16 provides for direct electronic recording and tabulating of

17 votes cast;

18   (2)   the operating system software, firmware,

19 of the [machine] system shall be stored in [a] nonvolatile

20 memory [firmware] and shall include internal quality checks

21 such as purity or error detection and correction codes.   The

22 firmware shall include comprehensive diagnostics to [insure]

23 ensure that failures do not go undetected;

24   (3)   the [machine] system shall have a battery

25 back-up system that will, as a minimum, retain voter

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1   information and be capable of retaining and restoring processor

2   operating parameters in the event of power failures;

3   (4)   the [machine] system shall have, as a

4   standard or as an option, software and hardware provisions for

5   remote transmission of election results to a central location

6   [by a common carrier such as telephone networks];

7   (5)   subsistence, such as printer, power

8   sources, microprocessor, switch and indicator matrices, shall

9   be modular and pluggable.   Electronic components shall be

10   mounted on printed circuit boards;

11   (6)   the [machine] system shall be supplied

12   with a dust- and moisture-proof cover for transportation and

13   storage purposes;

14   (7)   the [machine] system shall be able to

15   operate in a temperature range of fifty degrees Fahrenheit to

16   ninety degrees Fahrenheit;

17   (8)   the [machine] system shall have a

18   temperature range for storage of zero degrees Fahrenheit to one

19   hundred twenty degrees Fahrenheit;

20   (9)   the [machine] system shall have an

21   operating and storage humidity range of thirty percent to

22   eighty percent noncondensing;

23   (10)   the [machine] system shall be able to

24   accept line voltage of 115 VAC $\pm$ 15 percent, 60 HZ;

25   (11)   the [machine] system shall be able to

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1   record and document the total time polls are open at a precinct

2   location;

3   (12)   the [machine] system shall prevent any

4   voter from selecting more than the allowable number of

5   candidates for any office and shall preclude overvoting;

6   (13)   the [machine] system shall be capable of

7   operating continuously for a minimum time period of sixteen

8   hours without external power (115 VAC);

9   (14)   the tabulation of votes on the [machine]

10   system shall be stored, ballot by ballot, in three or more

11   memory locations on separate integrated circuit chips and shall

12   be electronically compared throughout the election. Any

13   differences between votes tabulated and votes stored in [such]

14   multiple storage locations shall be detected immediately and

15   generate an error message defining required maintenance on the

16   electronic voting [machine] system before it can continue to be

17   used in the election;

18   (15)   the [machine] system shall contain the

19   entire ballot which shall be placed on the face of the machine

20   and shall be visible to the voter on a single page;

21   (16)   the [machine] system shall have a privacy

22   booth in which the voter casts his vote, and the privacy booth

23   shall be an integral part of the [machine] system; and

24   (17)   the [machine] system shall be designed to

25   meet the needs of physically disabled voters with or without

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1   adjustment of the unit by poll workers.

2   C.   In determining compliance with the standards set

3   forth in Subsection B of this section, the qualification test

4   report made pursuant to the performance and test standards of

5   the federal election commission shall be considered in so far

6   as it is applicable."

7   Section 11.   Section 1-9-16 NMSA 1978 (being Laws 1985,

8   Chapter 207, Section 15, as amended) is amended to read:

9   "1-9-16.   ELECTRONIC VOTING [MACHINES] SYSTEMS--VOTE

10   TABULATING [MACHINES] SYSTEMS--STANDARDS.--

11   A.   Electronic vote tabulating [machines] systems,

12   as tested and approved by the secretary of state pursuant to

13   the provisions of Section 1-9-14 NMSA 1978, may be used in any

14   election for public office in New Mexico for the purpose of

15   tabulating ballots.

16   B.   The electronic vote tabulating [machines]

17   systems shall meet the following standards:

18   (1)   the machine shall be an electronic

19   computer-controlled voting [machine] system which provides for

20   the direct electronic tabulation of votes cast;

21   (2)   the operating software of the vote

22   tabulating [machine] system shall be stored in a nonvolatile

23   memory (firmware) and shall include internal quality checks

24   such as purity or error detection and correction codes.   The

25   firmware shall include comprehensive diagnostics to [insure]

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ensure that failures do not go undetected;

(3) the [machine] system shall have a battery back-up [system] that will, as a minimum, retain voter information and be capable of retaining and restoring processor operating parameters in the event of power failures;

