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HOUSE BILL 237

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR AUTOMATIC RECOUNTS OF
CERTAIN ELECTIONS; PROVIDING FOR RECOUNT AND RECHECK
PROCEDURES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
ELECTION CODE.

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 STATE
AND FEDERAL OFFICES--PROCEDURES.--

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

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1 cast for that office in that election.

2 B. The secretary of state shall file notice with
3 the state canvassing board within five days of the completion
4 of the state canvass that an automatic recount is required, and
5 the state canvassing board shall order a recount of the ballots
6 for the specified office.

7 C. Automatic recounts shall be conducted pursuant
8 to the recount procedures established in Sections 1-14-16 and
9 1-14-18 through 1-14-22 NMSA 1978.

10 D. For the purposes of this section, "state office"
11 means the office of governor, lieutenant governor, state
12 auditor, state treasurer, attorney general, secretary of state,
13 supreme court justice, court of appeals judge, district judge,
14 magistrate judge, public regulation commissioner, commissioner
15 of public lands, state senator or state representative."

16 Section 2. A new section of the Election Code is enacted
17 to read:

18 "[NEW MATERIAL] AUTOMATIC RECOUNTS--EXPENSES.--The
19 secretary of state shall reimburse the counties for the costs
20 of conducting an automatic recount with money appropriated to
21 the secretary. In the event that current year appropriations
22 to the secretary of state do not cover the cost of an automatic
23 recount, the secretary may apply to the state board of finance
24 for an emergency grant to cover those costs pursuant to Section
25 6-1-2 NMSA 1978."

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1 Section 3. Section 1-14-16 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 345, as amended) is repealed and a new
3 Section 1-14-16 NMSA 1978 is enacted to read:

4 "1-14-16. [NEW MATERIAL] RECOUNT OR RECHECK
5 PROCEEDINGS.--

6 A. Immediately after filing of the application for
7 recount or recheck, or notice of an automatic recount, the
8 appropriate canvassing board shall issue an order to the county
9 clerk of each county where a precinct specified in the
10 application or notice is located commanding the county clerk to
11 convene the absent voter precinct board at the county seat on a
12 day specified in the order, which date shall not be more than
13 ten days after the filing of the application for a recount or
14 recheck or notice of an automatic recount.

15 B. Upon receipt of the order, the county clerk
16 shall send notices by registered mail of the date fixed for the
17 recount or recheck to the district judge for the county, the
18 absent voter precinct board members and the county chair of
19 each of the political parties that participated in the election
20 for the office in question.

21 C. The absent voter precinct board, district judge
22 and county clerk shall meet on the date fixed for the recount
23 or recheck, and the ballot boxes and ballot containers or
24 voting machines of the precincts involved in the recount or
25 recheck shall be opened. The absent voter precinct board shall

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1 recount and retally the ballots, or recheck the votes cast on
2 the voting machines, as the case may be, for the office in
3 question in the presence of the county clerk, district judge,
4 or person designated to act for the district judge, and any
5 other person who may desire to be present.

6 D. After completion of the recount or recheck, the
7 absent voter precinct board shall replace the ballots in the
8 ballot boxes and ballot containers and lock them, or the voting
9 machines shall be locked and resealed, and the precinct board
10 shall certify to the secretary of state the results of the
11 recount or recheck. The district judge, or the person
12 designated to act for the district judge, and the county clerk
13 shall also certify that the recount or recheck was made in
14 their presence."

15 Section 4. Section 1-14-18 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 347, as amended) is amended to read:

17 "1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING
18 BOARDS.--

19 A. Immediately upon receipt of the certificate of
20 recount or recheck from all the absent voter precinct boards
21 making a recount or recheck, the proper canvassing board shall
22 meet and recanvass the returns for the office in question.

23 B. In making the recanvass, the proper canvassing
24 board shall be bound by the certificates of recount or recheck
25 from the absent voter precinct boards instead of the original

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1 returns from [~~those~~] the precinct boards.

2 C. After the recanvass, if it appears that fraud or
3 error has been committed sufficient to change the winner of the
4 election, then the proper canvassing board shall revoke the
5 certificate of nomination or election already issued to any
6 person for that office and shall issue a certificate of
7 nomination or election in favor of the person receiving a
8 plurality of the votes cast at the election as shown by the
9 recount or recheck, and such certificate shall supersede all
10 others and entitle the holder to the same rights and
11 [~~privileges~~] privileges as if such certificate had been
12 originally issued by the canvassing board."

13 Section 5. REPEAL.--Section 1-14-17 NMSA 1978 (being Laws
14 1969, Chapter 240, Section 346, as amended) is repealed.

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