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SECRETARY OF STATE



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OFFICE OF THE IOWA SECRETARY OF STATE

December 26, 2007

RECEIVED

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HOUSE OF REPRESENTATIVES

Mr. Mark Brandsgard  
Chief Clerk, Iowa House of Representatives

Dear Mr. Brandsgard,

I hereby submit the attached report, as required by HF 911, regarding the \$2,000,000 appropriated to reimburse counties for the cost of complying with section 52.7, subsection 1, paragraph "1" of SF 369, the "paper trail" bill.

I am submitting this report based on the funding that we currently have (\$2,000,000) which was provided by the Legislature and approved by the Governor. If the situation changes and additional funding is provided, it is my belief that we can have the entire state on one voting system - an optical scanner with a ballot marking device. However, time is of the essence and any further funding decisions need to be made expeditiously.

All counties were required to submit a declaration to the Secretary of State by June 15, 2007, declaring the method by which the county intends to comply with SF 369. All 69 counties who do not currently have a full paper trail system filed declarations by that date. Of the 69 counties, 60 opted to purchase the VVPAT attachment for their Direct Record Electronic (DRE) units and 9 opted to purchase Automark ballot marking devices.

As of today, the Automark is not certified for use in conjunction with Premier (formerly Diebold) equipment. Eight of the nine counties choosing Automark are Premier customers. Certification of the equipment is expected soon.

The original version of a VVPAT for Premier equipment is certified federally and in Iowa. The newer version is not yet certified. While it is hoped that the newer, more user-friendly version will be certified in time for use in November of 2008, there is no guarantee. However, counties can still purchase the original version. ES&S has one certified version of VVPAT for those three counties with ES&S equipment.

Using the \$2,000,000 funding that was appropriated in the last session, there is enough funding to fully pay for VVPAT for all of the counties that declared by June 15, 2007 their intention to meet the requirements of the law by purchasing VVPAT.

In addition, there will be enough funding to partially pay for the nine (9) counties that declared by June 15, 2007 they intended to meet the requirements of the law by purchasing an Automark ballot marking device. The remainder of the \$2,000,000, after paying for the VVPATS, will cover about half of the cost of the Automarks.

Please let me know if you have any questions.

Sincerely,

*Michael A. Mauro*

Michael A. Mauro  
Iowa Secretary of State

Attachments

cc: Senator Jeff Danielson  
Senator Staci Appel  
Senator James F. Hahn  
Representative Bruce Hunter  
Representative Doris Kelley  
Representative Dwayne Alons

## Paper Trail Funding REPORT

Counties were required to file a declaration by June 15<sup>th</sup> with the SOS declaring how they intended to comply with the law requiring a paper trail by November 2008.

### Current status of Counties' equipment:

✓ 24 Counties have Automark and need no funding	= 24
✓ 6 Counties have VVPAT and need no funding	= 6
✓ 60 Counties will purchase VVPAT for their DRE's	= 60
✓ 9 Counties will purchase Automarks instead of VVPAT	= 9
	<u>99</u>

Counties required to purchase equipment to comply with SF 369: 69

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### VVPAT:

Premier (Diebold) Counties choosing VVPAT @ \$600 per VVPAT unit	= 57 Counties
ES&S Counties choosing VVPAT @ \$1200 per VVPAT unit	= 3 Counties
	<u>60</u>
Counties Purchasing VVPAT	= 60

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### AUTOMARK:

Premier (Diebold) Counties choosing Automark @ \$6450 per unit	= 8
ES&S Counties choosing Automark @ \$6450 per unit	= 1
	<u>9</u>
Counties Purchasing AUTOMARK	= 9

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### PROPOSED FUNDING:

The Secretary of State received \$2,000,000 in appropriations from the legislature last year to help counties comply with the law requiring a voter verifiable paper audit trail by November, 2008. This amount does not cover the entire cost of the equipment.

#### VVPAT units for DRE's

Premier (Diebold) equipment: 1,198 units @ \$600 each	= \$718,800
ES&S equipment: 122 units @ \$1200 each	= 146,400
	<u>865,200</u>
TOTAL	\$865,200

The Secretary recommends full funding for the counties declaring to purchase a VVPAT attachment for DRE machines.