(4) the [machine] system shall provide alphanumeric printouts of the vote totals by legislative district at the closing of the polls;

(5) the [machine] system shall have, as a standard or as an option, software and hardware provisions for remote transmission of election results to a central location [by common carriers such as telephone networks];

(6) subsistence, such as printer, power sources, microprocessor, switch and indicator matrices, shall be modular and pluggable. Electronic components shall be mounted on printed circuit boards;

(7) the [machine] system shall be supplied with a dust- and moisture-proof cover for transportation and storage purposes;

(8) the [machine] system shall be able to operate in a temperature range of fifty degrees Fahrenheit to ninety degrees Fahrenheit;

(9) the [machine] system shall have a temperature range for storage of zero degrees Fahrenheit to one hundred twenty degrees Fahrenheit;

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1   (10)   the [machine] system shall have an

2   operating and storage humidity of thirty percent to eighty

3   percent noncondensing;

4   (11)   the [machine] system shall accept a line

5   voltage of 115 VAC $\pm$ 15 percent, 60 HZ;

6   (12)   the [machine] system memory pack shall be

7   able to accept over one thousand five hundred voting positions

8   and tabulate over sixty-five thousand votes for each position;

9   (13)   the [machine] system shall accept a

10   ballot inserted in any orientation and one which is a minimum

11   six inches wide and a maximum twenty-four inches long, in dual

12   [column] columns and printed on both sides. The ballot should

13   be able to hold a maximum of five hundred twenty candidate

14   positions;

15   (14)   the [machine] system shall recognize all

16   errors and be able to reject or return the errant ballot. The

17   tabulator shall automatically be able to detect an overvoted

18   ballot;

19   (15)   the [machine] system shall contain an RS-

20   232 data communications capability to transmit totals [over

21   regular voice-grade telephone lines];

22   (16)   the [machine] system shall contain a

23   public display counter to record the number of ballots

24   processed; and

25   (17)   the [machine] system should be

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1   programmable with control cards.

2   C.   In determining compliance with the standards set

3   forth in Subsection B of this section, the qualification test

4   report made pursuant to the performance and test standards of

5   the federal election commission shall be considered in so far

6   as it is applicable."

7   Section 12.   Section 1-9-17 NMSA 1978 (being Laws 1985,

8   Chapter 207, Section 16, as amended) is amended to read:

9   "1-9-17.   ELECTRONIC VOTING [MACHINES] SYSTEMS--BOARD OF

10   FINANCE--LEASE-PURCHASE CONTRACT--TERMS.--

11   A.   The state board of finance shall execute a

12   lease-purchase contract with the county for purchase of

13   electronic voting [machines] systems and the necessary support

14   equipment upon receipt of the application of the board of

15   county commissioners.

16   B.   The lease-purchase contract shall include, but

17   not be limited to, the following terms:

18   (1)   the county agrees to purchase from the

19   state board of finance the specified number of electronic

20   voting [machines] systems and the necessary support equipment;

21   (2)   the county will pay for the cost of such

22   [machines] systems and support equipment, including

23   reimbursement for costs of transportation;

24   (3)   the term of the lease-purchase contract

25   shall not exceed twenty years;

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1   (4)   the care, custody and maintenance of [such

2   machines] the systems and support equipment is the

3   responsibility of the county clerk; and

4   (5)   upon good cause shown, the terms of the

5   lease-purchase contract may, at any time, be renegotiated."

6   Section 13.   Section 1-9-18 NMSA 1978 (being Laws 1985,

7   Chapter 207, Section 17) is amended to read:

8   "1-9-18.   ELECTRONIC VOTING [MACHINES] SYSTEMS--METHOD OF

9   PAYMENT BY COUNTIES.--

10   A.   The department of finance and administration and

11   the board of county commissioners shall budget annually for as

12   many years as may be necessary from county funds in each county

13   acquiring electronic voting [machines] systems and support

14   equipment an amount sufficient to enable the county to pay to

15   the state board of finance installment payments required to be

16   paid under the terms of the lease-purchase contract.

17   B.   The board of county commissioners of each county

18   having a lease-purchase contract with the state board of

19   finance shall pay such payments, at the times and in the

20   amounts as provided by the terms of the lease-purchase

21   contract.   The state board of finance shall deposit the

22   payments into the severance tax bonding fund if the electronic

23   voting [machines] systems and support equipment were originally

24   purchased with severance tax bond proceeds.   The state board of

25   finance shall deposit the payments into the electronic voting

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1 [machine] system revolving fund if the electronic voting

2 [machines] systems were originally purchased with money from

3 the electronic voting [machine] system revolving fund."

