

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;

C. "voter list" means any prepared list of
voters;

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

E. "active data processing media" means magnetic
discs, magnetic tape or functionally similar devices
containing data capable of being read and processed by
computer for the eventual preparation of voter lists;

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

G. "voter file" means all voter registration
information required by law and by the secretary of state

that has been extracted from the certificate of registration of each voter in the county, stored on active data processing media and certified by the county clerk as the source of all information required by the Automated Voter Records System Act;

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

I. "mailing labels" means prepared mailing labels of selected voters arranged in the order in which requested and providing only the name and address of the voter;

J. "special voter lists" means prepared lists of selected voters arranged in the order in which requested;

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

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

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

N. "file maintenance list" means any prepared

listing that reflects additions, deletions or changes to the voter file;

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

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

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

R. "unofficial election canvassing system" means the automated data processing computer program used to create the unofficial election canvassing file;

S. "election campaign purposes" means relating in any way to a campaign in an election conducted by a federal, state or local government; and

T. "governmental purposes" means noncommercial purposes relating in any way to the structure, operation or decision-making of a federal, state or local government."

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

"1-5-5. ENTRY OF DATA INTO DATA PROCESSING SYSTEM -
COUNTY REGISTER-- MAINTENANCE. - -

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

B. All information required shall then be entered into the voter file and evidenced by the file maintenance list. A new certificate of registration, or change of information to an existing certificate of registration, shall not be inserted into the county register until the county clerk has had all pertinent information necessary for the preparation of voter files and voter lists transcribed from it to a record appropriate for use for preparation of such lists.

C. After entry of data into the data processing system, the county clerk shall insert each original certificate of registration in its proper order in the county register.

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

Chapter 240, Section 108, as amended by Laws 1993, Chapter 314, Section 35 and also by Laws 1993, Chapter 316, Section 35) is amended to read:

"1-5-6. VOTER LISTS--SIGNATURE ROSTER PREPARATION. --

The county clerk shall provide for preparation of voter lists and signature rosters for any precincts. The voter lists and signature rosters shall be used at any election for which registration of voters is required in lieu of bound original certificates of registration and poll books."

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

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

A. A voter whose name does not appear on the voter list and signature roster for the precinct in which he offers to vote shall be permitted to vote in the precinct pursuant to the National Voter Registration Act of 1993.

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

C. The emergency paper ballot number for the voter shall be entered on the affidavit of eligibility, the signature roster and the checklist of registered voters.

D. In a primary election no voter shall be permitted to vote for a candidate of a party different from the party designation shown on his certificate of registration. Upon making that determination, the county clerk shall transmit the ballot to the county canvassing board to be tallied and included in the canvass of that county for the appropriate precinct.

E. No verbal authorization from the county clerk to allow a person to vote shall be permitted. "

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

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

A. At least once a month the county clerk shall have made from the voter file a file maintenance list of additions, deletions and changes, if any, to the county register.

B. The county clerk shall be furnished with two copies of the file maintenance lists.

C. One copy of the list shall be stored by the county clerk for at least one year.

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

E. Beginning the first Monday of February of an election year and every month thereafter, the county clerks shall furnish the secretary of state with a copy of the voter file, except that during the months of April and September of an election year, the county clerks shall furnish a copy of the voter file to the secretary of state at least one time each week. The final copy shall be furnished to the secretary of state by the county clerks within seven days of the close of registration."

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

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

A. Program records and instructions for their use in controlling the processing of information derived from the voter file shall be verified functionally, identified and

approved by the secretary of state.

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

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

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

"1-5-18. LIST AND ROSTER PREPARATION--COMPATIBLE DUPLICATE MEANS.--

A. The county clerk shall employ such means for preparation of voter lists and signature rosters as can be functionally duplicated elsewhere with reasonable cost and convenience.

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

C. The county clerk shall procure and preserve sufficient duplicate program information and operating instructions with each duplicate program record so that in case of disaster the duplicate master record, the duplicate

program record and the duplicate additional program information and operating instructions will be all that will be required for another compatible facility to prepare registered voter lists and signature rosters with minimum delay. "

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

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

A. The secretary of state shall prescribe the form and assure that the certificate of registration to be used in any county is compatible with the data processing systems.

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

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

D. The certificate form may be multipurpose by providing for an indication of whether the certificate of registration is for a new registration, a change in the

existing registration or a cancellation of an existing registration. Provision shall be made on any multipurpose form for entry of any existing registered information for which a change may be requested.

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

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

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

A. Unlawful use of statistical data consists of use of statistical data in such a manner as to derive information, the use or possession of which would be otherwise prohibited under the Automated Voter Records System Act.

B. Unlawful use of voter data, mailing labels or special voter lists consists of the knowing and willful use of such information for purposes prohibited by the Automated Voter Records System Act.

C. Any person, organization or corporation or agent, officer, representative or employee thereof who commits unlawful use of statistical data, voter data, mailing

