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HOUSE BILL 362

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Edward C. Sandoval

AN ACT

**RELATING TO ELECTIONS; UPDATING LANGUAGE IN ARTICLES 4, 5 AND
12 OF THE ELECTION CODE; MAKING LANGUAGE IN THE ELECTION CODE
CONSISTENT WITH FEDERAL LAW; DEFINING TERMS; CHANGING
SUPERVISORY DUTIES OF THE SECRETARY OF STATE; SPECIFYING HOW
PRECINCTS MAY BE FORMED AND DESIGNATED; ALLOWING VOTER
ASSISTANCE WITH VOTING SYSTEMS; CHANGING REGISTRATION
PROCEDURES; AMENDING, RECOMPILING, REPEALING AND ENACTING
SECTIONS OF THE NMSA 1978.**

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

**Section 1. A new section of Chapter 1, Article 1 NMSA
1978 is enacted to read:**

**"[NEW MATERIAL] REGISTRATION AGENT.--As used in the
Election Code, "registration agent" means a state or federal
employee who provides voter registration at a state agency or**

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1 any other individual who assists another person in completion
2 of a voter registration application. "

3 Section 2. Section 1-1-16 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 16, as amended) is amended to read:

5 "1-1-16. REGISTRATION OFFICER. --As used in the Election
6 Code, "registration officer" means a county clerk or [~~his~~] a
7 clerk's authorized deputy [~~or~~], a member of the board of
8 registration or a state employee performing registration duties
9 in accordance with the federal Help America Vote Act of 2002 or
10 Section 1-4-5.2 NMSA 1978. "

11 Section 3. Section 1-2-17 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 37, as amended) is amended to read:

13 "1-2-17. PRECINCT BOARD--SCHOOLS OF INSTRUCTION. --

14 A. The secretary of state [~~shall~~] may supervise and
15 the county clerk shall cause to be held a public school of
16 instruction for all presiding judges, precinct boards and
17 others who will be officially concerned with the conduct of
18 elections in any county with a population of one hundred
19 thousand or ~~more~~ according to the ~~most~~ recent federal decennial
20 census.

21 B. The county clerk shall cause to be held a public
22 school of instruction for all presiding judges, precinct boards
23 and others who will be officially concerned with the conduct of
24 the elections in any county having a population of less than
25 one hundred thousand according to the ~~most~~ recent federal

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1 decennial census.

2 C. The schools for instruction provided for in this
3 section shall be as follows:

4 (1) one school not less than three days before
5 the primary election;

6 (2) one school not less than three days before
7 the general election; and

8 (3) one school not less than three days before
9 any other statewide election.

10 D. All major details of the conduct of elections
11 shall be covered by the county clerk or ~~[his]~~ the clerk's
12 authorized representative at such school, with special emphasis
13 being given to recent changes in the Election Code.

14 E. The school of instruction shall be open to any
15 interested person, and notice of the school shall be given to
16 the public press at least four days before the school is to be
17 held. Each member of the precinct board shall be notified by
18 mail at least seven days prior to commencement of the school.

19 F. ~~[No]~~ A person shall not serve as a judge or
20 member of a precinct board in any election ~~[who has not]~~ unless
21 that person has attended at least one such school of
22 instruction in the calendar year of the election at which ~~[he]~~
23 the person is appointed to serve or has been certified by the
24 county clerk with respect to the person's completion of the
25 school of instruction. This subsection shall not apply to

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1 filling of vacancies on election day as provided in Subsection
2 B of Section 1-2-15 NMSA 1978. "

3 Section 4. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st
4 S.S.), Chapter 3, Section 4, as amended) is amended to read:

5 "1-3-12. ADJUSTING PRECINCT BOUNDARIES. --

6 A. Before each federal decennial census, every
7 precinct boundary shall be adjusted to coincide with a numbered
8 or named street or road or with a visible terrain feature that
9 is:

10 (1) shown on the standard base maps developed
11 pursuant to Subsection B of this section;

12 (2) a designated census block boundary on the
13 federal PL 94-171 2000 census block maps; or

14 (3) approved by the secretary of state and the
15 bureau of the census.

16 B. Prior to commencement of the federal decennial
17 census, the secretary of state shall have prepared and furnish
18 to each county clerk standard base maps of the county. The
19 standard base map for nonurban areas of the county shall, as
20 nearly as practical, show:

21 (1) all state and federal highways;

22 (2) all numbered and named county roads that
23 have been certified to the [~~state highway and~~] department of
24 transportation [~~department~~];

25 (3) all military installation boundaries and

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1 federal and state prison boundaries;

2 (4) all major railroad lines; and

3 (5) other major terrain features such as
4 flowing rivers and streams, arroyos, powerlines, pipelines and
5 ridgelines and other acceptable census block boundaries.