4   Section 14. Section 1-9-19 NMSA 1978 (being Laws 1985,

5 Chapter 207, Section 18) is amended to read:

6   "1-9-19. ELECTRONIC VOTING [MACHINE] SYSTEM REVOLVING

7 FUND.--The "electronic voting [machine] system revolving fund"

8 is created. The electronic voting [machine] system revolving

9 fund may be used to finance, by contract, the purchase of

10 electronic voting [machines] systems and necessary support

11 equipment under the conditions stated in Section 1-9-17 NMSA

12 1978. The electronic voting [machine] system revolving fund

13 may be expended upon vouchers signed by the secretary of

14 finance and administration. If at the end of the fiscal year

15 the electronic voting [machine] system revolving fund exceeds

16 [two million dollars ($2,000,000)] four million dollars

17 ($4,000,000), the amount in excess of [two million dollars

18 ($2,000,000)] four million dollars ($4,000,000) shall revert to

19 the general fund."

20   Section 15. A new section of the Election Code is enacted

21 to read:

22   "[NEW MATERIAL] TOUCH-SCREEN DIRECT RECORDING ELECTRONIC

23 VOTING SYSTEMS--STANDARDS.--

24   A. A touch-screen direct recording electronic

25 voting system, as approved by the secretary of state, may be

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1   used in any election for public office in New Mexico.   As used

2   in this section, "system" means touch-screen direct recording

3   electronic voting system.

4   B.   The system shall:

5   (1)   meet performance and test standards of the

6   federal election commission;

7   (2)   be an electronic computer-controlled

8   voting system that provides for direct recording and tabulating

9   of votes cast;

10   (3)   have internal operating system software,

11   firmware, that:

12   (a)   is specifically designed and

13   engineered for the election application;

14   (b)   is contained within each touch-

15   screen voting device;

16   (c)   is stored in a nonvolatile memory

17   within each terminal;

18   (d)   includes internal quality checks

19   such as purity or error detection and correction codes; and

20   (e)   shall include comprehensive

21   diagnostics to ensure that failures do not go undetected;

22   (4)   have a battery back-up system that will,

23   at a minimum, allow voting to continue uninterrupted for two

24   hours without external power;

25   (5)   have an internal audit trail system such

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1 that all pre-election, election day and post-election events,

2 including all random ballot images system anomalies, shall be

3 stored, recorded and recovered in an easy to read printed form

4 and be retained within at least three independent memories that

5 do not require any type of external alternating current or

6 direct current battery power for memory retention;

7   (6)   along with any and all activating and vote

8 recording devices and components, have a unique embedded

9 internal serial number for audit purposes;

10   (7)   be a stand-alone, non-networked election

11 system such that all pre-election, election day and

12 post-election events and activities, including any and all

13 entered votes, are directly entered, recorded and retained in

14 each device in multiple memory locations within the device;

15   (8)   for security purposes, along with each

16 associated activating and recording device and component,

17 employ a unique, electronically implanted election specific

18 internal security code such that the absence of such code

19 prevents substitution of any unauthorized system or related

20 component;

21   (9)   be designed to accept challenged or fail-

22 safe ballots and allow voters to choose their ballot language

23 directly on the system;

24   (10)   be designed to accommodate the maximum

25 number of ballot styles or ballot variations encountered in the

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largest New Mexico election jurisdiction;

(11)   employ scalable technology allowing easy enhancements that meet federal election commission standards and can take advantage of new election technology such as larger touch-screens, optional touch-screen types, expandable memory, modem transmission of election results, ballot activation from automated voter registration systems and internet communication capabilities;

(12)   have electronic components mounted on printed circuit boards and subsistence, such as printer, power sources, microprocessor, switch and indicator matrices modular and pluggable;

(13)   have a realtime clock capable of recording and documenting the total time polls are open in a precinct and capable of documenting the opening and closing of polls;

(14)   prevent any voter from selecting more than the allowable number of candidates for any office to prevent overvoting, be able to alert the voter on a message screen if the voter attempts to overvote and inform the voter of any necessary corrective action;

(15)   present the entire ballot to the voter in a series of sequential pages that include methods to ensure the voter sees all ballot options on all pages before completing his vote and allow the voter to review all ballot choices

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before casting his ballot;

(16) have as an integral part of the system a privacy curtain within which the voter casts his vote;

(17) have a color touch-screen that is at least fifteen inches in diagonal measure; and

(18) be able to accommodate a wheelchair voter without intervention of the poll worker other than a minor adjustment such as the angle of the display, and the voter must be able to vote in a face-first position so that privacy is maintained with the ballot surface adjusted to a vertical position.

