

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 532

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; AMENDING AND UPDATING ARTICLE 5 OF THE
ELECTION CODE; INCREASING FINES.

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

Section 1. Section 1-5-2 NMSA 1978 (being Laws 1969,
Chapter 240, Section 104, as amended) is amended to read:

"1-5-2. DEFINITIONS. -- As used in the Election Code:

A. "county" means any county in this state;

B. "county register" means an official file of
original certificates of registration of the county or any
precinct thereof [~~arranged in alphabetical order by voter
surname and, if for more than one precinct, without regard to
precinets~~];

C. "voter list" means any [~~machine-prepared~~]
prepared list of voters;

underscored material = new
[bracketed material] = delete

1 D. "signature roster" means a copy of a voter list
2 with space provided opposite each voter's name for the voter's
3 signature or witnessed mark;

4 E. "active data processing media" means [~~punched~~
5 ~~cards, punched tape, magnetic cards~~] magnetic discs, magnetic
6 tape or functionally similar devices containing data capable
7 of being read and processed by [~~suitable machinery~~] computer
8 for the eventual [~~machine~~] preparation of voter lists;

9 F. "intermediate records" means records on active
10 data processing media;

11 G. "voter file" means all voter registration
12 information required by law and by the secretary of state that
13 has been extracted from the certificate of registration of
14 each voter in the county, stored on active data processing
15 media and certified by the county clerk as the source of all
16 information required by the Automated Voter Records System
17 Act;

18 H. "program records" means the necessary detailed
19 program and instructions for carrying out and controlling
20 machine processing of information derived from the voter file.
21 Program records shall exist in written English or coded form
22 and they may exist on active data processing media;

23 I. "mailing labels" means [~~machine-prepared~~]
24 prepared mailing labels of selected voters arranged in the
25 order in which requested and providing only the name and

underscored material = new
[bracketed material] = delete

1 address of the voter;

2 J. "special voter lists" means [~~machine-prepared~~
3 prepared lists of selected voters arranged in the order in
4 which requested;

5 K. "statistical data" means information derived
6 from the voter file;

7 L. "voter data" means selected information derived
8 from the voter file;

9 M. "data processor" means a data processing
10 facility and associated employees and agents thereof
11 contracted to provide data processing services required by the
12 Automated Voter Records System Act;

13 N. "file maintenance list" means any
14 [~~machine-prepared~~] prepared listing that reflects additions,
15 deletions or changes to the voter file;

16 O. "precinct voter list" means a voter list
17 arranged in alphabetical order of voter surname within and for
18 each precinct;

19 P. "county voter list" means a voter list arranged
20 in alphabetical order of voter surname within and for each
21 county;

22 Q. "unofficial election canvassing file" means the
23 compilation by the county clerk of the results of any election
24 prior to official certification of the election results; and

25 R. "unofficial election canvassing system" means

. 134948. 1

underscored material = new
[bracketed material] = delete

1 the automated data processing computer program used to create
2 the unofficial election canvassing file. "

3 Section 2. Section 1-5-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 107, as amended by Laws 1993, Chapter
5 314, Section 34 and also by Laws 1993, Chapter 316, Section
6 34) is amended to read:

7 "1-5-5. ENTRY OF DATA INTO [~~MACHINE~~] DATA PROCESSING
8 SYSTEM - COUNTY REGISTER - - MAINTENANCE. - -

9 A. The county clerk, upon receipt of a proper
10 certificate of registration within the period prescribed for
11 registration, shall immediately enter in the proper spaces
12 thereon the precinct of the voter.

13 B. All information required [~~is~~] shall then be
14 entered into the voter file and evidenced by the file
15 maintenance list. A new certificate of registration, or
16 change of information to an existing certificate of
17 registration, shall not be inserted into the county register
18 until the county clerk has had all pertinent information
19 necessary for the preparation of voter files and voter lists
20 transcribed from it to a record appropriate for use for
21 [~~machine~~] preparation of such lists.

22 C. After entry of data into the [~~machine~~] data
23 processing system, the county clerk shall insert each original
24 certificate of registration in its proper order in the county
25 register.

underscored material = new
[bracketed material] = delete

1 D. A certificate of registration shall not be
2 removed from the county register pursuant to a cancellation of
3 registration until the county clerk has entered into the voter
4 file all deletions and changes and such deletions and changes
5 are evidenced by the file maintenance list. "

6 Section 3. Section 1-5-6 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 108, as amended by Laws 1993, Chapter
8 314, Section 35 and also by Laws 1993, Chapter 316, Section
9 35) is amended to read:

10 "1-5-6. VOTER LISTS--SIGNATURE [~~ROSTERS--MACHINE~~
11 ~~PREPARED~~] ROSTER PREPARATION. --The county clerk shall provide
12 for [~~machine~~] preparation of voter lists and signature rosters
13 for any precincts. [~~Such~~] The voter lists and signature
14 rosters shall be used at any election for which registration
15 of voters is required in lieu of bound original certificates
16 of registration and poll books. "