6 C. The board of county commissioners and the county
7 clerks, upon receipt of the standard base maps from the
8 secretary of state, shall:

9 (1) adjust all urban precinct boundaries to
10 coincide with numbered or named street boundaries;

11 (2) adjust all nonurban precinct boundaries to
12 coincide with suitable visible terrain features shown on the
13 standard base map; provided that in order to make an
14 adjustment, two or more existing precincts may be consolidated
15 without consolidating existing polling places; and provided
16 further that the precincts shall be composed of contiguous and
17 compact areas, and state, county and municipal boundary lines
18 may serve as precinct boundaries; and

19 (3) upon the completion of the precinct
20 boundary adjustments as required in this section, indicate on
21 the standard base maps the boundaries for both urban and
22 nonurban precincts and, together with a written description of
23 the precincts, shall send four copies of the precinct maps to
24 the secretary of state for approval.

25 D. The precincts shown upon the standard base maps

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1 submitted pursuant to the provisions of this section and as
2 revised and approved by the secretary of state pursuant to the
3 Precinct Boundary Adjustment Act shall become the official
4 precincts of each county for the 2001 redistricting. For the
5 2002 and subsequent primary and general elections, changes in
6 precincts shall be made in accordance with the provisions of
7 Chapter 1, Article 3 NMSA 1978.

8 E. A county commission shall not split a precinct
9 into two or more districts for any elected office.

10 F. Precincts shall be designated solely by whole
11 numbers. "

12 Section 5. Section 1-4-5 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 63, as amended) is amended to read:

14 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
15 INFORMATION--PENALTY.--

16 A. A qualified elector may apply to a registration
17 officer for registration.

18 B. The registration officer or qualified elector
19 shall fill out each of the blanks on the [~~original and the~~
20 ~~voter's copy of the~~] certificate of registration by typing or
21 printing in ink. [~~Carbon paper may be used between the~~
22 ~~original and the voter's copy.~~]

23 C. The qualified elector shall subscribe a
24 certificate of registration as follows:

25 (1) [~~a person shall sign his original~~] by

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1 signing the certificate of registration using [~~his~~] the
2 qualified elector's given name, middle name or initial and last
3 name; or

4 (2) if any qualified elector seeking to
5 register is unable to read and write either the English or
6 Spanish language or is unable to read or write because of some
7 physical disability, the certificate of such person shall be
8 filled out by a registration officer and the name of the
9 qualified elector so registering shall be subscribed by the
10 making of [~~his~~] the qualified elector's mark.

11 D. When properly executed by the registration
12 officer, [~~the original and the voter's copy of~~] the certificate
13 of registration shall be presented, either in person or by mail
14 by the qualified elector or by the registration officer, to the
15 county clerk of the county in which the qualified elector
16 resides.

17 E. Only when the certificate of registration is
18 properly filled out, subscribed by the qualified elector and
19 accepted for filing by the county clerk as evidenced by [~~his~~]
20 the clerk's signature or stamp and the date of acceptance
21 thereon shall it constitute an official public record of the
22 registration of the qualified elector. It is unlawful for any
23 information required on the certificate of registration to be
24 copied, conveyed or used by anyone other than the person
25 registering to vote, either before or after it is filed with

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1 the county clerk, except by elections administrators for
2 purposes of the registration process.

3 F. A person who unlawfully copies, conveys or uses
4 information from a certificate of registration is guilty of a
5 fourth degree felony. "

6 Section 6. Section 1-4-8 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 66, as amended) is amended to read:

8 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
9 REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS
10 AND OVERSEAS VOTERS--LATE REGISTRATION.--

11 A. For qualified electors other than federal
12 qualified electors or overseas voters, the following provisions
13 shall apply:

14 (1) the county clerk shall receive
15 certificates of registration at all times during normal working
16 hours, except that [he] the clerk shall close registration at
17 5:00 p.m. on the twenty-eighth day immediately preceding any
18 election at which the registration books are to be furnished to
19 the precinct board;

20 (2) registration shall be reopened on the
21 Monday following the election;

22 (3) for purposes of a municipal or school
23 election, the registration period for those precincts within
24 the municipality or school district is closed at 5:00 p.m. on
25 the twenty-eighth day immediately preceding the municipal or

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1 school election and is opened again on the Monday following the
2 election;

3 (4) during the period when registration is
4 closed, the county clerk shall receive certificates of
5 registration and other documents pertaining thereto but shall
6 not file the certificate of registration in the registration
7 book until the Monday following the election, at which time a
8 voter identification card shall be mailed to the registrant at
9 the address shown on the certificate of registration;

10 (5) when the twenty-eighth day prior to any
11 election referred to in this section is a Saturday, Sunday or
12 legal holiday, registration shall be closed at 5:00 p.m. of the
13 next succeeding regular business day for the office of the
14 county clerk; and

15 (6) the county clerk shall accept for filing
16 any certificate of registration that is [~~hand delivered~~]
17 subscribed and dated on or before the twenty-eighth day
18 preceding the election and received by the county clerk before
19 5:00 p.m. on [~~the Friday immediately following the close of~~
20 ~~registration~~] that day. The county clerk shall accept for
21 filing any mailed certificate of registration postmarked and
22 received not less than twenty-eight days prior to any election
23 referred to in this section. The county clerk shall accept for
24 filing any certificate of registration accepted at a state
25 agency designated pursuant to Section 1-4-5.2 NMSA 1978 not

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1 later than twenty-eight days prior to any election.

