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FISCAL IMPACT REPORT

SPONSOR King **ORIGINAL DATE** 1/21/08 221/aHVEC/aSFI#1
LAST UPDATED 2/14/08 **HB** /aCC
SHORT TITLE Allow Electronic Voting System Negotiations **SB** _____
ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$1,268.6	\$1,268.6	\$2,537.2	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB517

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

Association of County Clerks (ACC)

SUMMARY

Synopsis of CC#1 Amendment

Conference Committee Amendment 1 approves HVEC amendment that allows the State Board of Finance to dispose of electronic voting systems acquired pursuant to the law. It disapproves the Senate Floor amendment and enacts a new section that requires the state to pay all voting systems software and hardware maintenance costs regardless if the system is state or county-owned; it requires the counties to both store and pay storage costs for the voting systems regardless if the system is state or county-owned. It also amends Section 1-9-12 NMSA 1978, Care and Custody of Systems, to clarify that it is the county clerk's responsibility to properly

store and transport voting systems to and from polling places. It further states that the county clerk be responsible for the keys, seals and programming of all voting systems in the custody of the county.

Synopsis of SFI#1 Amendment

Senate Floor Amendment 1 to HVEC amendment to House Bill 221 enacts a new section to the election code that would not allow the state to transfer ownership of the paper ballot voting systems it purchased to the counties without permission from each of the board of county commissioners. It also requires the state to provide maintenance on its state-owned paper ballot voting systems. The counties shall store the voting systems pursuant to guidelines issued by the Secretary of State.

Synopsis of HVEC Amendment

House Voters and Elections Committee Amendment 1, revises language in Subsection C, which is at the end of the bill, to say that the State Board of Finance may dispose of electronic voting systems acquired pursuant to the law. In the original bill, instead of pursuant to the law, it was pursuant to “this subsection in any manner that is consistent with the interests of the state.”

Synopsis of Original Bill

House Bill 221 amends Section 1-9-17 to permit the State Board of Finance and counties to renegotiate their lease-purchase contracts on electronic voting machines and thus impact the disposition of the machines. The bill states: “Upon the transfer of ownership in the electronic voting systems to the state board of finance, the contract shall be terminated and no additional payments from the county shall be due.”

FISCAL IMPLICATIONS

Documents submitted by the Secretary of State indicate that there are three pieces of paper ballot voting equipment that need to be covered by maintenance agreements; the M100, which reads the paper ballots; the Automark, which make voting ADA compliant; and the M650, which counts the ballots. The attached spreadsheet lists by county the maintenance cost for the paper ballot voting systems. The Secretary of State estimates that the hardware and software warranty agreement on the voting systems would be \$1.3 million annually. The Secretary of State also suggests including an emergency clause in the bill, which would allow it to cover maintenance costs that may be need for the June primary. If the bill does not pass, counties may look to BOF for a loan.

SIGNIFICANT ISSUES

As a point of clarification, this bill and its Senate Floor amendment address two sets of voting systems. First, are touch screen machines currently owned by the State Board of Finance and purchased through the Electronic Voting System Revolving Fund, which are referenced in the originally introduced bill. Second, are the paper ballot systems currently owned by the Secretary of State and referenced in the Senate Floor amendment.

The Attorney General's Office questions if under the amendment, the State Board of Finance will have to pay maintenance fees? Is this consistent with Section 1-9-17(B) (4)? What if in the future a county enters into a lease purchase agreement with the Board of Finance for additional paper ballot machines? Who is responsible then?

Prior to 2006, many counties entered into lease-purchase agreements with the State Board of Finance on touch screen voting machines. Under Section 1-9-17(B), the counties agree to own the machines upon completion of several lease payments to the Board of Finance. However, the 2006 Legislature effectively banned the use of touch screen voting machines in New Mexico. This meant several counties still owed payment on these machines, but could no longer use them in elections and did not have ownership rights to sell them.

It is unclear whether House Bill 221 is meant to address this situation. The bill refers to "transfer of ownership" to the State Board of Finance but the counties have been paying "lease" payments in order to purchase these machines and get full ownership of the machines. Why would ownership be transferred to the State Board of Finance now? If so, does "transfer of ownership" mean that "no additional payments from the county" shall be due?

The Senate Floor Amendment also addresses ownership and maintenance of the paper ballot voting systems. It would allow counties to refuse to take ownership (and thus not pay the maintenance fees) for voting machines. The counties have traditionally had to purchase voting machines (via lease purchase agreements from the State Board of Finance) and pay the fees under Section 1-9-17.

However, in 2006, the legislature authorized the Secretary of State's office to purchase paper-ballot machines. Whether the legislature's appropriation for this project also included on-going maintenance fees for the machines is unclear. It does appear, however, that the current Secretary of State and the county clerks do not have budgets for on-going maintenance fees.

POSSIBLE QUESTIONS

The bill refers to "transfer of ownership" to the State Board of Finance but the counties have been paying "lease" payments in order to purchase these machines and get full ownership of the machines. Why would ownership be transferred to the State Board of Finance now? If so, does "transfer of ownership" mean that "no additional payments from the county" shall be due?

