AN ACT

RELATING TO ELECTIONS; PROVIDING FOR OPTIONAL EARLY COUNTING OF ABSENTEE BALLOTS.

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

Section 1. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

"1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee ballot register and safely keep the official mailing envelope unopened in a locked ballot box until it is delivered [on election day] to the proper precinct board or until it is canceled and destroyed in accordance with law.

B. The county clerk shall accept completed

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1   official mailing envelopes until 7:00 p.m. on election day.

2   Any completed official mailing envelope received after that

3   time shall not be delivered to a precinct board but shall be

4   preserved by the county clerk until the time for election

5   contests has expired. In the absence of a restraining order

6   after expiration of the time for election contests, the county

7   clerk shall destroy all late official mailing envelopes

8   without opening or permitting the contents to be examined,

9   cast, counted or canvassed. Before their destruction, the

10   county clerk shall count the numbers of late ballots from

11   voters, federal voters, overseas citizen voters and federal

12   qualified electors and report the number from each category to

13   the secretary of state.

14   C.   At 5:00 p.m. on the Monday immediately

15   preceding the date of election, the county clerk shall record

16   the numbers of the unused absentee ballots and shall publicly

17   destroy in the county clerk's office all such unused ballots.

18   The county clerk shall execute a certificate of such

19   destruction [which] that shall include the numbers on the

20   ballots destroyed. A copy of the certificate of destruction

21   shall be sent to the secretary of state."

22   Section 2. Section 1-6-11 NMSA 1978 (being Laws 1969,

23   Chapter 240, Section 137, as amended) is amended to read:

24   "1-6-11.   DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER

25   PRECINCTS--EARLY COUNTING OPTION.--

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A.   Unless the county clerk has chosen the early

counting option pursuant to Subsection B of this section , on

election day the county clerk shall deliver the absentee

ballots received by him prior to 7:00 p.m. on election day to

the special deputy county clerks for delivery to the absent

voter precinct boards.   The absentee ballots for each absent

voter precinct shall be separately wrapped, and the special

deputy county clerk shall give a receipt for all ballots taken

by him for the county clerk.   Upon delivery of the absentee

ballots to the absent voter precinct board, the special deputy

county clerk shall remain in the polling place of the absent

voter precinct until he has observed the opening of the

official mailing envelope, the deposit of the ballot in the

locked ballot box and the listing of the names on the official

mailing envelope in the signature rosters.   Upon such delivery

of absentee ballots, the special deputy county clerk shall

obtain a receipt executed by the presiding judge and each

election judge and he shall return such receipt to the county

clerk for filing.   The receipts shall specify the number of

envelopes received by the special deputy county clerk from the

county clerk for each absent voter precinct and the number of

envelopes received by the absent voter precinct board from the

special deputy county clerk.

B.   The county clerk may choose to deliver absentee

ballots to the absent voter precinct boards anytime after 7:00

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1   a.m. the Friday immediately preceding election day if the

2   procedures for delivery set out in Subsection A of this

3   section are followed each time the special deputy county

4   clerks deliver absentee ballots to the absent voter precinct

5   boards. The absent voter precinct boards may then begin

6   counting, tallying and registering the results of absentee

7   balloting pursuant to Section 1-6-14 NMSA 1978."

8   Section 3. A new section of the Election Code is enacted

9   to read:

10   "[NEW MATERIAL] SECURITY.--The secretary of state shall

11   adopt rules for protecting the integrity, security and secrecy

12   of absentee ballots subject to early counting as prescribed by

13   Section 1-6-11 NMSA 1978."

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

February 16, 1999

Mr. Speaker:

Your **VOTERS AND ELECTIONS COMMITTEE,** to whom has been referred

HOUSE BILL 176

has had it under consideration and reports same **WITHOUT RECOMMENDATION**, amended as follows:

1. On page 1, line 11, strike "COUNTING" and insert in lieu thereof "PROCESSING".

2. On page 2, line 25, strike "COUNTING" and insert in lieu thereof "PROCESSING".

3. On page 3, line 2, strike "counting" and insert in lieu thereof "processing".

4. On page 4, line 6, strike "counting, tallying and

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registering the results of" and insert in lieu thereof "processing the".

    5. On page 4, line 7, strike "balloting" and insert in lieu thereof "ballots on an electronic vote tabulation machine".

    6. On page 4, line 7, after the period insert:

"For the purposes of this section, "processing" means following the procedures in Section 1-6-14 NMSA 1978 that do not require manual counting, tallying or registering of the results of absentee balloting. Absentee ballots that cannot be processed on, or are rejected by, an electronic vote tabulation machine shall be placed in a locked ballot box that shall not be opened until election day, at which time they shall be manually counted or registered.".