2 B. For federal qualified electors and overseas
3 voters, the county clerk shall accept a certificate of
4 registration by electronic transmission from a voter qualified
5 to apply for and vote by absentee ballot in the county if the
6 transmission is received before 5:00 p.m. on the Friday
7 immediately preceding the election. "

8 Section 7. Section 1-4-23 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 79, as amended) is amended to read:

10 "1-4-23. REVIEW OF REGISTRATION-- BOARD OF
11 REGISTRATION-- INACTIVE VOTER LIST CREATION. -- Beginning on the
12 third Monday of March of each odd-numbered year, the board of
13 registration shall review all certificates of registration [~~for~~
14 ~~failure of the voter to vote~~] and, based on that review, shall
15 establish a list of inactive voters [~~Voters who fail to vote in~~
16 ~~at least one statewide or local election in a two-year period~~
17 ~~shall be placed on an inactive voter list~~] in accordance with
18 the provisions of the federal National Voter Registration Act
19 of 1993. The secretary of state shall issue rules on list
20 maintenance in accordance with the provisions of the federal
21 National Voter Registration Act of 1993. "

22 Section 8. Section 1-5-1 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 103, as amended) is amended to read:

24 "1-5-1. SHORT TITLE. -- Sections [~~3-5-1 through 3-5-34 NMSA~~
25 ~~4953~~] 1-5-1 through 1-5-29 NMSA 1978 may be cited as the

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1 "[Automated] Voter Records System Act". "

2 Section 9. Section 1-5-2 NMSA 1978 (being Laws 1969,
3 Chapter 240, Section 104, as amended) is amended to read:

4 "1-5-2. DEFINITIONS. -- As used in the Election Code:

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

6 ~~B. "county register" means an official file of~~
7 ~~original certificates of registration of the county or any~~
8 ~~precinct thereof;~~

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

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

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

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

19 ~~G. "voter file" means all voter registration~~
20 ~~information required by law and by the secretary of state that~~
21 ~~has been extracted from the certificate of registration of each~~
22 ~~voter in the county, stored on active data processing media and~~
23 ~~certified by the county clerk as the source of all information~~
24 ~~required by the Automated Voter Records System Act;~~

25 H. "program records" means the necessary detailed

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1 ~~program and instructions for carrying out and controlling~~
2 ~~machine processing of information derived from the voter file.~~

3 ~~Program records shall exist in written English or coded form~~
4 ~~and they may exist on active data processing media;~~

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

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

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

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

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

18 N. ~~"file maintenance list" means any prepared~~
19 ~~listing that reflects additions, deletions or changes to the~~
20 ~~voter file;~~

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

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

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1 ~~county;~~

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

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

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

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

14 B. "county register" means an official file of
15 original certificates of registration of the county or any of
16 its precincts;

17 C. "county voter list" means a voter list arranged
18 in alphabetical order of voter surname within and for each
19 county;

20 D. "data processor" means a data processing
21 facility and its associated employees and agents contracted to
22 provide data processing services required by the Voter Records
23 System Act;

24 E. "data recording media" means a manual,
25 electronic or other device containing data capable of being

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1 read and processed by any means for the eventual preparation of
2 voter lists;

3 F. "election campaign purposes" means relating in
4 any way to a campaign in an election conducted by a federal,
5 state or local government;

6 G. "file maintenance list" means any prepared
7 listing that reflects additions, deletions or changes to the
8 voter file;

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

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

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

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

21 L. "special voter list" means a prepared list of
22 selected voters arranged in the order in which requested;

23 M "voter data" means selected information derived
24 from the voter file;

25 N. "voter file" means all voter registration

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1 information required by law and by the secretary of state that
2 has been extracted from the certificate of registration of each
3 voter in the county, stored on data recording media and
4 certified by the county clerk as the source of all information
5 required by the Voter Records System Act; and

6 0. "voter list" means any prepared list of voters. "

7 Section 10. Section 1-5-3 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 105, as amended by Laws 1993, Chapter 314,
9 Section 33 and also by Laws 1993, Chapter 316, Section 33) is
10 amended to read:

11 "1-5-3. ACT IS MANDATORY AND SUPPLEMENTAL TO ELECTION
12 CODE. --

13 A. [~~Effective January 1, 1984~~] The [~~Automated~~]
14 Voter Records System Act is mandatory and supplemental to the
15 provisions of the Election Code. The provisions of that act
16 shall be implemented in all counties by order of the [~~board of~~
17 ~~county commissioners of the county in all precincts of a~~
18 ~~county~~] secretary of state in accordance with the provisions of
19 the federal Help America Vote Act of 2002.

