

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 491, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO VOTING MACHINE APPROVAL; AMENDING SECTION 34-2409, IDAHO CODE,
TO PROVIDE THAT ANY VOTING MACHINE OR VOTE TALLY SYSTEM SHALL BE CERTI-
FIED BY THE SECRETARY OF STATE FOR USE IN IDAHO AND TO PROVIDE FOR TEST-
ING WITH EXCEPTIONS PRIOR TO CERTIFICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 34-2409, Idaho Code, be, and the same is hereby
amended to read as follows:

34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOP-
TION. (1) The secretary of state shall publicly examine all makes of voting
machines or vote tally systems submitted to him and determine whether the ma-
chines or vote tally systems comply with the requirements of this chapter,
and can safely be used by voters at elections under the provisions of this
chapter. ~~In order for a~~Any voting machine or vote tally system ~~to shall~~ be
certified by the secretary of state for use in Idaho ~~it must meet the fed-
eral election commission standards and be approved for use by an independent
testing authority sanctioned by the national association of state election
directors (NASED) or be certified by the federal election assistance commis-
sion.~~ Except for functions or capabilities unique to this state, voting ma-
chines and vote tally systems shall be tested and the results certified by an
independent testing authority designated by the secretary of state prior to
certification.

(2) Any person owning or interested in a voting machine or vote tally
system may submit it to the secretary of state for examination. No exami-
nation shall be conducted unless documentation is provided indicating that
the voting machine or vote tally system meets the federal election commis-
sion standards. For the purpose of assistance in examining the machine or
vote tally system the secretary of state may employ not more than three (3)
individuals who are expert in one (1) or more of the fields of data process-
ing, mechanical engineering and public administration. The compensation of
these assistants shall be paid by the person submitting the machine or vote
tally system.

(3) Within thirty (30) days after completing the examination and ap-
proval of any voting machine or vote tally system the secretary of state
shall make and file in his office his report on the machine or vote tally
system, together with a written or printed description and drawings and
photographs clearly identifying the machine or vote tally system and the
operation thereof. As soon as practicable after such filing, the secretary
of state upon request shall send a copy of the report to any governing body
within the state.

(4) Any voting machine or vote tally system that receives the approval
of the secretary of state may be used for conducting elections in this state.

1 Any machine or vote tally system that does not receive such approval shall
2 not be adopted for or used at any election. After a voting machine or vote
3 tally system has been approved by the secretary of state, any change or im-
4 provement in the machine or vote tally system that does not impair its accu-
5 racy, efficiency or capacity shall not render necessary a reexamination or
6 reapproval of the machine or vote tally system.

7 (5) Any voting system, including paper ballots, that was used in the
8 2004 general election shall be continued to be authorized for use as long
9 as the voting system meets the requirements of the "Help America Vote Act of
10 2002," Public Law 107-252.

11 (6) For all elections conducted after 2004, no direct recording elec-
12 tronic voting device shall be used unless the direct recording electronic
13 voting device has a voter verifiable paper audit trail. Any certifications
14 of a direct recording electronic voting device without a voter verifiable
15 paper audit trail are hereby declared null and void.

16 (7) The secretary of state may periodically review the various voting
17 systems that have been certified for use in the state to ensure such systems
18 meet the standards set forth by the federal election assistance commission
19 and the national institute of standards and technology. Any voting system
20 that does not meet such standards may be decertified after a public hearing.