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## FISCAL IMPACT REPORT

**SPONSOR** HVEC                      **DATE TYPED** 3/9/05                      **HB** 1103/HVECS

**SHORT TITLE** Voting System Purchase Moratorium                      **SB** \_\_\_\_\_

(Public Peace, Health, Safety and Welfare)                      **ANALYST** Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring Or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(\$9,000.0)		Non-Recurring	Federal HAVA Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to the Election Code  
 Conflicts with the federal Help America Vote Act (HAVA)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Secretary of State

### SUMMARY

#### Synopsis of Bill

House Voters and Elections Committee Substitute for House Bill 1103 enacts a moratorium on the acquisition of voting systems that do not provide a voter verifiable and auditable paper trail by the state and its political subdivisions. The bill further requires the Legislative Council to re-

quest the appropriate legislative interim committee or task force to report with recommendations to the Legislature on voting system issues, including voting system security, cost, reliability, and ease of use and accuracy by December 15, 2005.

### Significant Issues

This moratorium conflicts with the provisions of the federal Help America Vote Act of 2002 (HAVA). The Secretary of State notes the following significant issues as they relate to this conflict:

- Federal Help America Vote Act of 2002 (HAVA) funds for the purchase of HAVA compliant voting systems must be expended before January 1, 2006 or the money will revert back to the federal government. The Secretary of State has approximately \$9 million dollars left in the HAVA account earmarked for the purchase of voting machines. Imposing a moratorium of March 1, 2006 will result in the federal HAVA money reverting.
- The National Association of State Election Directors (NASED) is reviewing and revising HAVA-compliant voting system standards. The new NASED voting system standards will not be released until June 2005. This gives the Secretary of State little time to certify one or more of these systems for use in New Mexico by the January 1, 2006 HAVA deadline. It is uncertain if the June NASED certification report of certified acceptable voting systems will include those systems with a voter verified paper audit trail.
- HAVA provisions require at least one HAVA-compliant voting system be available for use in every precinct in New Mexico by January 1, 2006. This means the HAVA compliant machines need to be purchased well before this date.

### **FISCAL IMPLICATIONS**

The General Appropriation Act of 2005 sets a budget of \$13.5 million in federal funds for expenditure by the Secretary of State on HAVA-mandates, including the purchase of updated voting machines.

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

The HAVA mandates that all funds disbursed by the federal government to the states for compliance with the Act be expended by January 1, 2006, two months prior to the date of the proposed moratorium.

### **ALTERNATIVES**

The Secretary of State recommends the following amendment as a safeguard to protect the HAVA funds available for the purchase of voting machines subject to the federal Americans With Disabilities Act:

“On Page 1, Line 20, after the period insert a new sentence to read:

‘Provided, however, that voting systems purchased in New Mexico under the provisions of the federal Help America Vote Act to assist voters subject to the provisions of the federal American Disabilities Act are not subject to this Act.’”

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

The Secretary of State's federal HAVA funds will not be in jeopardy of reverting to the federal treasury.

**POSSIBLE QUESTIONS**

Does the Help America Vote Act include any provisions requiring voting machines that provide a voter verifiable and auditable paper trail?

**DXM/njw**