20 B. The secretary of state shall maintain [~~a current~~
21 ~~registration list of state voters~~] the official state voter
22 file based on county [voter lists and] registers and shall
23 provide access to the file to the county clerks. The secretary
24 of state shall prescribe any rules, forms and instructions
25 necessary [for the orderly transition to and the efficient

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1 ~~implementation of~~ to implement procedures required by the
2 ~~[Automated]~~ Voter Records System Act and federal law. The
3 secretary of state shall maintain a log, which shall be public,
4 containing all transactions regarding requests for current
5 registration lists of state voters. The log shall indicate the
6 requesting party, the date of the request, the date of
7 fulfilling the request, charges made and any other information
8 deemed advisable by the secretary of state. Requests for
9 registration lists in printed or ~~[magnetic]~~ electronic form
10 shall be fulfilled within a period of ten working days.

11 C. All registration records required by the
12 Election Code shall be maintained for each of the precincts in
13 addition to those records required by the ~~[Automated]~~ Voter
14 Records System Act ~~[but the procedures of that act shall be~~
15 ~~used in lieu of others prescribed in the Election Code]~~ and
16 federal law. "

17 Section 11. Section 1-5-6 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 108, as amended) is amended to read:

19 "1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER
20 PREPARATION. --The county clerk shall provide for preparation of
21 precinct voter lists and signature rosters generated from the
22 official state voter file for any precincts. The voter
23 precinct lists and signature rosters shall be used at any
24 election for which registration of voters is required in lieu
25 of bound original certificates of registration and poll books. "

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1 Section 12. Section 1-5-7 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 109, as amended) is amended to read:

3 "1-5-7. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--
4 CONTENTS. --

5 A. The precinct voter lists and signature rosters
6 for any precinct shall contain for each voter, as shown in the
7 county register, the voter's:

- 8 (1) ~~[hi-s]~~ name;
- 9 (2) gender;
- 10 (3) place of residence;
- 11 (4) last four digits of the voter's social
12 security number;
- 13 (5) year of birth;
- 14 (6) party affiliation, if any; and
- 15 (7) precinct of residence.

16 B. In addition, the names on each precinct voter
17 list and signature roster shall be numbered consecutively
18 beginning with the number "1".

19 C. On each page of each voter list and on each
20 signature roster there shall be printed the page number and the
21 date and name of the election for which they are to be used.

22 ~~[D. For those counties who, prior to June 18, 1993,~~
23 ~~utilized voter files that do not contain telephone numbers of~~
24 ~~registered voters, the provisions of Subsections J and L of~~
25 ~~Section 1-5-2 NMSA 1978 and Paragraph (4) of Subsection A of~~

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1 ~~Section 1-5-7 NMSA 1978 regarding dissemination of voter~~
2 ~~telephone numbers shall apply only to individuals registering~~
3 ~~to vote after January 1, 1994.]"~~

4 Section 13. Section 1-5-8 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 110, as amended) is amended to read:

6 "1-5-8. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--NUMBER--
7 DISTRIBUTION.--

8 A. One copy of the signature roster shall be
9 prepared for each precinct. On the cover of [~~such~~] the
10 signature roster shall be printed the words, "Copy for the
11 County Clerk". Upon its preparation and certification as to
12 its accuracy and completeness, the county clerk shall deliver
13 the copy of the signature roster to the precinct board [~~in lieu~~
14 ~~of the poll book~~].

15 B. The county clerk shall prepare three copies of
16 the precinct voter list for each precinct. Of the three copies
17 prepared, one copy shall not include voter social security
18 numbers. [~~He~~] The other two shall contain only the last four
19 digits of the voter's social security number. The county clerk
20 shall deliver two of the copies to each precinct board [~~in lieu~~
21 of bound certificates of registration]. One copy of the voter
22 list shall be retained by the county clerk for verification
23 purposes on election day and one copy for the secretary of
24 state shall be marked to verify those voters on the list who
25 voted.

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1 C. Two copies of the county voter list, arranged in
2 alphabetical order, shall be prepared for election day for
3 verification purposes only. "

4 Section 14. Section 1-5-14 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 118, as amended) is amended to read:

6 "1-5-14. FILE MAINTENANCE LISTS. --

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

11 ~~[B. The county clerk shall be furnished with two~~
12 ~~copies of the file maintenance lists.]~~

13 ~~C.]~~ B. One copy of the list shall be stored by the
14 county clerk for at least one year.

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

24 ~~[E. Beginning the first Monday of February of an~~
25 ~~election year and every month thereafter, the county clerks~~

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1 ~~shall furnish the secretary of state with a copy of the voter~~
2 ~~file, except that during the months of April and September of~~
3 ~~an election year, the county clerks shall furnish a copy of the~~
4 ~~voter file to the secretary of state at least one time each~~
5 ~~week. The final copy shall be furnished to the secretary of~~
6 ~~state by the county clerks within seven days of the close of~~
7 ~~registration.]"~~

8 Section 15. Section 1-5-17 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 122, as amended) is amended to read:

10 "1-5-17. [~~PROGRAM RECORDS~~] VOTER REGISTRATION SYSTEM
11 SOFTWARE--INSTRUCTIONS--STATUS--PROTECTION.--

12 A. [~~Program records~~] Voter registration system
13 software and instructions for [~~their~~] its use in controlling
14 the processing of information derived from the voter file shall
15 be verified functionally, identified and approved by the
16 secretary of state.

