

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0009.01 Bob Lackner

HOUSE BILL 01-1135

HOUSE SPONSORSHIP

Clapp,

SENATE SPONSORSHIP

Hernandez,

House Committees
Information & Technology

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PILOT PROGRAM TO PROMOTE**
102 **VOTING THROUGH NETWORKED ELECTRONIC ELECTION**
103 **SYSTEMS IN CERTAIN SPECIAL DISTRICT ELECTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates a pilot program to enable certain special districts to allow eligible electors to vote in specified special district elections by means of a networked electronic election system (NEES).

Provides that a special district interested in participating in the pilot program shall submit an application to the secretary of state. Specifies that no application shall be accepted by the secretary after January 1, 2006.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
February 16, 2001

HOUSE
Amended 2nd Reading
February 15, 2001

Provides that, before its use for voting by eligible electors in special district elections, the NEES must be approved by the secretary of state. Enumerates the factors the NEES shall demonstrate in order to be approved by the secretary.

Requires the secretary of state, or a recognized testing facility designated by the secretary, to test every proposed NEES and, within 60 days after the completion of the tests, either certify the NEES as meeting the requirements of this act or deny certification and specify the basis of the denial.

Requires that, upon approval of a NEES by the secretary of state, the designated election official of each special district covered by this act shall make the NEES available within his or her special district for the purpose of allowing eligible electors who choose to vote by such means in specified special district elections the opportunity to do so.

Specifies that no special district shall be required to participate in the pilot program and that no eligible elector shall be required to cast his or her ballot by means of the NEES. Specifies that voting by means of the NEES under the pilot program shall be allowed only in a regular or special election of a special district in which a state ballot issue arising under TABOR is not on the ballot.

Provides that any person who willfully and knowingly interferes with the lawful operation of any element or activity of a NEES approved and in use commits a felony and shall be punished as provided by law.

Provides that, in any case in which voting by means of a NEES has taken place and substantial evidence exists that the election was affected by fraudulent use, tampering, or illegal manipulation, the election shall be nullified and a new election shall be called in which voting by means of the NEES shall not be allowed.

Requires the secretary of state to report to the general assembly no later than January 1, 2007, concerning the effectiveness of the pilot program, whether the pilot program should be continued, and any recommendations concerning the feasibility of broadening the scope of voting through networked electronic election systems in Colorado.

Provides that the pilot program shall be repealed, effective July 1, 2007.

Defines terms.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 8 of article 1 of title 32, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **32-1-808. Legislative declaration - definitions - pilot program**

1 **to promote voting through networked electronic election systems in**
2 **special district elections - testing - certification - penalties - report -**
3 **repeal.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
4 THAT THE CREATION OF A PILOT PROGRAM TO ALLOW ELIGIBLE ELECTORS
5 IN CERTAIN SPECIAL DISTRICTS TO VOTE IN SPECIFIED SPECIAL DISTRICT
6 ELECTIONS OR A MOCK ELECTION AS DEFINED BY THE SECRETARY OF STATE
7 BY MEANS OF AN ELECTRONIC ELECTION SYSTEM USING THE INTERNET OR
8 OTHER PUBLIC OR PRIVATE ELECTRONIC NETWORKS WILL:

9 (I) PROMOTE BROADER PUBLIC PARTICIPATION IN SUCH ELECTIONS;
10 AND

11 (II) PROVIDE A MEANS FOR GAUGING THE EFFECTIVENESS OF
12 VOTING THROUGH NETWORKED ELECTRONIC ELECTION SYSTEMS ON A
13 LIMITED SCALE BEFORE VOTING BY SUCH SYSTEMS IS PERMITTED IN OTHER
14 ELECTIONS ON A WIDER SCALE THROUGHOUT THIS STATE.

