

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 491

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO VOTING MACHINE APPROVAL; AMENDING SECTION 34-2409, IDAHO CODE,  
2 TO PROVIDE THAT ANY VOTING MACHINE OR VOTE TALLY SYSTEM SHALL BE CERTI-  
3 FIED BY THE SECRETARY OF STATE FOR USE IN IDAHO.  
4

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

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

8 34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOP-  
9 TION. (1) The secretary of state shall publicly examine all makes of voting  
10 machines or vote tally systems submitted to him and determine whether the ma-  
11 chines or vote tally systems comply with the requirements of this chapter,  
12 and can safely be used by voters at elections under the provisions of this  
13 chapter. ~~In order for a~~Any voting machine or vote tally system ~~to shall be~~  
14 certified by the secretary of state for use in Idaho ~~it must meet the fed-~~  
15 ~~eral election commission standards and be approved for use by an independent~~  
16 ~~testing authority sanctioned by the national association of state election~~  
17 ~~directors (NASED) or be certified by the federal election assistance commis-~~  
18 ~~sion.~~

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

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

37 (4) Any voting machine or vote tally system that receives the approval  
38 of the secretary of state may be used for conducting elections in this state.  
39 Any machine or vote tally system that does not receive such approval shall  
40 not be adopted for or used at any election. After a voting machine or vote  
41 tally system has been approved by the secretary of state, any change or im-  
42 provement in the machine or vote tally system that does not impair its accu-

1 racy, efficiency or capacity shall not render necessary a reexamination or  
2 reapproval of the machine or vote tally system.

3 (5) Any voting system, including paper ballots, that was used in the  
4 2004 general election shall be continued to be authorized for use as long  
5 as the voting system meets the requirements of the "Help America Vote Act of  
6 2002," Public Law 107-252.

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

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