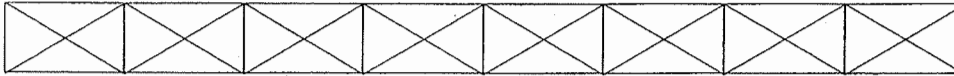


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PROPOSITION 200

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING SECTIONS 16-152, 16-166 AND 16-579, ARIZONA REVISED STATUTES; AMENDING TITLE 46, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 46-140.01; RELATING TO THE ARIZONA TAXPAYER AND CITIZEN PROTECTION ACT.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. *Short title*

This act may be cited as the "Arizona Taxpayer and Citizen Protection Act".

Sec. 2. *Findings and declaration*

This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

Sec. 3. Section 16-152, Arizona Revised Statutes, is amended to read:

16-152. *Registration form*

A. The form used for the registration of electors shall contain:

1. The date the registrant signed the form.
 2. The given name of the registrant, middle name, if any, and surname.
 3. Complete address of actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.
 4. Complete mailing address, if different from residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail.
 5. Party preference.
 6. Telephone number, unless unlisted.
 7. State or country of birth.
 8. Date of birth.
 9. Occupation.
 10. Indian census number (optional to registrant).
 11. Father's name or mother's maiden name.
 12. The last four digits of the registrant's social security number (optional to registrant).
 13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.
 14. A statement that the registrant is a citizen of the United States.
 15. A statement that the registrant will be eighteen years of age on or before the date of the next general election.
 16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.
 17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.
 18. A statement that executing a false registration is a class 6 felony.
 19. The signature of the registrant.
 20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.
 21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.
 22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.
 23. A STATEMENT THAT THE APPLICANT SHALL SUBMIT EVIDENCE OF UNITED STATES CITIZENSHIP WITH THE APPLICATION AND THAT THE REGISTRAR SHALL REJECT THE APPLICATION IF NO EVIDENCE OF CITIZENSHIP IS ATTACHED.
- B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a ballot to be verified as prescribed in section 16-584, subsection B.
- C. The state voter registration form shall be printed in a form prescribed by the secretary of state.
- D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an

injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section ~~42-1810~~ or 13-3602 and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.

Sec. 4. Section 16-166, Arizona Revised Statutes, is amended to read:

16-166. Verification of registration

A. Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by nonforwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall include a registration form and the information prescribed by section 16-131, subsection C and shall state that if the elector does not complete and return a new registration form with current information to the county recorder within thirty-five days, the name of the elector will be removed from the general register and transferred to the inactive voter list.

B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.

C. The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.

D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.

E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.

F. THE COUNTY RECORDER SHALL REJECT ANY APPLICATION FOR REGISTRATION THAT IS NOT ACCOMPANIED BY SATISFACTORY EVIDENCE OF UNITED STATES CITIZENSHIP. SATISFACTORY EVIDENCE OF CITIZENSHIP SHALL INCLUDE ANY OF THE FOLLOWING:

1. THE NUMBER OF THE APPLICANT'S DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE ISSUED AFTER OCTOBER 1, 1996 BY THE DEPARTMENT OF TRANSPORTATION OR THE EQUIVALENT GOVERNMENTAL AGENCY OF ANOTHER STATE WITHIN THE UNITED STATES IF THE AGENCY INDICATES ON THE APPLICANT'S DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE THAT THE PERSON HAS PROVIDED SATISFACTORY PROOF OF UNITED STATES CITIZENSHIP.

2. A LEGIBLE PHOTOCOPY OF THE APPLICANT'S BIRTH CERTIFICATE THAT VERIFIES CITIZENSHIP TO THE SATISFACTION OF THE COUNTY RECORDER.

3. A LEGIBLE PHOTOCOPY OF PERTINENT PAGES OF THE APPLICANT'S UNITED STATES PASSPORT IDENTIFYING THE APPLICANT AND THE APPLICANT'S PASSPORT NUMBER OR PRESENTATION TO THE COUNTY RECORDER OF THE APPLICANT'S UNITED STATES PASSPORT.

4. A PRESENTATION TO THE COUNTY RECORDER OF THE APPLICANT'S UNITED STATES NATURALIZATION DOCUMENTS OR THE NUMBER OF THE CERTIFICATE OF NATURALIZATION. IF ONLY THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IS PROVIDED, THE APPLICANT SHALL NOT BE INCLUDED IN THE REGISTRATION ROLLS UNTIL THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IS VERIFIED WITH THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE BY THE COUNTY RECORDER.

5. OTHER DOCUMENTS OR METHODS OF PROOF THAT ARE ESTABLISHED PURSUANT TO THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

6. THE APPLICANT'S BUREAU OF INDIAN AFFAIRS CARD NUMBER, TRIBAL TREATY CARD NUMBER OR TRIBAL ENROLLMENT NUMBER.

G. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, ANY PERSON WHO IS REGISTERED IN THIS STATE ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IS DEEMED TO HAVE PROVIDED SATISFACTORY EVIDENCE OF CITIZENSHIP AND SHALL NOT BE REQUIRED TO RESUBMIT EVIDENCE OF CITIZENSHIP UNLESS THE PERSON IS CHANGING VOTER REGISTRATION FROM ONE COUNTY TO ANOTHER.

