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HOUSE BILL 758

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR THE USE OF EXCESS ABSENTEE  
BALLOTS AS BACKUP BALLOTS AT THE POLLS ON ELECTION DAY.

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 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.

B. The county clerk shall accept completed official

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

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

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1 election day to any precinct board that requires more ballots  
2 on election day.

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

7 Section 2. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2007.

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