

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:

"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 primary or 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 cast for that office in that election.

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

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

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

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

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

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 Section 1-14-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 345, as amended) is repealed and a new Section 1-14-16 NMSA 1978 is enacted to read:

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

A. Immediately after filing of the application for recount or recheck, or notice of an automatic recount, the appropriate canvassing board shall issue an order to the county clerk of each county where a precinct specified in the

application or notice is located commanding the county clerk to convene the absent voter precinct board at the county seat on a day specified in the order, which date shall not be more than ten days after the filing of the application for a recount or recheck or notice of an automatic recount.

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

C. The absent voter precinct board, district judge and county clerk shall meet on the date fixed for the recount or recheck, and the ballot boxes and ballot containers or voting machines of the precincts involved in the recount or recheck shall be opened. The absent voter precinct board shall recount and retally the ballots, or recheck the votes cast on the voting machines, as the case may be, for the office in question in the presence of the county clerk, district judge, or person designated to act for the district judge, and any other person who may desire to be present.

D. After completion of the recount or recheck, the absent voter precinct board shall replace the ballots in the ballot boxes and ballot containers and lock them, or the voting machines shall be locked and resealed, and the precinct

board shall certify to the secretary of state the results of the recount or recheck. The district judge, or the person designated to act for the district judge, and the county clerk shall also certify that the recount or recheck was made in their presence."

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

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

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

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

C. After the recanvass, if it appears that fraud or error has been committed sufficient to change the winner of the election, then the proper canvassing board shall revoke the certificate of nomination or election already issued to any person for that office and shall issue a certificate of nomination or election in favor of the person receiving a plurality of the votes cast at the election as shown by the recount or recheck, and such certificate shall supersede all

others and entitle the holder to the same rights and privileges as if such certificate had been originally issued by the canvassing board."

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