C. If the net weight of the system, or aggregate of voting device parts, is over twenty pounds, the system shall have self-contained wheels so that the system can be easily rolled by one person on rough pavement and can roll through a standard thirty-inch door frame.

D. The device that is used by the poll worker to activate the system for each individual voter shall be a credit-card size "smart card" type of device. The poll worker shall be able to activate the card at the poll table with an activation device and hand the card to the voter to use on any open voting system. The card shall be rendered unusable by the voting system after the voter has cast a ballot. The system must be compatible with the voter registration system, so that the precinct and party information for a specific voter can be

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1 transferred to the system automatically and transferred to the

2 smart card without poll-worker data entry.   There shall be a

3 manual solution available in the event the smart card

4 activation device, or the smart card reading unit on the

5 machine, fails.

6   E.   Each system shall be able to print an

7 alphanumeric printout of the contest, candidates, position

8 numbers and vote totals when the polls are open so that the

9 poll workers can verify that the counters for each candidate

10 are on zero.   At the close of the polls, the system shall be

11 able to print out in the same format the results of the

12 election.   These printouts shall contain the system serial

13 number, the public counter total and the protective counter

14 number.   The poll worker must be able to request as many copies

15 as necessary by state law.   The system shall include an

16 optional feature to allow reports to be sent to a printer, to

17 the screen or to a file.

18   F.   The system central processing unit must be

19 designed so that no executable code can be launched from random

20 access memory.   If the operating system is open or widely used,

21 it must be an embedded system.

22   G.   The system shall have a mandatory pre-election

23 testing of the ballot control logic and accuracy.   The logic

24 and accuracy test results must be stored into the memory of the

25 main processor (central processing unit) and into the same

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1   programmable memory device that is used on election day for

2   future reference.   This should be stored by vote total

3   summaries and by each individual ballot image randomly.   The

4   system must be capable of printing a zero-results printout

5   prior to these tests and a results printout after the test.

6   H.   The system shall provide an electronic,

7   redundant storage of both the vote totals and the randomized

8   individual ballot images.

9   I.   The system shall allow a comparison of the

10   multiple locations of totals and ballot images to detect any

11   errors or discrepancies.   In the event of a data discrepancy,

12   an appropriate error message shall be displayed in a text

13   format, in order to either correct the data error or prohibit

14   voting from continuing.

15   J.   The system shall have a programmable memory

16   device that plugs into the system.   This programmable memory

17   device shall contain the ballot control information, the

18   summary vote totals, maintenance log, operator log and the

19   randomized ballot images.

20   K.   The system shall maintain all vote totals,

21   public counter totals, audit trail ballot images, protective

22   counter totals and the internal clock time in both the main

23   memory and the removable programmable memory devices in the

24   event the main power and battery back-up power fail.

25   L.   The system shall have a self-contained, internal

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1 back-up battery that powers all components of the system that

2 are powered by alternating current power. In the event of a

3 power outage in the precinct the self-contained, internal back-

4 up battery power shall engage with no disruption of operation

5 or loss of data. The system shall maintain all vote totals,

6 public counter totals, audit trail ballot images, protective

7 counter totals and the internal clock time in both the main

8 memory and the removable programmable memory devices in the

9 event the main power and battery back-up power fail.

10   M.   The system software shall be able to:

11   (1)   run in a networked or stand-alone

12 environment;

13   (2)   support absentee in-person voting;

14   (3)   collect and keep separate the absentee in-

15 person vote totals by day collected, by machine, by legislative

16 district and by site; and

17   (4)   collect statistical data such as turnout

18 so that it is available by date and site.

19   Section 16.   REPEAL.--Sections 1-9-3, 1-9-4 and 1-9-10

20 NMSA 1978 (being Laws 1969, Chapter 240, Sections 186, 187 and

21 193, as amended) are repealed.

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