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

19 ~~C.]~~ B. Verified, identified and approved [~~program~~
20 ~~records~~] voter registration system software and instructions
21 shall be safeguarded at all times against loss or damage. The
22 designated data processor shall be in charge of these
23 safeguards subject to approval by the secretary of state."

24 Section 16. Section 1-5-18 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 124, as amended) is amended to read:

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

3 A. The [~~county clerk~~] secretary of state shall
4 [~~employ such~~] provide to the county clerk means for the
5 preparation of voter lists and signature rosters [~~as can be~~
6 ~~functionally duplicated elsewhere with reasonable cost and~~
7 ~~convenience~~].

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

13 C. The [~~county clerk~~] secretary of state shall
14 procure and preserve sufficient duplicate [~~program information~~]
15 voter registration system software and operating instructions
16 [~~with each duplicate program record~~] so that in case of
17 disaster the duplicate master record and the duplicate [~~program~~
18 ~~record and the duplicate additional program information~~] voter
19 registration system software and operating instructions will be
20 all that will be required for another compatible facility to
21 prepare registered voter lists and signature rosters with
22 minimum delay. "

23 Section 17. Section 1-5-21 NMSA 1978 (being Laws 1975,
24 Chapter 255, Section 75, as amended) is amended to read:

25 "1-5-21. DATA PROCESSOR--CUSTODY AND PROTECTION OF VOTER
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1 FILE-- DELIVERY OF VOTER FILE AND PROGRAM RECORDS. --

2 A. The designated data processor shall provide the
3 secretary of state, county clerk or county with data processing
4 services in the implementation and maintenance of the
5 ~~[Automated]~~ Voter Records System Act and in carrying out such
6 other services as are reasonably related to providing
7 ~~[automated]~~ data processing of the voter records system.

8 B. The designated data processor ~~[shall be~~
9 ~~responsible for the identification of the voter file and~~
10 ~~program records and parts thereof and]~~ shall preserve and
11 safeguard ~~[them]~~ voter files and voter registration system
12 software from loss, damage, unauthorized alteration,
13 unauthorized access ~~[thereto]~~ and unauthorized reproduction
14 ~~[thereof]~~ and shall ~~[insure]~~ ensure their continued use and
15 accessibility while ~~[such file and records]~~ they are in the
16 data processor's custody.

17 C. No copies of the voter file or information or
18 listings derived therefrom shall be furnished by the data
19 processor to any person other than the secretary of state, the
20 county clerk or ~~[his]~~ their designated ~~[agent]~~ agents.

21 ~~[D. The designated data processor shall provide the~~
22 ~~county clerk of the county with data processing services in the~~
23 ~~implementation and maintenance of the unofficial election~~
24 ~~canvassing system.~~

25 E. ~~The unofficial election canvassing system shall~~

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1 ~~be tested by the secretary of state at least thirty days prior~~
2 ~~to an election.~~

3 ~~F. The secretary of state shall certify the~~
4 ~~unofficial election canvassing system of any county at least~~
5 ~~twenty days prior to an election.]"~~

6 Section 18. Section 1-5-22 NMSA 1978 (being Laws 1975,
7 Chapter 255, Section 76) is amended to read:

8 "1-5-22. UNLAWFUL DISPOSITION OF VOTER FILE--PENALTY.--

9 A. Unlawful disposition of voter file consists of
10 the willful selling, loaning, providing access to or otherwise
11 surrendering of the voter file, duplicates of [~~such~~] the file
12 or a part [~~thereof~~] of the file by [~~any of the following~~
13 ~~persons:—(1)~~] a data processor; [~~(2)—his~~] a data processor's
14 agent or employee; [~~(3)~~] a state or county officer; [~~(4) —his~~]
15 or a state or county officer's deputy, [~~or~~] assistant, [~~or (5)~~
16 ~~his~~] employee or agent to anyone not authorized by the
17 [~~Automated~~] Voter Records System Act to have possession of
18 [~~such~~] the file.

19 B. For purposes of this section, a file maintenance
20 list shall be considered a voter file or a part [~~thereof~~] of a
21 voter file.

22 C. Any data processor, officer, deputy, assistant,
23 agent or employee who commits unlawful disposition of a voter
24 file is guilty of a fourth degree felony."