17 Section 4. Section 1-5-12 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 114, as amended by Laws 1993, Chapter
19 314, Section 37 and also by Laws 1993, Chapter 316, Section
20 37) is amended to read:

21 "1-5-12. VOTER WHOSE NAME IS NOT ON LIST OR ROSTER. --

22 A. A voter whose name does not appear on the voter
23 list and signature roster for the precinct in which he offers
24 to vote shall be permitted to vote in [~~such~~] the precinct
25 [~~provided the voter meets the requirements specified in the~~

underscored material = new
[bracketed material] = delete

1 ~~Election Code for voting on a voter's copy of a certificate of~~
2 ~~registration, or has in his possession a certificate of~~
3 ~~eligibility bearing the seal and signature of the county clerk~~
4 ~~stating that the voter's original certificate of registration~~
5 ~~is in the county register of that county wherein such precinct~~
6 ~~is located] pursuant to the National Voter Registration Act of~~
7 1993.

8 B. The election clerks in charge of the signature
9 rosters shall add the voter's name and address in ink to the
10 signature roster on the line immediately following the last
11 entered voter's name and the voter shall be allowed to sign an
12 affidavit of eligibility and cast [his] an emergency paper
13 ballot, provided he has first signed or marked both [rosters]
14 the signature roster and checklist of registered voters.

15 C. ~~[The voting machine public counter number or]~~
16 The emergency paper ballot number for the voter shall be
17 entered on ~~[his certificate of eligibility or copy of his~~
18 ~~certificate of registration. The certificate of eligibility~~
19 ~~or voter's copy of his certificate of registration shall be~~
20 ~~retained by the precinct board and returned to the county~~
21 ~~clerk with the election returns.~~

22 D. ~~Such certificate of eligibility shall be valid~~
23 ~~for use only in the precinct and for the election and date~~
24 ~~specified thereon] the affidavit of eligibility, the signature~~
25 roster and the checklist of registered voters.

underscored material = new
[bracketed material] = delete

1 ~~[E.]~~ D. In a primary election ~~[a voter whose party~~
2 ~~affiliation is not shown on the certificate of eligibility or~~
3 ~~copy of his certificate of registration shall not be permitted~~
4 ~~to receive or cast a ballot]~~ no voter shall be permitted to
5 vote for a candidate of a party different from the party
6 designation shown on his ~~[certificate of eligibility or the~~
7 ~~copy of his]~~ certificate of registration. Upon making that
8 determination, the county clerk shall transmit the ballot to
9 the county canvassing board to be tallied and included in the
10 canvass of that county for the appropriate precinct.

11 ~~[F.]~~ E. No verbal authorization from the county
12 clerk to allow a person to vote ~~[under this section]~~ shall be
13 permitted. "

14 Section 5. Section 1-5-14 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 118, as amended by Laws 1995, Chapter
16 124, Section 7 and also by Laws 1995, Chapter 166, Section 4)
17 is amended to read:

18 "1-5-14. FILE MAINTENANCE LISTS. --

19 A. At least once a month the county clerk shall
20 have made from the voter file a ~~[machine-prepared]~~ file
21 maintenance list of additions, deletions and changes, if any,
22 to the county register.

23 B. The county clerk shall be furnished with two
24 copies of the ~~[machine-prepared]~~ file maintenance lists.

25 C. One copy of the list shall be stored by the

underscored material = new
[bracketed material] = delete

1 county clerk for at least [~~six years~~] one year.

2 D. The county clerk shall also be furnished with
3 copies of the list to give to the county chairman of each of
4 the major political parties in the county. The copy of the
5 chairman's list shall indicate whether each item is an
6 addition, deletion or change. The file maintenance list shall
7 not include the voter's social security number, codes used to
8 identify the agency where the voter registered, voter's day
9 and month of birth or voter's telephone number, if prohibited
10 by the voter.

11 E. Beginning the first Monday of February of an
12 election year and every month thereafter, the county clerks
13 shall furnish the secretary of state with a copy of the
14 [~~magnetic~~] voter file, except that during the months of April
15 and September of an election year, the county clerks shall
16 furnish a copy of the [~~magnetic~~] voter file to the secretary
17 of state at least one time each week. The final copy shall be
18 furnished to the secretary of state by the county clerks
19 within seven days of the close of registration. "

20 Section 6. Section 1-5-17 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 122, as amended) is amended to read:

22 "1-5-17. PROGRAM RECORDS--INSTRUCTIONS--STATUS--
23 PROTECTION.--

24 A. Program records and instructions for their use
25 in controlling the [~~machine~~] processing of information derived

underscored material = new
[bracketed material] = delete

1 from the voter file shall be verified functionally, identified
2 and approved by the secretary of state.

