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FISCAL IMPACT REPORT

SPONSOR Fox-Young DATE TYPED 1/25/05 HB 26

SHORT TITLE Additional Voting System Testing 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
Secretary of State

Responses Received From
Secretary of State

SUMMARY

Synopsis of Bill

House Bill 26 amends the Election Code with a provision to allow for the testing of voting systems by an independent technician prior to the certification of voting systems for use in an election. Under House Bill 26, county and state political party chairpersons may request an independent test and the county clerk is required to comply with the request. The requested test could be conducted up to three days prior to the county clerks' testing and certification of voting systems for use in an election.

With respect to the manner of preparing voting machines, House Bill 26 also amends the Election Code to require that, in addition to county party chairpersons and the Secretary of State, the county clerks certify the type and serial number of each voting machine intended to be used in each precinct by precinct number to all state political party chairpersons.

House Bill 26 also clarifies the requirement that all voting machine counters be tested for accuracy and that all voting machine counters be reset at zero immediately before the voting machine

is sealed.

Significant Issues

House Bill 26 does not specify how an independent technician would be selected to test the voting systems. If the independent technician is selected by a party chairperson and a different technician is the choice of another party chairperson, there exists the potential for conflict. Likewise, if the Secretary of State is to select or approve of an independent technician, the independent testing would cease to be purely independent.

TECHNICAL ISSUES

The bill does not contain provisions for the qualifications of the independent technician or the independent technician's certification in the operation, testing and use of voting machine systems.

OTHER SUBSTANTIVE ISSUES

According to the Secretary of State:

“As articulated in Section 1-9-2 NMSA 1978:

- (1) The Secretary of State is prohibited by law from using voting machine systems that do not meet federal elections standards, conform to state technology rules, standards and practices and be tested by an independent authority.
- (2) Upon receipt of the report from the independent testing authority, the Secretary of State shall examine 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.

What if an “independent technician” disables a voting machine system three days before a county technician is to certify the system?

In many precincts, it may be in the best interest of a party chairperson to hire an independent technician to disable a voting machine system shortly before county certification enabling the ability for sabotage and subjective tampering to stall, if not omit the use of the machine in the election.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The use of existing practices and procedures will continue.

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