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SENATE BILL 503

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO ELECTIONS; PROVIDING A REMEDY FOR USE OF INCORRECT
BALLOTS.

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] BALLOTS--REMEDY FOR USE OF INCORRECT
BALLOTS.--

A. As used in this section, "incorrect ballot"
means an election ballot that fails to list the correct
candidate for an office.

B. If an incorrect ballot is discovered after
eligible voters have used the incorrect ballot to cast their
vote, the precinct board shall:

(1) lock and seal the voting machine on which

.125039.1

1    the incorrect ballot appears to prevent further voting on that

2    machine, at which time that machine shall be considered

3    disabled;

4                    (2)   preserve a record of the voters who voted

5    using the incorrect ballot by marking the vote number shown on

6    the public counter of the voting machine on both the copy of

7    the voter list marked for the secretary of state and the

8    signature roster;

9                    (3)   attach a note to the voter list marked

10   for the secretary of state and the signature roster giving the

11   number of the last voter who voted using the incorrect ballot;

12   and

13                   (4)   if necessary, use emergency ballots

14   pursuant to Section 1-12-43 NMSA 1978.

15        C.   The precinct board shall notify the county

16   clerk and the secretary of state of the incorrect ballot and

17   of the precinct board's compliance with the provisions of this

18   section no later than one hour after the polls close.

19        D.   The votes recorded on the voting machine that

20   was locked and sealed pursuant to Subsection B of this section

21   shall be tallied with the votes from valid ballots from the

22   precinct, except that the votes for incorrect candidates shall

23   not be tallied.   Written notice of this procedure and a

24   statement of the number of voters who voted using the

25   incorrect ballot shall be sent to the secretary of state and

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1   the county clerk after the signature roster is properly

2   certified.

3           E.   If a candidate contests the election results

4   and the court finds that the number of eligible voters who

5   relied on incorrect ballots is great enough to affect the

6   outcome of that candidate's race, the court may order the

7   county clerk to send ballots for that candidate's race to

8   those voters who voted using an incorrect ballot.

9           F.   The ballots prescribed in Subsection E of this

10  section shall list the names of the candidates and office for

11  the race in question, be in a form substantially similar to

12  absentee ballots as prescribed by the secretary of state and:

13               (1)   indicate the number of voters that are

14  eligible to vote in the court ordered vote;

15               (2)   give the reason the voter is being asked

16  to vote;

17               (3)   indicate that the voter must return the

18  ballot within fourteen days of receiving it;

19               (4)   be mailed to the voter by certified mail,

20  return receipt requested; and

21               (5)   be mailed with a prepaid return envelope

22  addressed to the county clerk of the county within which the

23  voter's precinct lies.

24          G.   Returned ballots shall be counted and tallied

25  by the county clerk in the presence of the district court

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1  judge or his representative and the results added to the

2  candidates' respective vote totals and reported to the court

3  and the secretary of state.   Ballots not received by the

4  county clerk within eighteen days of the county clerk's

5  mailing shall not be counted."

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# FORTY-FOURTH LEGISLATURE

# FIRST SESSION, 1999

February 18, 1999

Mr. President:

Your **RULES COMMITTEE**, to whom has been referred

SENATE BILL 503

has had it under consideration and reports same with

recommendation that it **DO PASS**, and thence referred to the

**JUDICIARY COMMITTEE.**

Respectfully submitted,

_____

**Gloria Howes, Co-Chair**

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1    Adopted_____ Not

2    Adopted_____

3            (Chief Clerk)                    (Chief Clerk)

4

5

6                Date _____

7

8

9    The roll call vote was  7  For  0  Against

10   Yes:      7

11   No:       0

12   Excused:  Altamirano

13   Absent:   None

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