## **PAPER TRAIL FUNDING PROGRAM**

Pursuant to SF 369 adopted in May, 2007

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The 82<sup>nd</sup> Iowa General Assembly adopted legislation requiring every that voting system employed in the state provide a voter-verifiable paper trail for all elections held on or after November 4, 2008. The legislature allocated two million dollars (\$2,000,000) to be used to assist counties in purchasing voting equipment or voting equipment attachments to comply with the law. Funding for the paper trail equipment for the counties will be processed through the Secretary of State's office as outlined in this document.

### **CURRENT VOTING SYSTEMS IN IOWA**

There are currently two voting machine vendors certified to sell equipment in Iowa, Election Systems and Software (hereafter known as ES&S) and Diebold Elections Systems, which has recently changed the name of the voting equipment division of the Diebold Corporation to Premier Election Systems, (hereafter known as Premier).

There are currently three (3) configurations of equipment used in the state:

#### **1. Precinct Count Optical Scan System with Direct Record Electronic Device (DRE) for Accessibility.**

Both ES&S and Premier offer this type of system. A paper ballot is marked by the voter and inserted into a scanner at the precinct and counted by the scanner. Voters who require a machine that offers accessibility may use the DRE, which offers audio ballots and other alternative methods of voting.

Counties using the Optical Scan/DRE configuration include

50 counties with Premier equipment and 9 counties with ES&S equipment.

TOTAL: 59 counties

## 2. DRE system.

Both ES&S and Premier offer DRE systems. All machines in each precinct are direct record electronic machines, also known as touch-screen machines. Voters touch the screen next to their choices and the DRE stores the votes in its memory. The DREs also include an accessibility function with audio ballots and alternative methods of voting.

Counties using all DRE machines in their precincts include 17 counties with Premier equipment and 2 counties with ES&S equipment.

TOTAL: 19 counties

## 3. Precinct Count Optical Scan System with Ballot Marking Device for Accessibility.

ES&S is the only company certified to sell the ballot marking device at this time. However, Premier is in the process of being certified to also sell the ballot marking device known as "Automark". All voters are given the same paper ballot and all paper ballots are scanned and read by the same optical scan unit. Voters who need accessibility functions insert their ballots into the ballot marking device, and touch their choices, which are marked by the device. The ballot is removed from the device and inserted into the precinct scanner for counting.

There are 21 counties using ES&S optical scan with ballot marking devices.

TOTAL: 21

## **Requirements for Purchasing Equipment to Comply with SF 369**

### **Eligibility:**

- Counties that own direct record electronic voting machines as of May 29, 2007, that do not provide a paper record for voter review, are eligible for funding under this program
- Counties that do not own any equipment as of May 29, 2007, are eligible for funding under this rule and are required by law to purchase ballot marking devices to comply with 2007 Acts, SF 369
- Counties that own a voting system as of May 29, 2007, that uses either a ballot marking device or a paper record device are not eligible for funding under this program

### **Certification**

- All equipment purchased under this program must be certified by the Board of Examiners for Voting Machines and Electronic Voting Systems pursuant to Iowa Code section 52

### **Declaration of Intention**

- County Boards of Supervisors must pass a resolution on or before June 15, 2007, declaring the method by which the county intends to comply, and file the resolution with the Secretary of State

### **Initial Reimbursement Amount**

- After June 15, 2007, the Secretary of State shall determine the initial reimbursement amount for each county based upon the following considerations:

- a. The number of noncompliant DREs owned by the county on May 29, 2007;
- b. The actual cost of purchasing one paper record device for each DRE owned by the county on May 29, 2007;
- c. For counties that do not own equipment, the number of precincts in the county as of May 29, 2007

### Conditions for reimbursement

- The Secretary of State shall not provide funds for any county that fails to file the required resolution by or, if applicable, an amended declaration by December 1, 2007
- After the declaration is filed, the board of supervisors of a county may amend the board's declaration only under the following circumstances:
  - a. The specific device selected in the declaration of intention is not certified with the county's primary voting system for use in Iowa by December 1, 2007
  - b. The specific device selected in the declaration of intention is not available for purchase by December 1, 2007

### Process

The goal of the Secretary of State is to ensure that all counties comply with the law which requires every county to have a paper trail.

