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HOUSE BILL 649

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; ENACTING THE CENTRALIZED VOTER
REGISTRATION SYSTEM ACT; REPEALING THE AUTOMATED VOTER RECORDS
SYSTEM ACT; MAKING AN APPROPRIATION.

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

Section 1. A new section of the Election Code is enacted
to read:

" NEW MATERIAL SHORT TITLE. -- This act may be cited as
the "Centralized Voter Registration System Act". "

Section 2. A new section of the Election Code is enacted
to read:

" NEW MATERIAL DEFINITIONS. -- As used in the Centralized
Voter Registration System Act:

A. "centralized voter registration system" means
the computers and computer data maintained and operated by the

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1 secretary of state and the county clerk in each county;

2 B. "county" means any county in this state;

3 C. "county register" means an official file of
4 original certificates of registration of the county arranged
5 in alphabetical order by voter surname;

6 D. "county voter list" means a list of voters
7 arranged in alphabetical order by voter surname within and for
8 a county;

9 E. "duplicate master record" means an exact
10 duplicate of all data stored on the centralized voter
11 registration system database;

12 F. "file maintenance list" means a list that
13 reflects additions, deletions or changes to any voter record
14 in the centralized voter registration system;

15 G. "mailing labels" means printed labels used for
16 mailing purposes of selected voters arranged in the order in
17 which requested providing the names and addresses of voters
18 from the centralized voter registration system;

19 H. "precinct voter list" means a list of voters
20 arranged in alphabetical order by voter surname within and for
21 a precinct;

22 I. "signature roster" means a voter list with
23 space provided opposite each voter's name for the voter's
24 signature or witnessed mark;

25 J. "special voter list" means a list of selected

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1 voters arranged in the order in which requested from the
2 centralized voter registration system;

3 K. "statistical data" means information derived
4 from the centralized voter registration system;

5 L. "voter data" means selected information derived
6 from the centralized voter registration system;

7 M "voter list" means a list of registered voters
8 prepared by the county clerk for purposes of an election; and

9 N. "voter record" means all information extracted
10 from a voter's certificate of registration and transferred to
11 the central voter registration system database by the county
12 clerk and any additional information pertaining to that voter
13 included by the county clerk in the system's database. "

14 Section 3. A new section of the Election Code is enacted
15 to read:

16 "[NEW MATERIAL] MANDATORY COMPLIANCE--SECRETARY OF STATE
17 TO ADMINISTER. --

18 A. Compliance with the Centralized Voter
19 Registration System Act is mandatory and supplemental to the
20 provisions of the Election Code.

21 B. The secretary of state shall administer the
22 Centralized Voter Registration System Act and shall prescribe
23 any rules, forms, procedures and instructions necessary for
24 the orderly transition to and the efficient implementation of
25 the provisions of the that act.

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1 C. The secretary of state and each county clerk
2 shall maintain records containing all requests by the public
3 for special voter lists, mailing labels, statistical data,
4 voter data, precinct voter lists and county voter lists. The
5 records shall indicate the requesting party, the date of the
6 request, the date of fulfilling the request, charges made and
7 any other information required by the secretary of state.
8 Requests for registration lists shall be fulfilled within a
9 period of ten working days.

10 D. All registration records required by the
11 Election Code shall be included as part of and maintained by
12 the centralized voter registration system "

13 Section 4. A new section of the Election Code is enacted
14 to read:

15 "NEW MATERIAL COUNTY REGISTER-- ESTABLISHMENT. --
16 The county clerk shall establish and maintain a county
17 register. The county register shall be filed in fire-
18 resistant files and maintained in a secure manner in the
19 office of the county clerk. The files containing the county
20 register shall be arranged to provide ready and convenient
21 access and shall be kept locked except when being used by
22 authorized persons in accordance with the Election Code. "

23 Section 5. A new section of the Election Code is enacted
24 to read:

25 "NEW MATERIAL ENTRY OF DATA INTO CENTRALIZED VOTER

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1 **REGISTRATION SYSTEM --**

2 A. The county clerk, upon receipt and acceptance
3 of a properly completed certificate of registration within the
4 period prescribed for registration, shall immediately enter in
5 the proper space thereon the precinct of the voter.

