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HOUSE BILL 430

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO ELECTIONS; REQUIRING USE OF PAPER BALLOTS FOR ALL VOTING SYSTEMS; REQUIRING AN ADEQUATE NUMBER OF VOTING BOOTHS; PROVIDING FOR A DELAYED REPEAL OF A SECTION OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

Section 1. Section 1-9-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 188, as amended) is amended to read:

"1-9-5. REQUIREMENT TO PURCHASE AND USE VOTING SYSTEMS.--

A. Voting systems shall be used in all precincts in all statewide elections.

B. The county clerk of each county shall provide one voting system in each precinct for use in the general and primary elections when the total number of registered voters in

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1 that precinct amounted to fewer than six hundred at the close
2 of registration.

3 C. At least one additional voting system shall be
4 provided in such precinct for every six hundred registered
5 voters in that precinct; provided that if the voting system
6 used in the precinct is a paper ballot system, the county clerk
7 shall ensure that an adequate number of voting booths are
8 provided in lieu of providing more electronic vote tabulators.

9 D. When authorized by the state board of finance,
10 the board of county commissioners may acquire new or previously
11 owned voting or electronic vote tabulating systems, as tested
12 and approved by the secretary of state pursuant to the
13 provisions of Section 1-9-14 NMSA 1978, which systems may be
14 used in any election for public office. The acquisition of
15 these systems may be in excess of the number provided in this
16 section.

17 E. Except for intercounty acquisitions of equipment
18 approved by the secretary of state, a previously owned voting
19 or electronic vote tabulating system shall have a warranty
20 equal to the warranty required of a new voting or electronic
21 vote tabulating system."

22 Section 2. Section 1-9-7.1 NMSA 1978 (being Laws 2005,
23 Chapter 270, Section 56) is amended to read:

24 "1-9-7.1. VOTING SYSTEM--~~[VOTER-VERIFIABLE]~~ USE OF PAPER
25 ~~[TRAIL]~~ BALLOT.--

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1 A. All voting systems used in elections covered by
2 the Election Code shall ~~[have]~~ use a ~~[voter-verifiable and~~
3 ~~auditable]~~ paper ~~[trail]~~ ballot on which the voter physically
4 or electronically marks the voter's choices on the ballot
5 itself; provided, however, that voting systems owned or used by
6 a county on ~~[the effective date of this 2005 act]~~ March 1, 2006
7 that do not ~~[have]~~ use a ~~[voter-verifiable and auditable]~~
8 paper ~~[trail]~~ ballot may be used until the first occurrence of
9 the following:

10 (1) sufficient federal, state or local funds
11 are available to replace the voting system and an adequate
12 supply of voting systems is available; or

13 (2) December 31, ~~[2006]~~ 2007.

14 B. In any event, no voting system shall be used
15 that has not been certified by the secretary of state.

16 ~~[C. As used in this section:~~

17 ~~(1) "voting system" includes a paper ballot~~
18 ~~system in which the voter physically marks the paper ballot to~~
19 ~~indicate the voter's choices; and~~

20 ~~(2) "voter-verifiable and auditable paper~~
21 ~~trail" means a paper record of the voter's choices, viewable~~
22 ~~prior to casting the ballot, which may be the paper ballot~~
23 ~~itself;]~~

24 C. The paper ~~[trail]~~ ballot shall be used by the
25 state or its contractor to check either the veracity of a

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1 machine count or the count itself, ~~[or may]~~ and shall be used
2 in a recount proceeding as are absentee ballots, and in case of
3 a discrepancy, the ~~[voter-verifiable and auditable]~~ paper
4 ~~[trail]~~ ballot shall be considered the true and correct record
5 of the voter's choices."

6 Section 3. DELAYED REPEAL.--Section 1-9-4.1 NMSA 1978
7 (being Laws 2001, Chapter 233, Section 15, as amended) is
8 repealed effective December 31, 2007.

9 Section 4. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.