

FORTY-SIXTH LEGISLATURE
SECOND SESSION

February 13, 2004

SENATE FLOOR AMENDMENT number ___1___ to SENATE BILL 245, as amended
Amendment sponsored by Senator Ramsay L. Gorham

1. On page 1, line 12, before the period insert "; ALLOWING CONTESTS OF THE RESULTS OF A BALLOT QUESTION IN AN ELECTION".

2. On page 1, between lines 14 and 15, insert the following new sections:

"Section 1. Section 1-14-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 326) is amended to read:

"1-14-1. CONTEST OF ELECTIONS--WHO MAY CONTEST.--

A. Any unsuccessful candidate for nomination or election to any public office may contest the election of the candidate to whom a certificate of nomination or a certificate of election has been issued.

B. Any one hundred voters of the state may petition the district court in Santa Fe to contest the results of an election on a statewide ballot question. Any one hundred voters of a county may petition the district court for that county to contest the results of an election on a county ballot question for that county."

Section 2. Section 1-14-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 328, as amended) is amended to read:

"1-14-3. CONTEST OF ELECTION--FILING OF COMPLAINT.--[Any]

A. An action by a candidate to contest an election shall be commenced by filing a verified complaint of contest in the district court of the county where either of the parties resides.

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Such complaint shall be filed no later than thirty days from issuance of the certificate of nomination or issuance of the certificate of election to the successful candidate. The party instituting the action shall be known as the contestant, and the party against whom the action is instituted shall be known as the contestee. The Rules of Civil Procedure apply to all actions commenced under the provisions of this section.

B. An action to contest an election on a statewide ballot question shall be commenced by filing a verified complaint of contest in the district court in Santa Fe by petition of at least one hundred voters of the state. An action to contest an election on a county ballot question shall be commenced by filing a verified complaint of contest in the district court for the county in which the county ballot question is challenged by petition of at least one hundred voters of the county. A complaint shall be filed no later than thirty days from issuance of the declaration of results of the election by the state canvassing board."

Section 3. Section 1-14-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 337) is amended to read:

"1-14-4. CONTEST OF ELECTION--JUDGMENT--EFFECT--COSTS.--

A. Judgment shall be rendered in favor of the party for whom a majority of the legal votes shall be proven to have been cast and shall be to the effect that he is entitled to the office in controversy with all the privileges, powers and emoluments belonging thereto and for his costs. If the contestant prevails, he shall have judgment placing him in possession of the contested office and for the emoluments thereof from the beginning of the term for which he was elected and for his costs.

B. If the court finds that the result of an election on a ballot question was changed due to fraud or error, the declaration of results shall be changed to reflect the findings of the court and the contestants shall be awarded the costs of their challenge. If

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the outcome of the election is unchanged, the petitioners shall pay the costs of the state and each county involved in the contest."

Section 4. Section 1-14-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 339) is amended to read:

"1-14-6. CONTEST OF ELECTION--PRESERVATION OF BALLOTS.--Either the contestant or contestee, or a petitioner in a ballot contest case, within the time provided by the Election Code for the preservation of ballots, may give notice by registered mail to the county clerk of those counties wherein he wishes the ballots preserved that a contest is pending in a designated court, and thereupon it is the duty of the county clerk to preserve the ballots of all precincts named in the notice of contest and answer until the contest has been finally determined."

Section 5. Section 1-14-9 NMSA 1978 (being Laws 1971, Chapter 249, Section 2) is amended to read:

"1-14-9. IMPOUNDING BALLOTS--APPLICATION FOR COURT ORDER--DEPOSIT REQUIRED.--

A. Any candidate in an election may petition the district court for an order impounding ballots in one or more precincts within which he is a candidate. The action shall be brought in the district court for the county in which the precincts are located. The petition shall state what specific items of ballots are requested to be impounded. Upon receipt of the petition, along with a cash deposit of twenty-five dollars (\$25.00) per precinct, the court shall issue an order of impoundment.

B. Petitioners who have brought an action contesting the result of an election on a ballot question may petition the district court of a county for an order impounding ballots in one or more precincts in that county. The action shall be brought in the district court for the county in which the precincts are located. The petition shall state what specific items of ballots are

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requested to be impounded. Upon receipt of the petition, along with a cash deposit of twenty-five dollars (\$25.00) per precinct, the court shall issue an order of impoundment."

3. Renumber the succeeding sections accordingly.

Ramsay L. Gorham

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____