15 (b) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS
16 TO ACCOMPLISH THE FOLLOWING:

17 (I) AUTHORIZE SPECIAL DISTRICT OFFICIALS TO MAKE USE OF
18 ELECTRONIC NETWORKS, INCLUDING, WITHOUT LIMITATION, THE INTERNET,
19 FOR THE PURPOSE OF ALLOWING ELIGIBLE ELECTORS TO VOTE BY SUCH
20 MEANS IN SPECIFIED SPECIAL DISTRICT ELECTIONS IF THEY CHOOSE TO DO
21 SO; AND

22 (II) PROHIBIT WRONGFUL MANIPULATION, FRAUDULENT USE, OR
23 ANY OTHER VIOLATION OF THE INTEGRITY OF ANY NETWORKED
24 ELECTRONIC ELECTION SYSTEM APPROVED PURSUANT TO THIS SECTION,
25 AND TO ESTABLISH EFFECTIVE SANCTIONS TO PREVENT AND DETER SUCH
26 VIOLATIONS.

27 (2) AS USED IN THIS SECTION:

1 (a) "DESIGNATED ELECTION OFFICIAL" MEANS THE OFFICIAL
2 RESPONSIBLE FOR CONDUCTING A PARTICULAR ELECTION IN A SPECIAL
3 DISTRICT PURSUANT TO SECTION 1-1-104 (8), C.R.S.

4 (b) "ELIGIBLE ELECTOR" SHALL MEAN A PERSON ENTITLED TO VOTE
5 AT A SPECIAL DISTRICT ELECTION IN CONFORMITY WITH SECTION 32-1-806.

6 (c) "NEES" MEANS A NETWORKED ELECTRONIC ELECTION SYSTEM.

7 (d) "SPECIAL DISTRICT" SHALL HAVE THE SAME MEANING AS
8 PROVIDED IN SECTION 32-1-103 (20).

9 (3) THERE IS HEREBY ESTABLISHED A PILOT PROGRAM TO
10 AUTHORIZE DESIGNATED ELECTION OFFICIALS IN SPECIAL DISTRICTS TO
11 MAKE USE OF ELECTRONIC NETWORKS, INCLUDING, WITHOUT LIMITATION,
12 THE INTERNET, FOR THE PURPOSE OF ALLOWING ELIGIBLE ELECTORS IN
13 SUCH DISTRICTS TO CAST THEIR BALLOTS BY SUCH MEANS IN SPECIFIED
14 SPECIAL DISTRICT ELECTIONS. THE PILOT PROGRAM CREATED BY THIS
15 SECTION SHALL BE IMPLEMENTED BY THE DESIGNATED ELECTION OFFICIAL
16 WITH INPUT, COOPERATION, AND ADVICE FROM THE SECRETARY OF STATE
17 CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

18 (4)(a) ANY SPECIAL DISTRICT INTERESTED IN PARTICIPATING IN THE
19 PILOT PROGRAM AUTHORIZED BY THIS SECTION SHALL SUBMIT AN
20 APPLICATION TO THE SECRETARY OF STATE IN ACCORDANCE WITH
21 DEADLINES ESTABLISHED BY THE SECRETARY OF STATE. APPLICATIONS
22 SHALL BE MADE ON A FORM ISSUED BY THE SECRETARY OF STATE
23 CONTAINING SUCH INFORMATION AS THE SECRETARY MAY REASONABLY
24 REQUIRE IN THE EXERCISE OF HIS OR HER DISCRETION.

25 (b) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE
26 CONTRARY, NO APPLICATION REQUIRED BY PARAGRAPH (a) OF THIS
27 SUBSECTION (4) SHALL BE ACCEPTED BY THE SECRETARY OF STATE AFTER

1 JANUARY 1, 2006.

2 (5) BEFORE A NEES MAY BE APPROVED BY THE SECRETARY OF
3 STATE PURSUANT TO SUBSECTION (6) OF THIS SECTION FOR USE AT A
4 SPECIAL DISTRICT ELECTION IN ACCORDANCE WITH THE REQUIREMENTS OF
5 THIS SECTION, THE NEES SHALL:

6 (a) PROVIDE FOR THE SECURE IDENTIFICATION AND
7 AUTHENTICATION OF EACH ELIGIBLE ELECTOR UTILIZING THE NEES. THIS
8 IDENTIFICATION AND AUTHENTICATION MAY BE ACCOMPLISHED THROUGH
9 ANY OF THE FOLLOWING METHODS, EITHER SINGULARLY OR IN
10 COMBINATION WITH ANY OTHER METHOD LISTED:

11 (I) IDENTIFICATION NUMBERS, NAMES, OR PASSWORDS;

12 (II) DIGITAL SIGNATURES EMPLOYING DIGITAL CERTIFICATES
13 STORED ON COMPUTER HARD DRIVES, FLOPPY DISKS, SMART CARDS, OR
14 HIGH-DENSITY OPTICAL DATA STORAGE CARDS; OR

15 (III) BIOMETRIC METHODS, INCLUDING, WITHOUT LIMITATION,
16 THUMBPRINTS, FINGERPRINTS, OR ANY OTHER TECHNIQUE OF BIOMETRIC
17 IDENTIFICATION AND AUTHENTICATION NOW IN EXISTENCE OR THAT MAY
18 BE DEVELOPED IN THE FUTURE THAT THE SECRETARY OF STATE FINDS TO BE
19 A REASONABLE METHOD OF SECURELY IDENTIFYING AND AUTHENTICATING
20 AN ELECTOR VOTING BY MEANS OF THE NEES;

21 (b) PROVIDE FOR THE SECURE IDENTIFICATION AND
22 AUTHENTICATION OF ANY INFORMATION TRANSMITTED ON THE NEES BY
23 THE DESIGNATED ELECTION OFFICIAL. SUCH INFORMATION SHALL INCLUDE,
24 WITHOUT LIMITATION, PERSONAL INFORMATION REQUIRED TO BE PROVIDED
25 BY THE ELIGIBLE ELECTOR AND DIGITAL SIGNATURES OF SUCH ELECTORS.

26 (c) PROVIDE FOR THE SECURE IDENTIFICATION AND
27 AUTHENTICATION OF THE DESIGNATED ELECTION OFFICIAL, AS WELL AS HIS

1 OR HER COMPUTER SERVER, AND ALL OTHER RELATED ELECTRONIC
2 EQUIPMENT USED BY SUCH OFFICIAL;

3 (d) PROVIDE PROTECTION AGAINST TAMPERING, FRAUDULENT USE,
4 ILLEGAL MANIPULATION, OR OTHER ABUSE BY ELECTORS, ELECTION
5 OFFICIALS, OR ANY OTHER GROUP OR INDIVIDUAL;

6 (e) PROVIDE FOR EASE OF USE BY EVERY ELIGIBLE ELECTOR,
7 INCLUDING, WITHOUT LIMITATION, THE OPPORTUNITY FOR THE ELECTOR TO
8 CONFIRM OR CORRECT HIS OR HER VOTING CHOICES BEFORE THE ELECTOR
9 COMPLETES VOTING BY MEANS OF THE NEES;

10 (f) CONVEY IN AN EASILY UNDERSTOOD AND LEGIBLE MANNER ALL
11 INFORMATION REQUIRED TO BE OBTAINED FROM EACH ELIGIBLE ELECTOR
12 SEEKING TO UTILIZE THE NEES;

13 (g) RELIABLY PROVIDE UNINTERRUPTED AVAILABILITY DURING THE
14 TIME ALLOWED FOR VOTING UNDER THIS PART 8;

15 (h) BE ACCESSIBLE TO ALL ELIGIBLE ELECTORS BY MEANS OF
16 COMPUTERS IN HOMES [REDACTED] OR THROUGH ELECTRONIC VOTING
17 APPLIANCES IN SCHOOLS, GOVERNMENT OFFICES, POLLING PLACES, OR
18 OTHER PUBLIC LOCATIONS;

19 (i) BE CAPABLE OF BEING UPGRADED AS THE TECHNOLOGY
20 SUPPORTING THE NEES IMPROVES;

21 (j) BE CAPABLE OF BEING USED BY MOBILITY-IMPAIRED AND
22 VISUALLY-IMPAIRED ELECTORS;

23 (k) BE CAPABLE OF BEING AUDITED AS TO CONTENTS, RESULTS, AND
24 PROCESS AT A SUFFICIENTLY HIGH LEVEL TO GUARANTEE THE INTEGRITY OF
25 THE SYSTEM AND THE PUBLIC'S CONFIDENCE IN ITS INTEGRITY;

26 (l) BE CAPABLE OF TRANSMITTING INFORMATION OVER A SECURE
27 NETWORK;

1 (m) BE CAPABLE OF PROVIDING A CONFIDENTIAL AND SECURE HARD
2 COPY RECORD OF THE VOTE CAST BY AN ELIGIBLE ELECTOR; AND

3 (n) DEMONSTRATE ANY OTHER FACTORS OR QUALITIES THE
4 SECRETARY OF STATE [REDACTED] DECIDES A NEES SHALL POSSESS
5 IN ORDER TO FURTHER THE PURPOSES OF THIS SECTION.