6 B. The county clerk shall cause the registration
7 information of every registered voter in the county to be
8 entered into the centralized voter registration system in
9 accordance with any rules or procedures prescribed by the
10 secretary of state.

11 C. After entry of data into the centralized voter
12 registration system, the county clerk shall file the original
13 certificate of registration alphabetically in the county
14 register.

15 D. A certificate of registration shall not be
16 removed from the county register pursuant to a cancellation of
17 registration until the county clerk has entered into the
18 centralized voter registration system all deletions and
19 changes. "

20 Section 6. A new section of the Election Code is enacted
21 to read:

22 "[NEW MATERIAL] VOTER LISTS--SIGNATURE ROSTERS.--The
23 county clerk shall provide for computer generated voter lists
24 and signature rosters for all precincts within the county from
25 the centralized voter registration system. The voter lists

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1 and signature rosters shall be used at any election for which
2 registration of voters is required. "

3 Section 7. A new section of the Election Code is enacted
4 to read:

5 "[NEW MATERIAL] VOTER LISTS--SIGNATURE ROSTERS--CONTENT. --

6 A. The voter lists and signature rosters for any
7 precinct shall contain for each voter, as shown on his
8 certificate of registration:

- 9 (1) his name;
- 10 (2) his gender;
- 11 (3) his residence address;
- 12 (4) his mailing address;
- 13 (5) his social security number;
- 14 (6) his year of birth;
- 15 (7) his party affiliation, if any; and
- 16 (8) his precinct of residence.

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

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

23 Section 8. A new section of the Election Code is enacted
24 to read:

25 "[NEW MATERIAL] SIGNATURE ROSTER--VOTER LISTS--

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1 DISTRIBUTION. --

2 A. One copy of the signature roster shall be
3 prepared for each precinct. On the cover of the signature
4 roster shall be printed the words, "Copy for the County Clerk".
5 Upon its preparation and certification as to its accuracy and
6 completeness, the county clerk shall deliver the copy of the
7 signature roster to the precinct board.

8 B. The county clerk shall prepare three copies of
9 the voter list for each precinct. Of the three copies
10 prepared, one copy shall not include voter social security
11 numbers. He shall deliver two of the copies to each precinct
12 board. One copy of the voter list shall be retained by the
13 county clerk for verification purposes on election day and one
14 copy for the secretary of state shall be marked to verify those
15 voters on the list who voted.

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

19 Section 9. A new section of the Election Code is enacted
20 to read:

21 "[NEW MATERIAL] SIGNATURE ROSTERS-- CERTIFICATE. -- Any
22 certificate required by the Election Code for poll books shall
23 be similarly required for signature rosters in substantially
24 the same form to the extent it serves the same purpose. "

25 Section 10. A new section of the Election Code is enacted

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1 to read:

2 " [NEW MATERIAL] VOTER LISTS--SIGNATURE ROSTERS--USE DURING
3 ELECTION. --

4 A. Each precinct board using voter lists shall post
5 securely at or near the entrance of the polling place one copy
6 of the voter list for use of the voters prior to voting. The
7 posted copy shall not contain a listing of voter social
8 security numbers.

9 B. The presiding judge of the precinct board shall
10 assign one election judge of the board to be in charge of one
11 copy of the voter list, which shall be used to confirm the
12 registration and voting of each person offering to vote.

13 C. The presiding judge of the precinct board shall
14 assign one election clerk to be in charge of the signature
15 roster.

