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SENATE BILL 948

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

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO ELECTIONS; ELIMINATING OUTDATED VOTING MACHINE STANDARDS; REMOVING SOME REFERENCES TO EMERGENCY PAPER BALLOTS IN THE ELECTION CODE; CHANGING REFERENCES TO VOTING MACHINES IN CERTAIN SECTIONS OF LAW; PROVIDING FOR VOTING IN EMERGENCY SITUATIONS; AMENDING AND REPEALING SECTIONS OF THE ELECTION CODE.

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

Section 1. Section 1-12-25.1 NMSA 1978 (being Laws 1991, Chapter 105, Section 30) is amended to read:

"1-12-25.1. PROCEDURES FOR VOTING ON [~~LEVER~~] ELECTRONIC [~~AND MARKSENSE VOTING MACHINES~~] VOTE TABULATOR SYSTEMS.--[~~A.~~] A voter voting on [~~a lever type machine~~] an electronic vote tabulator system shall:

[~~(1) enter the machine and push the red handle~~

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1 ~~to the left to close the curtain;~~

2 ~~(2) set the pointer directly under the~~
3 ~~candidate's name or question on which he desires to vote; and~~

4 ~~(3) make all selections and pull the red~~
5 ~~handle to the right to open the curtain and record his vote.~~

6 B. ~~A voter voting on a direct recording electronic~~
7 ~~machine shall:~~

8 ~~(1) enter the machine;~~

9 ~~(2) press the square to the right of the~~
10 ~~candidate's name or question on which he desires to vote; and~~

11 ~~(3) make all selections and press the vote~~
12 ~~button in the lower right hand corner of the voting machine to~~
13 ~~record his vote.~~

14 C. ~~A voter voting on a marksense machine shall~~

15 ~~(1)]~~ A. receive a ballot issued by the precinct
16 board;

17 ~~(2)]~~ B. take the ballot to a voting booth and,
18 with the [~~pencil~~] writing utensil provided, mark it by
19 [~~completing the arrow to the right of~~] filling in the circle
20 next to the candidate's name or next to the answer to the
21 question [~~on~~] for which [~~he~~] the voter desires to vote; and

22 ~~(3) make all selections and]~~ C. feed the ballot
23 into the [~~machine~~] electronic vote tabulator to record [~~his~~]
24 the vote."

25 Section 2. Section 1-12-43 NMSA 1978 (being Laws 1977,

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1 Chapter 222, Section 46) is amended to read:

2 "1-12-43. EMERGENCY SITUATIONS [~~EMERGENCY PAPER BALLOTS~~
3 ~~WHEN USED~~].--

4 A. If any voting [~~machine~~] system becomes disabled
5 while being used to the extent that any voter is unable to cast
6 a vote for all the candidates or questions of [~~his~~] the voter's
7 choice and have such vote recorded by the [~~machine~~] voting
8 system, it shall be repaired, if possible, or another voting
9 [~~machine~~] system shall be promptly substituted.

10 B. The board of county commissioners shall
11 appropriate funds for servicing, repairing and substituting
12 voting [~~machines~~] systems that become disabled.

13 C. If a disabled voting [~~machine~~] system cannot be
14 repaired in a reasonable length of time and if there are no
15 other voting [~~machines~~] systems available for substitution, the
16 presiding judge shall order [~~emergency paper~~] marked ballots to
17 be [~~substituted and used~~] collected and securely preserved
18 until they may be tabulated pursuant to rules promulgated by
19 the secretary of state.

20 D. A voter shall not be denied the opportunity to
21 mark a ballot for later tabulation due to the lack of a
22 functioning voting system.

23 [~~D.~~] E. The county clerk shall provide additional
24 [~~emergency paper~~] ballots if needed and when requested by the
25 precinct board."

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1 Section 3. Section 1-12-45 NMSA 1978 (being Laws 1977,
2 Chapter 222, Section 48, as amended) is amended to read:

3 "1-12-45. [~~EMERGENCY SITUATIONS--EMERGENCY PAPER~~]
4 ~~BALLOTS--FORM FOR PRIMARY.--[A. Emergency paper]~~ Ballots used
5 in the primary election by each party shall be [~~set up on the~~
6 ~~ballot paper as follows:~~

7 (1) ~~across the top shall be printed the words,~~
8 ~~"OFFICIAL PRIMARY ELECTION BALLOT";~~

9 (2) ~~on the next line shall be printed the name~~
10 ~~of the qualified political party and the date of the primary~~
11 ~~election;~~

12 (3) ~~on the next line shall be printed the name~~
13 ~~of the county in which the ballot is used;~~

14 (4) ~~on the next line shall be printed the~~
15 ~~words, "To vote for a person, mark either a cross (X) or a~~
16 ~~check (V) in the box at the right of the name of each person~~
17 ~~for whom you desire to vote.";~~

18 (5) ~~thereafter, there shall be printed~~
19 ~~consecutively the designated office and to the extreme right of~~
20 ~~that same line shall be printed the words, "Vote For", then the~~
21 ~~words, "one", "two" or another spelled number designating how~~
22 ~~many persons under that office are to be voted for;~~

23 (6) ~~following and below the designation of~~
24 ~~office there shall be printed the name of each candidate for~~
25 ~~that office, with a box directly opposite and to the right of~~