Towards that goal, the Secretary intends to fully fund the purchase of a voter verified paper audit (VVPAT) trail attachment for DRE equipment for any county that chooses that option, since the VVPAT is about one-tenth the cost of the ballot marking device.

Counties who wish to purchase the ballot marking device to comply with the law will be partially funded, using any funds left from the \$2,000,000 allocation after funding the counties who chose VVPAT.

## **REIMBURSEMENT FOR PURCHASE OF BALLOT MARKING DEVICES**

### **Request to draw funds**

After the county has paid for the necessary equipment, the board of supervisors may apply for reimbursement. Each application shall include all of the following documents:

- a. A receipt from the vendor from whom the equipment was purchased showing the purchase price, a description of each item purchased, and the date upon which the vendor received payment from the county.
- b. Documentation of any moneys received by the county or deducted from the purchase price for a trade-in on equipment replaced as part of the transaction

### **Definitions:**

- a. "Cost to County" means the total cost of the electronic ballot marking devices after subtracting the amount of any trade-in allowance from the vendor
- b. "Amount of Remaining Funds" means the result determined by subtracting the amount of the initial reimbursement payments made to counties purchasing VVPATs, from the \$2,000,000 appropriated for this program
- c. "Final Reimbursement Amount" means the amount determined by dividing the number of precincts in all



counties choosing ballot marking devices in the amount of remaining funds

- d. "Adjustment". If the cost to any county is less than the final reimbursement amount based on the calculations in paragraph "b", the county shall receive only the amount of the actual cost to the county. Any additional funds will be reallocated to other counties purchasing balloting marking devices.

### **Report to Joint Appropriations Committee**

On or before December 31, 2007, the Secretary of State shall submit a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation regarding the expenditures of the moneys appropriated in 2007 Acts, HF 911. The report shall also include recommendations, if necessary to the general assembly for enacting waiver provisions for counties unable to comply with the requirements of Iowa Code section 52.7, subsection 1, paragraph "f".

**721—22.32(52) Paper record requirement—reimbursement process.** Counties currently using voting machines that do not produce an external paper record for review by the voter are required to make this feature available for all elections held on or after November 4, 2008. Funds are available to reimburse counties for the cost of compliance with this new requirement. The secretary of state will reimburse the counties by using the following procedures:

**22.32(1) Eligibility requirements.**

a. Counties that own direct recording electronic voting machines as of May 29, 2007, that do not provide a paper record for voter review are eligible for funding under this rule.

b. Counties that do not own any equipment as of May 29, 2007, are eligible for funding under this rule and are required to purchase ballot-marking devices to comply with 2007 Iowa Acts, Senate File 369.

c. Counties must file a declaration of intention with the secretary of state by June 15, 2007, as described in subrule 22.32(2), to be eligible for funding under this rule.

d. Counties that own a voting system as of May 29, 2007, that uses either a ballot-marking device or a paper record device are not eligible for funding under this rule.

**22.32(2) Declaration of intention.** On or before June 15, 2007, the county board of supervisors of each county shall submit to the office of secretary of state a resolution adopted by the board declaring the method by which the county intends to comply with Iowa Code section 52.7, subsection 1, paragraph "l," as amended by 2007 Iowa Acts, Senate File 369. For counties eligible for reimbursement, the following options are available:

1. Option A. A county that uses only direct recording electronic (DRE) voting machines may add paper record printer attachments that are compatible with the county's current DRE voting machines. Full reimbursement funds are available from the state for this option.

2. Option B. A county that uses only direct recording electronic (DRE) voting machines may acquire an optical scan voting system with ballot-marking devices for accessibility. Only partial reimbursement funds for ballot-marking devices are available from the state for this option.

3. Option C. A county whose primary voting system is an optical scan system with direct recording electronic (DRE) voting machines for accessibility may add paper record printer attachments that are compatible with the county's current DRE voting machines. Full reimbursement funds are available from the state for this option.