16 D. The judge assigned to the voter list used for
17 confirmation of registration and voting shall determine that
18 each person offering to vote is registered and, in the case of
19 a primary election, that such voter is registered in a party
20 designated on the primary election ballot. If the person's
21 registration is confirmed by the presence of his name on the
22 voter list or if the person presents a certificate under the
23 seal and signature of the county clerk showing that he is
24 entitled to vote in the election and to vote in that precinct,
25 then the judge shall announce to the election clerks the list

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1 number and the name of the voter as shown on the voter list.

2 E. The election clerk shall locate that list number
3 and name on the signature roster and shall require the voter to
4 sign his usual signature or, if unable to write, to make his
5 mark opposite his printed name. If the voter makes his mark,
6 it shall be witnessed by one of the judges of the precinct
7 board.

8 F. No voter shall be permitted to vote until he has
9 properly signed his usual signature or made his mark in the
10 signature roster.

11 G. After the poll is closed, the election clerk in
12 charge of a signature roster shall draw a single horizontal
13 line in ink through each signature space in the signature
14 roster where no signature or mark appears. "

15 Section 11. A new section of the Election Code is enacted
16 to read:

17 "[NEW MATERIAL] VOTER LISTS--SIGNATURE ROSTERS--
18 DISPOSITION AFTER ELECTION. --

19 A. After the polls are closed, the signature roster
20 shall be properly certified by the precinct board and returned
21 to the county clerk with the election returns destined for the
22 county clerk. The voter list marked for the secretary of state
23 shall be returned to the secretary of state with the election
24 returns destined for the secretary of state.

25 B. The signed and certified signature rosters used

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1 in any election shall be considered a part of the election
2 returns and treated accordingly. They shall be preserved and
3 finally disposed of in the same manner as provided in the
4 Election Code for election returns.

5 C. The punishment for willful destruction,
6 defacement, unauthorized alteration or improper disposition of
7 signature rosters used in an election shall be the same as for
8 similar treatment of election returns. "

9 Section 12. A new section of the Election Code is enacted
10 to read:

11 "[NEW MATERIAL] VOTER'S NAME NOT ON LIST OR ROSTER. --

12 A. If a voter's name does not appear on the voter
13 list and signature roster for the precinct in which he offers
14 to vote, the voter shall be permitted to vote in such precinct;
15 provided the voter meets the requirements specified in the
16 Election Code and otherwise meets the fail-safe voting
17 provisions of the National Voter Registration Act.

18 B. The election clerks in charge of the signature
19 rosters shall add the voter's name and address in ink to the
20 signature roster on the line immediately following the last
21 entered voter's name, and the voter shall be allowed to cast
22 his ballot provided he has first signed or marked both rosters.

23 C. The voting machine public counter number or the
24 ballot number for the voter shall be entered on his certificate
25 of eligibility or copy of his certificate of registration. The

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1 certificate of eligibility or voter's copy of his certificate
2 of registration shall be retained by the precinct board and
3 returned to the county clerk with the election returns.

4 D. Such certificate of eligibility shall be valid
5 for use only in the precinct and for the election and date
6 specified thereon.

7 E. In a primary election, a voter whose party
8 affiliation is not shown on the certificate of eligibility or
9 copy of his certificate of registration shall not be permitted
10 to receive or cast a ballot. No voter shall be permitted to
11 vote for a candidate of a party different from the party
12 designation shown on his certificate of eligibility or the copy
13 of his certificate of registration.

14 F. No verbal authorization from the county clerk to
15 allow a person to vote pursuant to this section shall be
16 permitted. "

17 Section 13. A new section of the Election Code is enacted
18 to read:

19 "[NEW MATERIAL] FILE MAINTENANCE LIST. --

20 A. On the first regular working day of each month
21 the county clerk shall prepare a file maintenance list showing
22 all additions, deletions or other changes for the preceding
23 month.