25 Section 19. Section 1-5-23 NMSA 1978 (being Laws 1975,

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1 Chapter 255, Section 77) is amended to read:

2 "1-5-23. UNLAWFUL DESTRUCTION OR ALTERATION OF [ACTIVE]
3 DATA [PROCESSING] RECORDING MEDIA, VOTER FILE, FILE MAINTENANCE
4 LIST, [~~PROGRAM RECORDS~~] VOTER REGISTRATION SYSTEM SOFTWARE,
5 INSTRUCTIONS AND VOTER LISTS--PENALTY. --

6 A. Unlawful destruction or alteration of [~~active~~]
7 data [~~processing~~] recording media, voter [~~file~~] files, file
8 maintenance [~~list, program records~~] lists, voter registration
9 system software and instructions or voter lists consists of the
10 unauthorized destruction of, [~~or~~] the unauthorized alteration
11 of, [~~or~~] the erasure of information from or the rendering
12 unusable for their lawfully intended purpose of such media,
13 files, [~~records~~] software, instructions and lists or parts
14 thereof by any person.

15 B. Any person who commits unlawful destruction or
16 alteration of [~~active~~] data [~~processing~~] recording media, voter
17 file, file maintenance lists, [~~program records~~] voter
18 registration system software, instructions or voter lists is
19 guilty of a fourth degree felony. "

20 Section 20. Section 1-5-24 NMSA 1978 (being Laws 1975,
21 Chapter 255, Section 78, as amended) is amended to read:

22 "1-5-24. REQUESTS FOR [~~STATISTICAL DATA~~] VOTER DATA,
23 MAILING LABELS OR SPECIAL VOTER LISTS. --

24 A. The county clerk or secretary of state shall
25 [~~authorize the data processor to~~] furnish [~~statistical data~~]

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1 voter data, mailing labels or special voter lists only upon
2 written request to the county clerk or the secretary of state
3 and after compliance with the requirements of this section;
4 provided, however, all requesters shall be treated equally [by
5 ~~the data processor~~] in regard to the charges and the furnishing
6 of the materials.

7 B. In furnishing voter data, mailing labels or
8 special voter lists, the county clerk or secretary of state
9 shall not provide data or lists that include voters' social
10 security numbers, codes used to identify agencies where voters
11 have registered, a voter's day and month of birth or voters'
12 telephone numbers if prohibited by voters.

13 C. Each requester of voter data, mailing labels or
14 special voter lists shall sign an affidavit that the voter
15 data, mailing labels and special voter lists shall be used for
16 governmental or election and election campaign purposes only
17 and shall not be made available or used for unlawful purposes.

18 ~~[D. Each requester of statistical data shall sign~~
19 ~~an affidavit that such statistical data shall be used for~~
20 ~~information or research purposes only and shall not be made~~
21 ~~available or used for unlawful purposes.~~

22 ~~E.]~~ D. The secretary of state shall prescribe the
23 form of the affidavit. "

24 Section 21. Section 1-5-25 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 79, as amended) is amended to read:

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1 "1-5-25. ~~[UNLAWFUL USE OF STATISTICAL DATA]~~ UNLAWFUL USE
2 OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS--
3 PENALTIES. --

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

8 ~~B.]~~ A. Unlawful use of voter data, mailing labels
9 or special voter lists consists of the knowing and willful use
10 of such information for purposes prohibited by the ~~[Automated]~~
11 Voter Records System Act.

12 ~~[C.]~~ B. Any person, organization or corporation or
13 agent, officer, representative or employee thereof who commits
14 unlawful use of ~~[statistical data]~~ voter data, mailing labels
15 or special voter lists is guilty of a fourth degree felony and
16 upon conviction shall be fined one hundred dollars (\$100) for
17 each and every line of voter information ~~[which]~~ that was
18 unlawfully used.

19 ~~[D.]~~ C. Each and every unlawful use of ~~[statistical~~
20 ~~data]~~ voter data, mailing labels or special voter lists
21 constitutes a separate offense. "

22 Section 22. Section 1-5-26 NMSA 1978 (being Laws 1975,
23 Chapter 255, Section 80) is amended to read:

24 "1-5-26. CONTRACTUAL AGREEMENT REQUIRED WITH DATA
25 PROCESSOR. -- ~~[A. Each county implementing the Automated Voter~~

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1 ~~Records System Act]~~ The secretary of state shall enter into a
2 written contractual agreement with the data processor
3 notwithstanding the fact that the data processor may be a
4 department of [county, ~~municipal or~~] state government.
5 [~~Parties to the contractual agreement shall be the county, the~~
6 ~~county clerk and the data processor.~~

7 ~~B. All contractual agreements shall be approved by~~
8 ~~the secretary of state, with the assistance of the automated~~
9 ~~voter records system advisory committee, before they are valid.~~

10 ~~C. The secretary of state shall provide by~~
11 ~~regulation the contractual provisions necessary for approval.]"~~

12 Section 23. Section 1-5-30 NMSA 1978 (being Laws 1989,
13 Chapter 298, Section 1) is amended to read:

14 "1-5-30. SECRETARY OF STATE-- ESTABLISHMENT OF STATEWIDE
15 COMPUTERIZED VOTER REGISTRATION SYSTEM --

16 A. The secretary of state shall develop, implement,
17 establish and supervise a statewide computerized voter
18 registration system that complies with the federal Help America
19 Vote Act of 2002 to facilitate voter registration and to
20 provide a central database containing voter registration
21 information for New Mexico.

