F I S C A L   I M P A C T   R E P O R T

SPONSOR King	**ORIGINAL DATE** 02/23/09 **LAST UPDATED**	**HB**	838
SHORT TITLE Voting System Storage		**SB**	
	ANALYST	Ortiz	

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	**FY10**		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to HB698

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	**FY10**	**FY11**	**3 Year Total Cost**	**Recurring or Non-Rec**	**Fund Affected**
Total		$665.0				

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Secretary of State (SOS)
New Mexico County Clerks Affiliate (CCA)

SUMMARY

Synopsis of Bill

House Bill 838 amends current statute making the state responsible for hardware, software, firmware, maintenance and support of voting systems purchased after 2006 while keeping the counties responsible for the custody and care of the voting system.

FISCAL IMPLICATIONS

According to the Secretary of State, the maintenance agreement will cost $665 thousand.

SIGNIFICANT ISSUES

The Secretary of State asked counties to accept ownership of the state-purchased systems including payment on a maintenance agreement. Some counties have agreed while others have not. Those who have not raise a concern that the legal authority cited by the Secretary of State applies to lease-purchase contracts executed between BOF and county commissioners. The paper ballot voting systems were not procured in this manner but instead, the state, with the help of HAVA funds, directly purchased machines from ES&S. As a result, the state's voting equipment, used in multiple elections since it's purchase in 2006, has had no maintenance.

Furthermore, explains the County Clerks Affiliate, ES&S, the company that provided this equipment, has a monopoly in New Mexico, controlling not only the voting equipment, but the statewide voter file and the campaign reporting system, there is no effective method to negotiate reasonable maintenance charges on the equipment and counties are unable to afford the enormous charges they face for maintenance. Unless this issue is addressed, elections in New Mexico will be increasingly at risk of error through malfunctioning and poorly maintained equipment.

COMPANIONSHIP

House Bill 698 appropriates $665 thousand from the general fund to the Secretary of State for the purpose of maintaining, updating and supporting the voting systems owned by the state pursuant to Section 1-9-20 NMSA 1978. House Bill 698 excludes voting systems purchased with state or federal funds in calendar year 2006 from the custody and care of the county clerk pursuant to NMSA 1978, Section 1-9-12 (1953, as amended through 2001). Instead, the bill provides that such systems will be owned and maintained by the state and placed in the custody of the county using the voting system. The county would be required to safely store the systems pursuant to guidelines issued by the secretary of state and would be responsible for storage costs.

ALTERNATIVES

Return to electronic voting systems.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A finding in the HAVA federal audit of 2006

POSSIBLE QUESTIONS

Without a maintenance agreement how much does ES&S charge for repairs?
What was the cost the counties paid for maintenance agreements related to the electronic voting systems?
What efforts have been made between the counties and the state to come up with a cost share agreement related to maintenance on the ES&S machines?

EO/mc:svb