

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 449

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR AUTOMATIC RECOUNTS OF
CERTAIN ELECTIONS; PROVIDING FOR AUTOMATIC RECOUNT PROCEDURES;
CREATING A FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Election Code is enacted
to read:

"NEW MATERIAL AUTOMATIC RECOUNTS-- ELECTIONS FOR
STATEWIDE AND FEDERAL OFFICES-- PROCEDURES. --

A. An automatic recount of the vote is required
when the county canvasses of returns for a federal or state
office in a general election indicate that the margin between
the two candidates receiving the greatest number of votes for
an office is less than one-half of one percent of the total
votes cast for that office in that election.

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1 B. The secretary of state shall file notice with
2 the state canvassing board within fifteen days of the election
3 that an automatic recount is required, and the state
4 canvassing board shall order a recount of the votes for the
5 specified office in the appropriate precincts.

6 C. Automatic recounts shall be conducted pursuant
7 to the recount procedures established in Sections 1-14-16 and
8 1-14-18 through 1-14-22 NMSA 1978. "

9 Section 2. A new section of the Election Code is enacted
10 to read:

11 "[NEW MATERIAL] AUTOMATIC RECOUNTS--EXPENSES. --The
12 secretary of state shall reimburse the counties for the costs
13 of conducting an automatic recount with money appropriated to
14 the secretary from the automatic recount fund. "

15 Section 3. A new section of the Election Code is enacted
16 to read:

17 "[NEW MATERIAL] AUTOMATIC RECOUNT FUND CREATED--USE. --The
18 "automatic recount fund" is created in the state treasury.
19 The fund shall consist of money distributed or transferred or
20 otherwise accruing to the fund. Money in the fund is
21 appropriated to the secretary of state to reimburse counties
22 for expenses incurred in conducting automatic recounts.
23 Disbursements from the fund shall be by warrant of the
24 secretary of finance and administration upon vouchers signed
25 by the secretary of state. Balances in the fund over one

1 million five hundred thousand dollars (\$1,500,000) at the end
 2 of any fiscal year shall revert to the general fund."

3 Section 4. Section 1-14-16 NMSA 1978 (being Laws 1969,
 4 Chapter 240, Section 345, as amended) is amended to read:

5 "1-14-16. RECOUNT OR RECHECK PROCEEDINGS--STATE. --

6 A. Immediately after filing of the application for
 7 recount or recheck, the state canvassing board shall issue a
 8 summons directed to the precinct board of each precinct
 9 specified in the application commanding it to appear at the
 10 county seat of the county wherein the precinct is situated on
 11 a day fixed in the summons, which date shall not be more than
 12 ten days after the filing of the application for a recount or
 13 recheck. The summons shall be forwarded to the county clerk
 14 of the concerned county.

15 B. Upon receipt of the summons, the county clerk
 16 shall deliver it to the sheriff, who shall forthwith
 17 personally serve it upon each of the precinct board members.
 18 The county clerk shall thereupon send notices by registered
 19 mail of the date fixed for recount or recheck to the district
 20 judge for the county and to the county ~~chairman~~ chair of
 21 each of the political parties that participated in the
 22 election in that precinct.

23 C. The precinct boards, the district judge and the
 24 county clerk shall meet at the county courthouse at 10:00 a.m.
 25 on the date fixed for the recount or recheck, and the ballot

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1 boxes [~~or voting machines~~] of the precincts involved in the
2 recount or recheck shall be opened. The precinct boards shall
3 recount and retally the [~~emergency paper ballots or the~~
4 ~~absentee~~] ballots, or recheck the votes cast on the voting
5 machine, as the case may be, for the office in question in the
6 presence of the county clerk, the district judge or the person
7 designated to act for [~~him~~] the district judge and any other
8 person who may desire to be present.

9 D. During the recount or recheck, the precinct
10 board [~~of a precinct where emergency paper ballots or absentee~~
11 ~~ballots were used~~] shall recount and retally only the ballots
12 [~~which~~] that the presiding judge accepted and placed in the
13 ballot box as legal ballots at the time they were cast or
14 received, as the case may be.

15 E. After completion of the recount or recheck, the
16 precinct board shall replace the [~~emergency paper ballots or~~
17 ~~absentee~~] ballots in the ballot box and lock it, [~~or the~~
18 ~~voting machines shall be locked and resealed~~] and the precinct
19 board shall certify to the secretary of state the results of
20 the recount or recheck. The district judge, or the person
21 designated to act for [~~him~~] the district judge, and the county
22 clerk shall also certify that the recount or recheck was made
23 in their presence. "

24 Section 5. APPROPRIATION. -- Five hundred thousand dollars
25 (\$500,000) is appropriated from the general fund to the

1 automatic recount fund for expenditure in fiscal year 2008 and
2 subsequent fiscal years to reimburse counties for expenses
3 incurred in conducting automatic recounts. Any unexpended or
4 unencumbered balance remaining at the end of a fiscal year
5 shall not revert to the general fund.

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