4. Option D. A county whose primary voting system is an optical scan system with direct recording electronic (DRE) voting machines for accessibility may acquire ballot-marking devices to replace the DREs. Only partial reimbursement funds are available from the state for this option.

**22.32(3) Initial reimbursement amount.** After June 15, 2007, the secretary of state shall determine the initial reimbursement amount for each county based upon the following considerations:

a. The number of noncompliant DREs owned by the county on May 29, 2007.

b. The actual cost of purchasing one paper record device for each DRE owned by the county on May 29, 2007.

c. For counties that do not own equipment as of May 29, 2007, the number of precincts in the county.

**22.32(4) Conditions for reimbursement.**

a. The secretary of state shall not provide reimbursement funds to any county that fails to file the required declaration by June 15, 2007, or, if applicable, an amended declaration by December 1, 2007.

b. After the declaration is filed, the board of supervisors of a county may amend the board's declaration only under the following circumstances:

(1) The specific device selected in the declaration of intention is not certified with the county's primary voting system for use in Iowa by December 1, 2007.

(2) The specific device selected in the declaration of intention is not available for purchase by December 1, 2007.

(3) A new product meeting the requirements of Iowa law is certified and is available.

**22.32(5) Application for reimbursement.** After the county has paid for the necessary equipment, the board of supervisors may apply for reimbursement. Each application shall include all of the following documents:

a. A receipt from the vendor from whom the equipment was purchased showing the purchase price, a description of each item purchased, and the date upon which the vendor received payment from the county.

b. Documentation of any moneys received by the county or deducted from the purchase price for a trade-in on equipment replaced as part of the transaction required to comply with Iowa Code section 52.7, subsection 1, paragraph "l," as amended by 2007 Iowa Acts, Senate File 369.

**22.32(6) Initial reimbursement payments.** Upon receipt of the application for reimbursement required in subrule 22.32(5), the secretary of state shall reimburse the county the actual cost or the amount determined in the initial reimbursement established by the formula in subrule 22.32(3), whichever is less.

a. If the county selected either Option A or Option C, no further reimbursement will be made.

b. If the county selected either Option B or Option D, additional funds may be available based upon calculations after initial reimbursement payments have been calculated.

**22.32(7) Reimbursement for purchase of ballot-marking devices.**

a. *Definitions.*

(1) "Cost to county" means the total cost of the electronic ballot-marking devices after subtracting the amount of any trade-in allowance from the vendor.

(2) "Amount of remaining funds" means the result determined by subtracting the amount of the initial reimbursement payments made under subrule 22.32(6) from \$2 million (the amount appropriated for this program).

b. *Final reimbursement amount.* The final reimbursement amount shall be determined by dividing the number of precincts in all counties choosing Option B and Option D into the amount of remaining funds.

c. *Adjustment.* If the cost to any county is less than the final reimbursement amount based on the calculations in paragraph "b," the county shall receive only the amount of the actual cost to the county. The additional funds will be reallocated to the other counties choosing Option B or Option D.

**22.32(8) Report to the joint appropriations subcommittee.** On or before December 31, 2007, the secretary of state shall submit a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation regarding the expenditures of the moneys appropriated in 2007 Iowa Acts, House File 911, section 1, subsection 13. The report shall also include recommendations, if necessary, to the general assembly for enacting waiver provisions for counties unable to comply with the requirements of Iowa Code section 52.7, subsection 1, paragraph "l."

**22.32(9) Federal funding.** If any federal funding is received by the secretary of state for the same or similar purposes as the state appropriation in 2007 Iowa Acts, House File 911, section 1, subsection 13, paragraph "a," an amount of this state appropriation equal to the federal funding received, but not more than \$2 million, shall revert to the rebuild Iowa infrastructure fund at the end of the state fiscal year in which the federal funding is received.

**22.32(10) Minimum payment.** Each eligible county will be entitled to receive at least the amount necessary to add the paper record device to all DREs owned by the county, or, in the case of counties that do not own equipment, the amount necessary to add one paper record device in each precinct within the county.

This rule is intended to implement 2007 Iowa Acts, House File 911, section 1, subsection 13.