24 B. One copy of the list shall be stored by the
25 county clerk for at least six years.

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1 C. The county clerk shall provide one copy of the
2 file maintenance list to the county chairman of each of the
3 major political parties in the county. The file maintenance
4 list shall not include the voter's social security number,
5 codes used to identify the agency where the voter registered,
6 voter's day and month of birth or voter's telephone number, if
7 prohibited by the voter. "

8 Section 14. A new section of the Election Code is enacted
9 to read:

10 "NEW MATERIAL VOTER REGISTRATION SYSTEM DATABASE--
11 DUPLICATE. --

12 A. The secretary of state shall provide by rule for
13 the timely back-up of the centralized voter registration
14 system's database and the production of a duplicate master
15 record.

16 B. In case of loss or damage to the centralized
17 voter registration system, or any portion thereof, the
18 duplicate master record shall be used to duplicate the system's
19 database, or any portion thereof. No other use shall be made
20 of the duplicate master record.

21 C. The secretary of state and the county clerk
22 shall ensure that the centralized voter records system and any
23 duplicate master record thereof is protected against loss,
24 damage, unauthorized access and unauthorized alteration.

25 D. Any duplicate master record shall be stored in a

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1 fire-resistant safe or vault located at a place remote from,
2 and which is considered a separate damage risk from, the place
3 of storage or use of the centralized voter registration system.

4 E. No information or data derived from the
5 centralized voter registration system, or any portion thereof,
6 or any duplicate master record, or any portion thereof, shall
7 be stored or transported in any manner that will subject either
8 or both to possible loss or damage from common or related
9 perils. "

10 Section 15. A new section of the Election Code is enacted
11 to read:

12 "[NEW MATERIAL] REGISTRATION--INFORMATION REQUIRED. --

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

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

23 C. The certificate of registration form may
24 indicate whether it is completed by the applicant as a new
25 registration, a change to the existing registration or a

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1 cancellation of an existing registration.

2 D. The certificate of registration forms shall be
3 serially numbered and shall be furnished promptly and in
4 adequate supply by the secretary of state upon request by the
5 county clerk. "

6 Section 16. A new section of the Election Code is enacted
7 to read:

8 "[NEW MATERIAL] FILING--REGISTRATION.--The secretary of
9 state shall prescribe the method of filing and maintaining
10 certificates of registration in any county. "

11 Section 17. A new section of the Election Code is enacted
12 to read:

13 "[NEW MATERIAL] UNLAWFUL DISPOSITION OF INFORMATION OR
14 DATA--PENALTY.--

15 A. Unlawful disposition of information or data
16 derived from the centralized voter registration system consists
17 of the willful selling, loaning or otherwise surrendering of
18 any data derived from the centralized voter registration system
19 or any duplicate master record, or a portion thereof, by any
20 person for any purpose not authorized by the Centralized Voter
21 Registration System Act or to any person not authorized by that
22 act to have possession of data derived from the centralized
23 voter registration system.

24 B. Any person authorized by the Centralized Voter
25 Registration System Act or any other provision of law to access

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1 or possess data derived from the centralized voter registration
2 system who commits unlawful disposition of data derived from
3 the centralized voter registration system database or duplicate
4 master record, or any portion thereof, is guilty of a fourth
5 degree felony. "

6 Section 18. A new section of the Election Code is enacted
7 to read:

8 "[NEW MATERIAL] UNLAWFUL DESTRUCTION OR ALTERATION OF
9 VOTER REGISTRATION SYSTEM - PENALTY. --

10 A. Unlawful destruction or alteration of the
11 centralized voter registration system or duplicate master
12 record, or any portion thereof, or file maintenance list, or
13 any portion thereof, consists of the unauthorized destruction
14 of, or the unauthorized alteration of, or the erasure of
15 information from, or the rendering unusable, or any portion
16 thereof, for their lawfully intended purpose by any person.

