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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08

SPONSOR McSorley LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Post Election Voting System Evaluation SB 318

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB113 and HB237

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Attorney General's Office (AGO)  
 Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 318 would amend the Audit Act (NMSA Section 12-6-1 et seq.) and the Election Code (Article 1, Chapter 1 NMSA 1978) to require the State Auditor, for each general election, to contract with an "election auditor" to oversee a random voting system check of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators for certain statewide and federal offices. The bill provides for random selection of samples of those tabulators. The bill repeals NMSA Section 1-14-13.1 of the Election Code which currently provides for examining and comparing votes tallied in certain elections.

The election auditor would be required to notify county clerks which tabulators are to be examined, and the clerks would be required to compare hand counted vote totals for candidates for selected offices with the respective vote totals from the electronic tabulators.

The bill sets forth additional procedures for verifying the vote counting of absentee ballots by the electronic tabulators.

The bill allows county vote canvass observers to observe the hand recounts required by the bill.

All costs of a random voting system check shall be paid by the state. The Secretary of State shall reimburse a county for expenses incurred in conducting a random voting system check.

### **FISCAL IMPLICATIONS**

The appropriation of \$100 thousand contained in this bill is a RECURRING expense to the GENERAL FUND. Any unexpended or unencumbered balance remaining at the end of FISCAL YEAR 2009 shall revert to the GENERAL FUND.

The appropriation is the Secretary of State to reimburse counties for the costs incurred in conducting automatic recounts.

### **SIGNIFICANT ISSUES**

Current law, explains the Attorney General's Office, requires the Secretary of State to direct county clerks to compare electronic vote tabulations from a certain percentage of voting systems used in the general election for president or governor with total votes counted by hand from the paper trail from those systems. NMSA Section 1-14-13.1 (1978). This bill would repeal that section, and replace it with the sections described above generally transferring responsibility for vote verification from the Secretary of State to the State Auditor.

### **ADMINISTRATIVE IMPLICATIONS**

According to the Secretary of State, "the methodology advanced in this bill will save precious resources and time in the post-election period by focusing on those races where the margin is tight and scrutiny is warranted."

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to House Bill 237, which provides for automatic recounts of certain elections; provides for recount and recheck procedures; amending, repealing and enacting sections of the election code.

Relates to House Bill 113, which appropriates \$500 thousand from the GENERAL FUND to the automatic recount fund, which is a new fund, for the purpose of reimbursing counties for expenses incurred in conducting automatic recounts with money from the "Automatic Recount Fund."

### **TECHNICAL ISSUES**

The Attorney General's Office suggests that Section D be broken into subsections to make it more understandable as election recounts can be heated matters. Therefore a statute dealing with voting accuracy needs to be plainly written for lay people to understand.

EO/bb