6 (6) (a) PRIOR TO THE USE OF ANY NEES BY A SPECIAL DISTRICT FOR
7 USE AT A SPECIAL DISTRICT ELECTION IN ACCORDANCE WITH THE
8 REQUIREMENTS OF THIS SECTION, A RECOGNIZED INDEPENDENT TESTING
9 AUTHORITY SATISFYING THE PROVISIONS OF SECTION 1-5-608.5, C.R.S.,
10 SHALL PERFORM ANY TESTS NECESSARY TO ESTABLISH THAT EACH NEES
11 PROPOSED FOR USE CONFORMS TO THE REQUIREMENTS OF SUBSECTION (5)
12 OF THIS SECTION.

13 (b) NO LATER THAN SIXTY DAYS FOLLOWING THE COMPLETION OF
14 THE TESTS CONDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
15 (6) AND THE ISSUANCE OF A FINAL REPORT BY THE INDEPENDENT TESTING
16 AUTHORITY SUMMARIZING THE TEST RESULTS, THE SECRETARY OF STATE
17 SHALL EITHER CERTIFY THE NEES AS MEETING THE REQUIREMENTS OF
18 SUBSECTION (5) OF THIS SECTION OR DENY CERTIFICATION AND SPECIFY THE
19 BASIS OF SUCH DENIAL.

20 (c) AS SOON AS THE SECRETARY OF STATE CERTIFIES A NEES, THE
21 NEES SHALL BE DESIGNATED AS APPROVED BY THE SECRETARY OF STATE
22 FOR USE BY THE PARTICULAR SPECIAL DISTRICT FOR WHICH CERTIFICATION
23 WAS SOUGHT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

24 (7) [REDACTED] UPON CERTIFICATION OF A NEES PURSUANT TO SUBSECTION
25 (6) OF THIS SECTION, THE DESIGNATED ELECTION OFFICIAL SHALL MAKE THE
26 NEES AVAILABLE WITHIN HIS OR HER SPECIAL DISTRICT FOR THE PURPOSE
27 OF ALLOWING ANY ELIGIBLE ELECTOR WHO DESIRES TO CAST HIS OR HER

1 BALLOT BY MEANS OF THE NEES IN ACCORDANCE WITH THE
2 REQUIREMENTS OF THIS SECTION THE OPPORTUNITY TO DO SO.

3 [REDACTED]
4 [REDACTED]

5 (8) THIS SECTION SHALL NOT BE CONSTRUED AS IMPOSING ANY
6 REQUIREMENT THAT A SPECIAL DISTRICT PARTICIPATE IN THE PILOT
7 PROGRAM AUTHORIZED BY THIS SECTION. PARTICIPATION BY A SPECIAL
8 DISTRICT IN THE PILOT PROGRAM SHALL NOT BE CONSTRUED AS IMPOSING
9 ANY REQUIREMENT THAT ANY ELIGIBLE VOTER CAST A BALLOT BY MEANS
10 OF THE NEES TO THE EXCLUSION OF ANY OTHER METHOD OF VOTING
11 APPROVED FOR USE IN ELECTIONS IN THE SPECIAL DISTRICT.

12 (9) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE
13 CONTRARY, VOTING BY MEANS OF A NEES THAT HAS BEEN CERTIFIED
14 SHALL BE AUTHORIZED ONLY IN A REGULAR OR SPECIAL ELECTION
15 CONDUCTED BY A SPECIAL DISTRICT IN WHICH A MATTER ARISING UNDER
16 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION IS NOT ON THE
17 BALLOT.