17 B. Any person who commits unlawful destruction or
18 alteration of the centralized voter registration system or
19 duplicate master record, or any portion thereof, or file
20 maintenance list, or any portion thereof, is guilty of a fourth
21 degree felony. "

22 Section 19. A new section of the Election Code is enacted
23 to read:

24 "[NEW MATERIAL] REQUESTS FOR STATISTICAL DATA, VOTER DATA,
25 MAILING LABELS OR SPECIAL VOTER LISTS. --

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1 A. The county clerk and secretary of state shall
2 permit the release of any voter data, statistical data, mailing
3 labels, special voter lists, precinct voter lists or county
4 voter lists only upon written request by the requester of the
5 data, labels or lists as provided in this section. All
6 requesters shall be treated equally in regard to the charges
7 and the furnishing of the requested data, labels or lists.

8 B. In furnishing voter data or special voter lists,
9 precinct voter lists and county voter lists, the county clerk
10 and the secretary of state are prohibited from providing data
11 or lists that include a voter's social security number, a code
12 used to identify the agency where the voter registered, a
13 voter's day and month of birth or the voter's telephone number,
14 if release was not authorized by the voter.

15 C. Each requester of voter data, mailing labels or
16 special voter lists, precinct voter lists and county voter
17 lists shall sign an affidavit that information contained in the
18 voter data, mailing labels and special voter lists, precinct
19 voter lists and county voter lists shall be used for
20 governmental or election and election campaign purposes only
21 and shall not be made available or used for commercial or any
22 unlawful purposes.

23 D. Each requester of statistical data shall sign an
24 affidavit that such statistical data shall be used for
25 information or research purposes only and shall not be made

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1 available or used for commercial or any unlawful purposes.

2 E. The secretary of state shall prescribe the form
3 of the affidavit. "

4 Section 20. A new section of the Election Code is enacted
5 to read:

6 "[NEW MATERIAL] UNLAWFUL USE OF STATISTICAL
7 DATA--UNLAWFUL USE OF VOTER DATA, MAILING LABELS OR SPECIAL
8 VOTER LISTS--PENALTIES. --

9 A. Unlawful use of statistical data consists of the
10 use of statistical data in such a manner as to derive
11 information, the use or possession of which would be otherwise
12 prohibited pursuant to the Centralized Voter Registration
13 System Act.

14 B. Unlawful use of voter data, mailing labels or
15 special voter lists consists of the knowing and willful use of
16 such information for purposes prohibited by the Centralized
17 Voter Registration System Act.

18 C. Any person or entity, or agent thereof, who
19 commits unlawful use of statistical data, voter data, mailing
20 labels or special voter lists is guilty of a fourth degree
21 felony and upon conviction shall be fined ten dollars (\$10.00)
22 for each and every line of voter information that was
23 unlawfully used.

24 D. Each and every unlawful use of statistical data,
25 voter data, mailing labels or special voter lists constitutes a

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1 separate offense. "

2 Section 21. A new section of the Election Code is enacted
3 to read:

4 "[NEW MATERIAL] CREATION OF CENTRALIZED VOTER REGISTRATION
5 SYSTEM ADVISORY COMMITTEE. --

6 A. There is created the "centralized voter
7 registration system advisory committee" consisting of the
8 director of the bureau of elections, the information systems
9 manager from the office of the secretary of state and six
10 members appointed by the secretary of state, as follows:

11 (1) four county clerks selected from a list
12 submitted by the recognized state association of county clerks;
13 and

14 (2) two registered voters.

15 B. The director of the bureau of elections shall
16 serve as chair of the advisory committee. No more than four of
17 the eight appointed members shall be registered from the same
18 political party. "

19 Section 22. A new section of the Election Code is enacted
20 to read:

21 "[NEW MATERIAL] DUTIES OF CENTRALIZED VOTER REGISTRATION
22 SYSTEM ADVISORY COMMITTEE. --The centralized voter registration
23 system advisory committee shall:

24 A. recommend procedures for the orderly and timely
25 conversion of voter registration data in the existing county

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1 database to the centralized voter registration system;

2 B. review any uniform procedures proposed by the
3 secretary of state for the implementation, maintenance and
4 operation of the centralized voter registration system; and

