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HOUSE BILL 238

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR EXCESS ABSENTEE BALLOTS TO
BE USED ON ELECTION DAY; DECLARING AN EMERGENCY.

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--USE OF
EXCESS BALLOTS.--

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 and number-sealed ballot box until it is delivered
to the [proper] absent voter precinct board or until it is
canceled and destroyed in accordance with law.

.180758.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 B. The county clerk shall accept completed official
2 mailing envelopes until 7:00 p.m. on election day and the
3 county clerk or absent voter precinct board shall accept
4 completed official mailing envelopes from precincts within the
5 county of the voters who turned in their absentee ballots at
6 their precinct by the close of polls on election day. Any
7 completed official mailing envelope received after that time
8 shall not be delivered to ~~[a]~~ the absent voter precinct board
9 but shall be preserved by the county clerk until the time for
10 election contests has expired. In the absence of a restraining
11 order after expiration of the time for election contests, the
12 county clerk shall destroy all late official mailing envelopes
13 without opening or permitting the contents to be examined,
14 cast, counted or canvassed. Before their destruction, the
15 county clerk shall count the numbers of late ballots from
16 voters, ~~[federal voters]~~ overseas ~~[citizen]~~ voters and federal
17 qualified electors and report the number from each category to
18 the secretary of state.

19 C. At 5:00 p.m. on the Monday immediately preceding
20 the date of election, the county clerk shall record the numbers
21 of the unused absentee ballots and shall ~~[publicly destroy in~~
22 ~~the county clerk's office all such unused ballots. The county~~
23 ~~clerk shall execute a certificate of destruction, which shall~~
24 ~~include the numbers on the absentee ballots destroyed. A copy~~
25 ~~of the certificate of destruction shall be sent to the~~

.180758.3

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[bracketed material] = delete

1 ~~secretary of state~~] prepare the absentee ballots for delivery
2 on election day to precinct boards that require more ballots on
3 election day.

4 D. The secretary of state shall promulgate by rule
5 procedures to ensure that all absentee ballots that are used as
6 backup ballots are accounted for and that all unused absentee
7 ballots are destroyed at the close of the polls on election
8 day."

9 Section 2. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.