18 (10) PRIOR TO ANY ELECTION IN A SPECIAL DISTRICT IN WHICH
19 VOTING BY MEANS OF A NEES HAS BEEN CERTIFIED IN ACCORDANCE WITH
20 THE REQUIREMENTS OF THIS SECTION, NOT LATER THAN THIRTY DAYS
21 BEFORE THE DATE OF THE ELECTION, THE SECRETARY OF STATE SHALL
22 SELECT EITHER OF THE FOLLOWING PROCEDURES THAT SHALL GOVERN THE
23 ELECTION AND SHALL COMMUNICATE THAT ELECTION TO THE DESIGNATED
24 ELECTION OFFICIAL:

25 (a) IN ANY ELECTION IN WHICH VOTING BY MEANS OF A NEES HAS
26 TAKEN PLACE AND ANY CREDIBLE EVIDENCE EXISTS THAT THE ELECTION
27 WAS AFFECTED BY TAMPERING, FRAUDULENT USE, ILLEGAL MANIPULATION,

1 OR OTHER ABUSE BY ELECTORS, ELECTION OFFICIALS, OR ANY OTHER
2 GROUP OR INDIVIDUAL, THE AFFECTED ELECTION SHALL BE NULLIFIED AND
3 A NEW ELECTION SHALL BE CALLED IN WHICH VOTING BY MEANS OF THE
4 NEES SHALL NOT BE ALLOWED; OR

5 (b) THE DESIGNATED ELECTION OFFICIAL OF THE SPECIAL DISTRICT
6 SHALL CONDUCT A TEST ELECTION IN WHICH ELIGIBLE ELECTORS CAST
7 THEIR BALLOTS BY NONELECTRONIC MEANS AT THE SAME TIME AS ELIGIBLE
8 ELECTORS ARE ABLE TO CAST THEIR BALLOTS BY MEANS OF THE NEES.

9 (11) ANY PERSON WHO WILLFULLY AND KNOWINGLY INTERFERES
10 WITH THE LAWFUL OPERATION OF ANY ELEMENT OR ACTIVITY OF A NEES
11 APPROVED AND IN USE PURSUANT TO THE PROVISIONS OF THIS SECTION
12 COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED FOR IN
13 SECTION 18-1-105, C.R.S.

14 (12) NO LATER THAN JULY 1, OF EACH CALENDAR YEAR
15 COMMENCING IN 2002 BUT PRIOR TO 2008, THE SECRETARY OF STATE
16 SHALL REPORT TO THE GENERAL ASSEMBLY ON:

17 (a) THE EFFECTIVENESS OF THE PILOT PROGRAM IN MEETING THE
18 PURPOSES OF THIS SECTION RESULTING FROM ITS APPLICATION IN ANY
19 SPECIAL DISTRICT ELECTION HELD DURING THAT CALENDAR YEAR;

20 (b) WHETHER, IN THE OPINION OF THE SECRETARY, THE PILOT
21 PROGRAM SHOULD BE CONTINUED; AND

22 (c) ANY RECOMMENDATIONS ON THE PART OF THE SECRETARY
23 REGARDING THE FEASIBILITY OF BROADENING THE SCOPE OF VOTING
24 THROUGH NETWORKED ELECTRONIC ELECTION SYSTEMS IN STATE
25 ELECTIONS IN COLORADO.

26 (13) THE SECRETARY OF STATE MAY PROMULGATE RULES AS MAY
27 BE NECESSARY TO ADMINISTER AND ENFORCE ANY PROVISION OF THIS

1 SECTION. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH
2 ARTICLE 4 OF TITLE 24, C.R.S.

3 (14) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2007.

4 **SECTION 2. Effective date.** This act shall take effect September
5 1, 2001, unless a referendum petition is filed during the ninety-day period
6 after final adjournment of the general assembly that is allowed for
7 submitting a referendum petition pursuant to article V, section 1 (3) of the
8 state constitution. If such a referendum petition is filed against this act or
9 an item, section, or part of this act within such period, then the act, item,
10 section, or part, if approved by the people, shall take effect on the date of
11 the official declaration of the vote thereon by proclamation of the
12 governor.