EO/mt:bb

Summary of Verified County Inventory

County	Quantity M-100	Cost \$195 per M-100 Hardware	Cost \$60 per M-100 Firmware	Quantity Automark	Cost \$280 per Automark Hardware	Cost \$60 per Automark Firmware	650	Cost \$2,600 per 650 Hardware	Cost \$350 per 650 Firmware	TOTAL
Bernalillo	508	\$99,060.00	\$30,480.00	435	\$121,800.00	\$26,100.00	2	\$5,200.00	\$700.00	\$283,340.00
Catron	12	\$2,340.00	\$720.00	10	\$2,800.00	\$600.00				\$6,460.00
Chavez	59	\$11,505.00	\$3,540.00	53	\$14,840.00	\$3,180.00				\$33,065.00
Cibola	33	\$6,435.00	\$1,980.00	33	\$9,240.00	\$1,980.00				\$19,635.00
Colfax	25	\$4,875.00	\$1,500.00	21	\$5,880.00	\$1,260.00				\$13,515.00
Curry	44	\$8,580.00	\$2,640.00	38	\$10,640.00	\$2,280.00				\$24,140.00
DeBaca	8	\$1,560.00	\$480.00	5	\$1,400.00	\$300.00				\$3,740.00
Dona Ana	129	\$25,155.00	\$7,740.00	110	\$30,800.00	\$6,600.00	1	\$2,600.00	\$350.00	\$73,245.00
Eddy	51	\$9,945.00	\$3,060.00	44	\$12,320.00	\$2,640.00				\$27,965.00
Grant	43	\$8,385.00	\$2,580.00	38	\$10,640.00	\$2,280.00				\$23,885.00
Guadalupe	9	\$1,755.00	\$540.00	6	\$1,680.00	\$360.00				\$4,335.00
Harding	7	\$1,365.00	\$420.00	4	\$1,120.00	\$240.00				\$3,145.00
Hidalgo	10	\$1,950.00	\$600.00	8	\$2,240.00	\$480.00				\$5,270.00
Lea	54	\$10,530.00	\$3,240.00	47	\$13,160.00	\$2,820.00				\$29,750.00
Lincoln	28	\$5,460.00	\$1,680.00	22	\$6,160.00	\$1,320.00				\$14,620.00
Los Alamos	29	\$5,655.00	\$1,740.00	23	\$6,440.00	\$1,380.00				\$15,215.00
Luna	21	\$4,095.00	\$1,260.00	15	\$4,200.00	\$900.00				\$10,455.00
McKinley	84	\$16,380.00	\$5,040.00	75	\$21,000.00	\$4,500.00				\$46,920.00
Mora	15	\$2,925.00	\$900.00	12	\$3,360.00	\$720.00				\$7,905.00
Otero	53	\$10,335.00	\$3,180.00	46	\$12,880.00	\$2,760.00				\$29,155.00
Quay	22	\$4,290.00	\$1,320.00	19	\$5,320.00	\$1,140.00				\$12,070.00
Rio Arriba	54	\$10,530.00	\$3,240.00	45	\$12,600.00	\$2,700.00				\$29,070.00
Roosevelt	29	\$5,655.00	\$1,740.00	25	\$7,000.00	\$1,500.00				\$15,895.00
San Juan	89	\$17,355.00	\$5,340.00	79	\$22,120.00	\$4,740.00	1	\$2,600.00	\$350.00	\$52,505.00
San Miquel	39	\$7,605.00	\$2,340.00	35	\$9,800.00	\$2,100.00				\$21,845.00
Sandoval	88	\$17,160.00	\$5,280.00	79	\$22,120.00	\$4,740.00	1	\$2,600.00	\$350.00	\$52,250.00
Santa Fe	109	\$21,255.00	\$6,540.00	94	\$26,320.00	\$5,640.00	1	\$2,600.00	\$350.00	\$62,705.00
Sierra	18	\$3,510.00	\$1,080.00	14	\$3,920.00	\$840.00				\$9,350.00
Socorro	33	\$6,435.00	\$1,980.00	29	\$8,120.00	\$1,740.00				\$18,275.00
Taos	46	\$8,970.00	\$2,760.00	39	\$10,920.00	\$2,340.00				\$24,990.00
Torrance	19	\$3,705.00	\$1,140.00	18	\$5,040.00	\$1,080.00				\$10,965.00
Union	14	\$2,730.00	\$840.00	10	\$2,800.00	\$600.00				\$6,970.00

Summary of Verified County Inventory

Valencia	43	\$8,385.00	\$2,580.00	41	\$11,480.00	\$2,460.00	1	\$2,600.00	\$350.00	\$27,855.00
SOS	80	\$15,600.00	\$4,800.00	8	\$2,240.00	\$480.00				\$23,120.00
	1905	\$371,475.00	\$114,300.00	1580	\$442,400.00	\$94,800.00	7	\$18,200.00	\$2,450.00	\$1,043,625.00
Cost of Software Maintenance and Support Fees for Entire State Inventory of Voting Machines:										\$225,000.00
Annual Grand Total:										\$1,268,625.00