3 B. Program records and instructions for their use
4 shall remain the property of the designated data processor.

5 C. Verified, identified and approved program
6 records and instructions shall be safeguarded at all times
7 against loss or damage. The designated data processor shall
8 be in charge of these safeguards subject to approval by the
9 secretary of state. "

10 Section 7. Section 1-5-18 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 124) is amended to read:

12 "1-5-18. [~~MACHINE~~] LIST AND ROSTER PREPARATION--
13 COMPATIBLE DUPLICATE MEANS. --

14 A. The county clerk shall employ such means for
15 [~~machine~~] preparation of voter lists and signature rosters as
16 can be functionally duplicated elsewhere with reasonable cost
17 and convenience.

18 B. At least one compatible duplicate means shall
19 be provided for on a standby basis, and it shall be capable of
20 performing the preparation of [~~voting~~] voter lists and
21 signature rosters with minimum delay in case the original
22 means is unable to perform.

23 C. The county clerk shall procure and preserve
24 sufficient duplicate program information and operating
25 instructions with each duplicate program record so that in

underscored material = new
[bracketed material] = delete

1 case of disaster the duplicate master record, the duplicate
2 program record and the duplicate additional program
3 information and operating instructions will be all that will
4 be required for another compatible [~~machine~~] facility to
5 prepare registered voter lists and signature rosters with
6 minimum delay. "

7 Section 8. Section 1-5-19 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 125, as amended) is amended to read:

9 "1-5-19. REGISTRATION--FORM --

10 A. The secretary of state shall prescribe the form
11 and assure that the certificate of registration to be used in
12 any county is compatible with the [~~machine~~] data processing
13 systems.

14 B. The certificate of registration form shall
15 require the following elements of information concerning the
16 applicant for registration: name, gender, residence,
17 municipality, post office, county of former registration,
18 social security number, date of birth, political party
19 affiliation, zip code, telephone number at the applicant's
20 option and statement of qualification for voting.

21 C. Provision shall be made for the usual signature
22 or mark of the applicant, for the signature of the county
23 clerk and for the dates of such signatures.

24 D. The certificate form may be multipurpose by
25 providing for an indication of whether the certificate of

. 134948. 1

underscored material = new
[bracketed material] = delete

1 registration is for a new registration, a change in the
2 existing registration or a cancellation of an existing
3 registration. Provision shall be made on any multipurpose
4 form for entry of any existing registered information for
5 which a change may be requested.

6 E. The certificate of registration forms shall be
7 serially numbered and shall be furnished promptly and in
8 adequate supply by the secretary of state upon application
9 from the county clerk. "

10 Section 9. Section 1-5-25 NMSA 1978 (being Laws 1975,
11 Chapter 255, Section 79) is amended to read:

12 "1-5-25. UNLAWFUL USE OF STATISTICAL DATA--UNLAWFUL USE
13 OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS--
14 PENALTIES. --

15 A. Unlawful use of statistical data [~~shall~~
16 ~~consist~~] consists of use of statistical data in such a manner
17 as to derive information, the use or possession of which would
18 be otherwise prohibited under the Automated Voter Records
19 System Act.

20 B. Unlawful use of voter data, mailing labels or
21 special voter lists [~~shall consist~~] consists of the knowing
22 and willful use of such information for purposes prohibited by
23 the Automated Voter Records System Act.

24 C. Any person, organization or corporation or
25 agent, officer, representative or employee thereof who commits

underscored material = new
[bracketed material] = delete

1 unlawful use of statistical data, voter data, mailing labels
2 or special voter lists [~~shall be~~] is guilty of a fourth degree
3 felony and upon conviction shall be fined [~~ten dollars~~
4 ~~(\$10.00)~~] one hundred dollars (\$100) for each and every line
5 of voter information which was unlawfully used.

6 D. Each and every unlawful use of statistical
7 data, voter data, mailing labels or special voter lists [~~shall~~
8 ~~constitute~~] constitutes a separate offense. "

9 Section 10. Section 1-5-29 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 83, as amended by Laws 1993, Chapter 314,
11 Section 41 and also by Laws 1993, Chapter 316, Section 41) is
12 amended to read:

13 "1-5-29. AUTOMATED VOTER RECORDS SYSTEM ADVISORY
14 COMMITTEE--COMPENSATION--MEETINGS. --

15 A. Members of the automated voter records system
16 advisory committee, except the director of the bureau of
17 elections, shall be paid per diem and mileage as provided in
18 the Per Diem and Mileage Act for nonsalaried state officers.

19 B. No [~~less~~] fewer than [~~two meetings~~] one meeting
20 shall be called annually by the secretary of state.

21 C. [~~At the first meeting of~~] Each odd-numbered
22 year, the committee shall review the certificate of
23 registration and the automated voter records system format and
24 make recommendations for necessary revisions to the secretary
25 of state. "