22 B. The statewide computerized voter registration
23 system shall:

24 (1) provide for the establishment and
25 maintenance of a central database for all voter registration

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1 information;

2 (2) permit the offices of all county clerks to
3 add, modify and delete county information from the system to
4 provide for accurate and up-to-date records;

5 (3) permit the offices of the county clerks
6 and the bureau of elections to have access to the central
7 database for review and search capabilities;

8 (4) provide security and protection for all
9 information in the central database and monitor the central
10 database to ensure the prevention of unauthorized entry;

11 (5) provide procedures for entering data into
12 the central database; and

13 (6) provide a centralized system for each
14 county to [~~identify~~] enter the precinct to which a voter should
15 be assigned for voting purposes [~~and~~

16 ~~(7) prescribe a procedure for phasing in or~~
17 ~~converting existing computerized records generated and~~
18 ~~maintained pursuant to the Automated Voter Records System~~
19 ~~Act]. "~~

20 Section 24. Section 1-5-31 NMSA 1978 (being Laws 1989,
21 Chapter 298, Section 2) is amended to read:

22 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES. --The secretary
23 of state shall:

24 A. assist county clerks by devising uniform
25 procedures and forms that are compatible with the statewide

. 152169. 4

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1 computerized voter registration system;

2 B. [~~develop and~~] provide to each county clerk the
3 computer software necessary for the use and maintenance of the
4 statewide computerized voter registration system; and

5 C. adopt such rules and regulations as are
6 necessary to establish and administer the statewide
7 computerized voter registration system and to require deadlines
8 and time limits for the updating of voter files [~~and to provide~~
9 ~~for the update of voter files at each polling place for the~~
10 ~~next election~~]. "

11 Section 25. Section 1-5-10 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 112, as amended) is recompiled as Section
13 1-12-7.1 NMSA 1978 and is amended to read:

14 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING
15 ELECTION.--

16 A. Each precinct board using voter lists shall post
17 securely at or near the entrance of the polling place one copy
18 of the precinct voter list for use of the voters prior to
19 voting. The posted copy shall not contain a listing of voter
20 social security numbers.

21 B. The presiding judge of the precinct board shall
22 assign one judge of the board to be in charge of one copy of
23 the precinct voter list, which shall be used to confirm the
24 registration and voting of each person offering to vote.

25 C. The presiding judge of the precinct board shall

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1 assign one election clerk to be in charge of the signature
2 roster.

3 D. The judge assigned to the precinct voter list
4 used for confirmation of registration and voting shall
5 determine that each person offering to vote is registered and,
6 in the case of a primary election, that the voter is registered
7 in a party designated on the primary election ballot. If the
8 person's registration is confirmed by the presence of ~~[his]~~ the
9 person's name on the voter list ~~[or if the person presents a~~
10 ~~certificate under the seal and signature of the county clerk~~
11 ~~showing that he is entitled to vote in the election and to vote~~
12 ~~in that precinct]~~, the judge shall announce to the election
13 clerks the list number and the name of the voter as shown on
14 the voter list.

15 E. The election clerk shall locate that list number
16 and name on the signature roster and shall require the voter to
17 sign ~~[his]~~ the voter's usual signature or, if unable to write,
18 to ~~make~~ ~~[his]~~ the voter's mark opposite ~~[his]~~ the voter's
19 printed name. If the voter ~~makes~~ ~~[his]~~ the voter's mark, it
20 shall be witnessed by one of the judges of the precinct board.
21 If the signature roster indicates that the voter is required to
22 present a form of identification before voting, the election
23 judge shall ask the voter for a current and valid photo
24 identification or a copy of a current utility bill, bank
25 statement, government check, paycheck or other government

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1 document that shows and matches the name and address of the
2 voter as indicated on the signature roster. If the voter does
3 not provide the required identification, ~~[he]~~ the voter shall
4 be allowed to vote on a provisional paper ballot.

5 F. The election judge shall follow the procedures
6 provided for in Sections ~~[4-5-12]~~ 1-12-7.2 and 1-12-8 NMSA 1978
7 if a person whose name does not appear on the signature list
8 requests to vote or a person is required to vote on a
9 provisional paper ballot.

10 G. A voter shall not be permitted to vote until
11 ~~[he]~~ the voter has properly signed ~~[his]~~ the voter's usual
12 signature or made ~~[his]~~ the voter's mark in the signature
13 roster.