    7. On page 4, between lines 7 and 8, insert the following new section:

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"Section 3.   Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

"1-6-14.   HANDLING ABSENTEE BALLOTS BY ABSENT VOTER PRECINCT BOARDS.--

A.   Before opening any official mailing envelope, the presiding judge and the election judges shall determine that the required information has been completed on the reverse side of the official mailing envelope.

B.   If the voter's signature is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The election clerks shall enter the voter's name in the signature rosters and shall write the notation "Rejected--Missing Signature" in the "Notations" column of the signature rosters. The presiding judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope and write the voter's name on the front of the envelope and deposit it in the locked ballot box.

C.   The accredited challengers may examine the official mailing envelope and may challenge the ballot of any

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absent voter for the following reasons:

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6   (1)   the official mailing envelope has been

7   opened prior to being received by the precinct board; or

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9   (2)   the person offering to vote is not a

10   federal voter, federal qualified elector, overseas citizen voter

11   or voter as provided in the Election Code.

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        Upon the challenge of an absentee ballot, the election

13   judges and the presiding judge shall follow the same procedure

14   as when ballots are challenged when a person attempts to vote in

15   person.   If a challenge is upheld, the official mailing envelope

16   shall not be opened but shall be placed in an envelope provided

17   for challenged ballots.   The same procedure shall be followed in

18   canvassing and determining the validity of challenged absentee

19   ballots as with other challenged ballots.

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D. If the official mailing envelopes have been properly subscribed and the voters have not been challenged:

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(1) the election judges shall open the official mailing envelopes and deposit the ballots in their still-sealed official inner envelopes in the locked ballot box; and

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(2) the election clerks shall enter the absent voter's name and residence address as shown on the official mailing envelope in the signature rosters and shall mark the notation "AB" opposite the voter's name in the "Notations" column of the signature rosters.

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E. Prior to the closing of the polls, the election judges and the presiding judge may either remove the absentee ballots from the official inner envelopes and count and tally the results of absentee balloting or, under the personal supervision of the presiding judge and one election judge from each party, register the results of each absentee ballot on a voting machine the same as if the absent voter had been present and voted in person. It [shall be unlawful] is a fourth degree felony for any person to disclose the results of such count and tally or such registration on a voting machine of absentee ballots prior to the closing of the polls.

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4   F.   Absentee ballots shall be counted and tallied or

5   registered on a lever voting machine or an electronic voting

6   machine as provided in the Election Code; provided that any

7   county with a population in excess of one hundred thousand shall

8   count and tally or register absentee ballots on an electronic

9   voting machine.

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12   G.   Absent voter precinct polls shall close at the

13   time prescribed by the Election Code for other polling places,

14   and the results of the election shall be certified as prescribed

15   by the secretary of state."".

16   8. Renumber the succeeding section accordingly.

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18   Respectfully submitted,

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22   **Edward C. Sandoval, Chairman**

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Adopted _____   Not Adopted _____

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6   (Chief Clerk)   (Chief Clerk)

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8   Date _____

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10   The roll call vote was _8_ For _4_ Against

Yes: 8

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No: Buffett, Dana, Foley, Macko

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Excused: None

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Absent: None

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FORTY-FOURTH LEGISLATURE

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FIRST SESSION, 1999

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February 20, 1999

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7   Mr. Speaker:

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9   Your **JUDICIARY COMMITTEE,** to whom has been referred

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11   **HOUSE BILL 176, as amended**

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has had it under consideration and reports same with

13   recommendation that it **DO PASS**, amended as follows:

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15   1.   Strike House Voters and Elections Committee

16   Amendments 4 through 6.

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18   2.   On page 4, line 5, after "begin" insert:

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"to administratively process the absentee ballots following

20   the procedures provided in Subsections A through D of

21   Section 1-6-14 NMSA 1978. Beginning at 7:00 a.m. on the

22   Monday before election day, the absent voter precinct board

23   may begin".

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25   3.   On page 4, line 6, strike "counting, tallying and"

and insert in lieu thereof "electronically".

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4.   On page 4, line 7, before the period insert:

"; provided, however, that the absentee ballots that cannot be processed by, or are rejected by, an electronic vote tabulation machine shall be placed in a locked ballot box that shall not be opened until election day, at which time they shall be manually counted or tallied as provided in the Election Code".

Respectfully submitted,

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R. David Pederson, Chairman

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Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Rios, Sanchez

Absent: None

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