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1 ~~the name wherein the voter may make his cross (X) or check (V).~~
2 ~~The names of the candidates shall be printed on equal margin,~~
3 ~~one under another, and in the order and manner provided by law.~~
4 ~~The boxes following each name shall be of the same size and~~
5 ~~each shall not be more than one-sixth of an inch apart; and~~

6 ~~(7) the name of each office for which~~
7 ~~candidates are to be nominated along with the candidates' names~~
8 ~~shall be separated from the succeeding office and list of~~
9 ~~candidates on the emergency paper ballot by a heavy black line~~
10 ~~to designate that office clearly.~~

11 ~~B. The emergency paper ballot used in the primary~~
12 ~~election shall have no other printing or distinguishing mark on~~
13 ~~the ballot, except at the bottom shall appear the facsimile~~
14 ~~signature of the county clerk and the words in bold, black~~
15 ~~type, "OFFICIAL PRIMARY ELECTION BALLOT".~~

16 ~~C. Emergency paper ballots used in the primary~~
17 ~~election shall be numbered consecutively by party] in the form~~
18 ~~prescribed by the secretary of state."~~

19 Section 4. Section 1-12-46 NMSA 1978 (being Laws 1977,
20 Chapter 222, Section 49) is amended to read:

21 "1-12-46. [~~EMERGENCY SITUATIONS--EMERGENCY PAPER]~~
22 ~~BALLOTS--FORM FOR GENERAL ELECTION.--[Emergency paper] Ballots~~
23 ~~used in the general election shall be in the form prescribed by~~
24 ~~the secretary of state. [~~and shall conform to the following~~~~
25 ~~requirements:~~

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1 A. ~~each emergency paper ballot shall have printed~~
2 ~~thereon the name of each candidate whose certificate of~~
3 ~~nomination has been filed according to the Election Code, and~~
4 ~~no other names;~~

5 B. ~~the names of each party's candidates shall be~~
6 ~~printed on the ballot in the column under the party name and~~
7 ~~emblem, and the name of each candidate shall be printed under~~
8 ~~the title of the office for which he has been nominated. No~~
9 ~~party name or emblem shall appear on the emergency paper ballot~~
10 ~~unless certificates thereof have been filed as provided by the~~
11 ~~Election Code;~~

12 C. ~~there shall be printed on the top of each~~
13 ~~emergency paper ballot the following:~~

14 ~~"OFFICIAL GENERAL ELECTION BALLOT~~
15 ~~Election held _____ (insert date)";~~
16 ~~and~~

17 D. ~~there shall be printed on the bottom of each~~
18 ~~ballot the following:~~

19 ~~"OFFICIAL GENERAL ELECTION BALLOT"~~
20 ~~followed by a facsimile signature of the county clerk.]"~~

21 Section 5. Section 1-12-51 NMSA 1978 (being Laws 1977,
22 Chapter 222, Section 54) is amended to read:

23 "1-12-51. [~~EMERGENCY SITUATIONS~~] UNAUTHORIZED RECEIPT OR
24 DELIVERY OF [~~EMERGENCY PAPER~~] BALLOT.--Unless otherwise
25 provided by law, a voter shall not receive [~~an emergency paper~~]

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1 a ballot from any person other than from a member of the
2 precinct board of the polling place where ~~[he]~~ the voter is
3 authorized to vote. No person other than a member of the
4 precinct board or officer authorized by law shall deliver ~~[an~~
5 ~~emergency paper]~~ a ballot to any voter."

6 Section 6. Section 1-12-57 NMSA 1978 (being Laws 1977,
7 Chapter 222, Section 60) is amended to read:

8 "1-12-57. [~~EMERGENCY SITUATIONS--EMERGENCY PAPER]~~
9 ~~BALLOTS--PROCEDURE AFTER MARKING.--~~After marking and preparing
10 ~~[his emergency paper]~~ a ballot, the voter:

11 ~~[A. shall, before leaving the voting machine, fold~~
12 ~~his ballot so that the number on the ballot appears on the~~
13 ~~outside, without displaying the marks on its face, and he shall~~
14 ~~keep it folded until he has voted;~~

15 ~~B.]~~ A. shall not show it to any person in such a
16 way as to reveal its contents; and

17 ~~[G.]~~ B. shall insert the ballot into the electronic
18 vote tabulator or deliver it to the presiding judge ~~[who shall~~
19 ~~then detach the visible number on the ballot, hand it to the~~
20 ~~voter, then deposit the emergency paper ballot in the ballot~~
21 ~~box in the presence of the voter]~~ for tabulation."

22 Section 7. REPEAL.--Sections 1-6-9.1, 1-9-4.1, 1-9-15,
23 1-10-2.1, 1-11-5, 1-12-24, 1-12-38, 1-12-44, 1-12-48, 1-12-50,
24 1-12-52 through 1-12-56 and 1-12-63 NMSA 1978 (being Laws 1991,
25 Chapter 105, Section 13, Laws 2001, Chapter 233, Section 15,

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1 Laws 1985, Chapter 207, Section 14, Laws 1991, Chapter 105,
2 Section 16, Laws 1969, Chapter 240, Sections 215 and 278, Laws
3 1973, Chapter 358, Section 3 and Laws 1977, Chapter 222,
4 Sections 47, 51, 53, 55 through 59 and 66, as amended) are
5 repealed.

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