14 H. After the poll is closed, the election clerk in
15 charge of a signature roster shall draw a single horizontal
16 line in ink through each signature space in the signature
17 roster where no signature or mark appears. "

18 Section 26. Section 1-12-12 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 265, as amended) is amended to read:

20 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
21 ASSISTANCE.--A voter may request assistance in voting only if
22 the voter:

- 23 A. ~~[he]~~ is blind;
- 24 B. ~~[he]~~ is physically disabled;
- 25 C. ~~[he]~~ is unable to read or write; ~~[or]~~

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1 D. [he] is a member of a language minority who has
2 an inability to read well enough to exercise the elective
3 franchise; or

4 E. requires assistance in operating the voting
5 system. "

6 Section 27. Section 1-12-15 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 267, as amended) is amended to read:

8 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST
9 VOTER. --

10 A. In any primary, general or statewide special
11 election, if a voter who has requested assistance in marking
12 [~~his~~] the ballot is blind, has a physical disability, has an
13 inability to read or write or is a member of a language
14 minority who has requested assistance pursuant to Subsection D
15 of Section 1-12-12 NMSA 1978, [he] the voter may be accompanied
16 into the voting machine only by a person of [~~his~~] the voter's
17 own choice other than the voter's employer or an agent of that
18 employer, an officer or agent of the voter's union or a
19 candidate whose name appears on the ballot in this election.

20 B. The name of the person providing assistance to a
21 voter pursuant to this section shall be recorded on the voter
22 roster. "

23 Section 28. Section 1-5-11 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 113, as amended) is recompiled as Section
25 1-12-30.1 NMSA 1978 and is amended to read:

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1 "1-12-30. 1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION
2 AFTER THE POLLS CLOSE. --

3 A. After the polls are closed, the signature roster
4 shall be properly certified by the precinct board and returned
5 to the county clerk with the election returns destined for the
6 county clerk. The precinct voter list marked for the secretary
7 of state shall be returned to the secretary of state with the
8 election returns destined for the secretary of state.

9 B. The signed and certified signature rosters used
10 in any election shall be considered a part of the election
11 returns and treated accordingly. They shall be preserved and
12 finally disposed of in the same manner as provided in the
13 Election Code [~~for poll books~~] and 42 U. S. C. 1974.

14 C. [~~The punishment for willful destruction,~~
15 ~~defacement, unauthorized alteration or improper disposition]~~
16 Whoever willfully destroys, defaces, alters without
17 authorization or improperly disposes of signature rosters used
18 in an election [~~shall be the same as for similar treatment of~~
19 ~~poll books~~] is guilty of a fourth degree felony."

20 Section 29. Section 1-12-53 NMSA 1978 (being Laws 1977,
21 Chapter 222, Section 56, as amended) is amended to read:

22 "1-12-53. EMERGENCY SITUATIONS--VOTERS--EMERGENCY PAPER
23 BALLOT--GENERAL ELECTION--MARKING.--The voter in preparing an
24 emergency paper ballot in a general election shall

25 [~~A. if he wishes to vote a straight party ticket,~~

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1 ~~mark a cross (X) or a check (V) in the circle beneath the name~~
2 ~~of the party and his vote shall be considered as having been~~
3 ~~cast for every candidate named on the ticket of that party on~~
4 ~~the ballot, unless he also votes for one or more candidates in~~
5 ~~some other column or for some person whose name is not printed~~
6 ~~on the ballot;~~

7 B. ~~if he marks a cross (X) or a check (V) in any~~
8 ~~circle and also desires to vote for a candidate of another~~
9 ~~political party (the ticket of which also appears on the~~
10 ~~ballot) or for any person by write in, mark a cross (X) or a~~
11 ~~check (V) in the box immediately to the right of the name of~~
12 ~~the candidate or write in the name of the person for whom he~~
13 ~~desires to vote in the blank provided therefor and mark a cross~~
14 ~~(X) or a check (V) in the box immediately to the right thereof,~~
15 ~~and his vote shall be considered as having been cast for every~~
16 ~~candidate of the political party below the party name where he~~
17 ~~marked his cross (X) or a check (V) in the circle, except for~~
18 ~~the candidates for whom he has otherwise voted; or~~

19 C. ~~if he wishes, mark the ballot by omitting the~~
20 ~~cross (X) or check (V) in the circle and marking a cross (X) or~~
21 ~~a check (V) in the box immediately to the right of the name of~~
22 ~~every candidate or person for whom he desires to vote, and his~~
23 ~~vote shall be considered as having been cast only for the~~
24 ~~candidate or person opposite whose name the cross or check has~~
25 ~~been marked] mark the ballot in accordance with the~~

1 instructions for that ballot type."

2 Section 30. TEMPORARY PROVISION--RECOMPILATION.--Section
3 1-5-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 114, as
4 amended) is recompiled as Section 1-12-7.2 NMSA 1978.

5 Section 31. REPEAL.--Sections 1-5-9, 1-5-13, 1-5-15,
6 1-5-20, 1-5-27 through 1-5-29 and 1-6-21 NMSA 1978 (being Laws
7 1969, Chapter 240, Sections 111, 115 and 120, Laws 1977,
8 Chapter 222, Section 11, Laws 1975, Chapter 255, Sections 81
9 through 83 and Laws 1975, Chapter 255, Section 93, as amended)
10 are repealed.

11 Section 32. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2005.

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