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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Voting System Audits & Accuracy SB 179

ANALYST Ortiz/Baca

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

No response received from the Secretary of state

SUMMARY

Synopsis of Bill

Senate Bill 179 appropriates no dollar amount but states that all costs for a random voting system check shall be paid by the state.

The bill creates an election commission, which would be administratively attached to the Secretary of State. A new section of the Election Code is enacted and provides that the commission shall promulgate rules necessary for random voting system checks, oversee random voting system checks and establish standards and procedures to ensure the reliability of the random checks. The commission, post-election, shall oversee a random check of precinct and alternate voting location vote tabulators

FISCAL IMPLICATIONS

The bill contains no appropriation but its implementation may entail indeterminate costs in addition to expenditures for post-election activities currently implemented by the Secretary of State. Costs would include per diem, audits and contractual services related to statistical analyses and other technical services

SIGNIFICANT ISSUES

Technological changes and expectations of accuracy in reporting results of votes cast have awakened an interest in and a distrust of the processes being used to determine the winners and losers in elections at all levels: local, state and national. This sensitivity to the veracity of voting results, or lack thereof, was heightened following the presidential election of 2000 and led the federal government to enact laws intended to improve the elections process and to allay public skepticism and discontent. Several states followed suit in an effort to restore public confidence in the process, New Mexico being among them. These efforts may be categorized as election reforms.

ADMINISTRATIVE IMPLICATIONS

Duties have been added to the Secretary of State. It is unknown what the additional costs may be, and an appropriation may become necessary in the future.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None detected.

TECHNICAL ISSUES

None detected.

OTHER SUBSTANTIVE ISSUES

The “Election Commission” created by SB 179 is administratively attached to the Office of the Secretary of State. The commission is to be composed of the following members:

- (1) the director of the bureau of elections, who shall serve as chair of the commission;
- (2) the attorney general or the attorney general's designee;
- (3) the state auditor or the state auditor's designee; and
- (4) three public members appointed by the governor and confirmed by the senate, one of whom is an expert in statistics and two of whom represent different nonpartisan voter information or voter education organizations.

“Public members shall serve for terms of four years, beginning January 1, 2008, and may be removed by the governor only for malfeasance, misfeasance or neglect of duty. Vacancies shall be filled by appointment of the governor for the remainder of the unexpired term.”

The bill requires the Secretary of State provide the commission with staff, record keeping and related administrative and clerical assistance as necessary.

The commission’s duties include;

- 1) promulgating rules necessary for carrying out random voting system checks in accordance with provisions of the Election Code;
- (2) overseeing random voting system checks following general elections in accordance with the provisions of Sections 3 and 4 of this 2007 act; and

- (3) establishing standards and procedures to ensure the reliability and integrity of random voting system checks.

The commission may request expert technical advice and contract with public or private universities for statistical analyses and other technical services.

SB 179 prescribes the commissions post general election duties which include overseeing a random voting system check of precinct electronic tabulators, alternate voting locations and absent voter precinct electronic tabulators with the random checks having at least a ninety percent probability for statewide races.

Additional duties include requesting the state canvassing board direct random checks by the state's county clerks, one of the checks being to compare the vote totals of selected candidates from a hand recount of a proportionate number paper ballots from randomly selected absent voter precincts. For purposes of the bill, "selected offices" means the offices of governor or president, the statewide elective office for which the winning candidate won by the narrowest margin of all candidates for statewide elective office and the federal elective office for which the winning candidate won by the narrowest margin of all federal candidates for federal office in New Mexico.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Post election audit and recount activities will continue to be conducted pursuant to the provision of 14-13.1 NMSA 1978

EO-LRB/csd