5 C. recommend changes or modifications to any
6 uniform procedures or rules adopted by the secretary of state
7 for the implementation, maintenance and operation of the
8 centralized voter registration system. "

9 Section 23. A new section of the Election Code is enacted
10 to read:

11 "[NEW MATERIAL] CENTRALIZED VOTER REGISTRATION SYSTEM
12 ADVISORY COMMITTEE-- COMPENSATION-- MEETINGS. --

13 A. Members of the centralized voter registration
14 system advisory committee, except the director of the bureau of
15 elections and the information systems manager, shall be paid
16 per diem and mileage as provided in the Per Diem and Mileage
17 Act for nonsalaried state officers.

18 B. No less than two meetings shall be called
19 annually by the secretary of state. "

20 Section 24. A new section of the Election Code is enacted
21 to read:

22 "[NEW MATERIAL] SECRETARY OF STATE-- ESTABLISHMENT OF
23 CENTRALIZED VOTER REGISTRATION SYSTEM --

24 A. The secretary of state shall enter into a
25 contract for the purchase of any hardware, software and

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1 consulting services necessary to establish and implement the
2 centralized voter registration system on a statewide basis
3 consistent with the provisions of the Procurement Code. The
4 secretary of state shall supervise the implementation of the
5 centralized voter registration system in each county.

6 B. The secretary of state shall ensure that the
7 centralized voter registration system includes all generally
8 accepted industry standards for security and protection of the
9 system's database. The secretary of state shall also ensure
10 that any centralized voter registration system implemented
11 provides the means for accurately converting the existing voter
12 registration databases maintained by the county clerks to the
13 centralized voter registration system.

14 C. The centralized voter registration system shall:

15 (1) link the secretary of state and all county
16 clerks to a fully computerized centralized voter registration
17 database;

18 (2) permit a county clerk to add a voter's
19 record to the centralized voter registration system database,
20 change information in a voter record or delete a duplicate
21 voter record or a voter record from the system's database upon
22 the cancellation of a certificate of registration as provided
23 by the Election Code;

24 (3) permit a county clerk and the bureau of
25 elections to access the system's database for review and search

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1 capabilities for any lawful purpose and the preparation of
2 mailing labels, special voter lists, precinct voter lists and
3 county voter lists; and

4 (4) provide a means by which a county clerk
5 may automatically assign a voter to his precinct for voting
6 purposes when a street index exists for the entire county or
7 any part thereof. "

8 Section 25. A new section of the Election Code is enacted
9 to read:

10 "[NEW MATERIAL] SECRETARY OF STATE--UNIFORM PROCEDURES FOR
11 COUNTIES.--The secretary of state shall:

12 A. adopt uniform rules and procedures for the
13 implementation, maintenance and operation of the centralized
14 voter registration system;

15 B. prescribe forms compatible with the statewide
16 centralized voter registration system; and

17 C. ensure that training opportunities are available
18 to each county clerk in the maintenance and operation of the
19 centralized voter registration system. "

20 Section 26. APPROPRIATION.--One million five hundred
21 twenty-eight thousand dollars (\$1,528,000) is appropriated from
22 the general fund to the office of the secretary of state for
23 expenditure in fiscal year 2000 for the purpose of implementing
24 a statewide centralized voter registration system. Any
25 unexpended or unencumbered balance remaining at the end of

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1 fiscal year 2000 shall revert to the general fund.

2 Section 27. REPEAL. -- Sections 1-5-1 through 1-5-31 NMSA
3 1978 (being Laws 1969, Chapter 240, Sections 103 through 115,
4 118, 120 through 122, 124 and 125, Laws 1977, Chapter 222,
5 Section 11, Laws 1975, Chapter 255, Sections 75 through 83 and
6 Laws 1989, Chapter 298, Sections 1 and 2, as amended) are
7 repealed.

8 Section 28. EFFECTIVE DATE. -- The effective date of the
9 provisions of this act is July 1, 2000.