H. FOR THE PURPOSES OF THIS SECTION, PROOF OF VOTER REGISTRATION FROM ANOTHER STATE OR COUNTY IS NOT SATISFACTORY EVIDENCE OF CITIZENSHIP.

I. A PERSON WHO MODIFIES VOTER REGISTRATION RECORDS WITH A NEW RESIDENCE BALLOT SHALL NOT BE REQUIRED TO SUBMIT EVIDENCE OF CITIZENSHIP. AFTER CITIZENSHIP HAS BEEN DEMONSTRATED TO THE

COUNTY RECORDER, THE PERSON IS NOT REQUIRED TO RESUBMIT SATISFACTORY EVIDENCE OF CITIZENSHIP IN THAT COUNTY.

J. AFTER A PERSON HAS SUBMITTED SATISFACTORY EVIDENCE OF CITIZENSHIP, THE COUNTY RECORDER SHALL INDICATE THIS INFORMATION IN THE PERSON'S PERMANENT VOTER FILE. AFTER TWO YEARS THE COUNTY RECORDER MAY DESTROY ALL DOCUMENTS THAT WERE SUBMITTED AS EVIDENCE OF CITIZENSHIP.

Sec. 5. Section 16-579, Arizona Revised Statutes, is amended to read:

16-579. Procedure for obtaining ballot by elector

A. Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing AND SHALL PRESENT ONE FORM OF IDENTIFICATION THAT BEARS THE NAME, ADDRESS AND PHOTOGRAPH OF THE ELECTOR OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT BEAR THE NAME AND ADDRESS OF THE ELECTOR. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.

B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector's name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the qualified elector only one ballot, and his name shall be immediately checked on the precinct register.

D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.

Sec. 6. Title 46, chapter 1, article 3, Arizona Revised Statutes, is amended by adding section 46-140.01, to read:

46-140.01. Verifying applicants for public benefits; violation; classification; citizen suits

A. AN AGENCY OF THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, INCLUDING LOCAL GOVERNMENTS, THAT ARE RESPONSIBLE FOR THE ADMINISTRATION OF STATE AND LOCAL PUBLIC BENEFITS THAT ARE NOT FEDERALLY MANDATED SHALL DO ALL OF THE FOLLOWING:

1. VERIFY THE IDENTITY OF EACH APPLICANT FOR THOSE BENEFITS AND VERIFY THAT THE APPLICANT IS ELIGIBLE FOR BENEFITS AS PRESCRIBED BY THIS SECTION.

2. PROVIDE ANY OTHER EMPLOYEE OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITH INFORMATION TO VERIFY THE IMMIGRATION STATUS OF ANY APPLICANT FOR THOSE BENEFITS AND ASSIST THE EMPLOYEE IN OBTAINING THAT INFORMATION FROM FEDERAL IMMIGRATION AUTHORITIES.

3. REFUSE TO ACCEPT ANY IDENTIFICATION CARD ISSUED BY THE STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A DRIVER LICENSE, TO ESTABLISH IDENTITY OR DETERMINE ELIGIBILITY FOR THOSE BENEFITS UNLESS THE ISSUING AUTHORITY HAS VERIFIED THE IMMIGRATION STATUS OF THE APPLICANT.

4. REQUIRE ALL EMPLOYEES OF THE STATE AND ITS POLITICAL SUBDIVISIONS TO MAKE A WRITTEN REPORT TO FEDERAL IMMIGRATION AUTHORITIES FOR ANY VIOLATION OF FEDERAL IMMIGRATION LAW BY ANY APPLICANT FOR BENEFITS AND THAT IS DISCOVERED BY THE EMPLOYEE.

B. FAILURE TO REPORT DISCOVERED VIOLATIONS OF FEDERAL IMMIGRATION LAW BY AN EMPLOYEE IS A CLASS 2 MISDEMEANOR. IF THAT EMPLOYEE'S SUPERVISOR KNEW OF THE FAILURE TO REPORT AND FAILED TO DIRECT THE EMPLOYEE TO MAKE THE REPORT, THE SUPERVISOR IS GUILTY OF A CLASS 2 MISDEMEANOR.

C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN. ANY PERSON WHO IS A RESIDENT OF THIS STATE SHALL HAVE STANDING IN ANY COURT OF RECORD TO BRING SUIT AGAINST ANY AGENT OR AGENCY OF THIS STATE OR ITS POLITICAL SUBDIVISIONS TO REMEDY ANY VIOLATION OF ANY PROVISION OF THIS SECTION, INCLUDING AN ACTION FOR MANDAMUS. COURTS SHALL GIVE PREFERENCE TO ACTIONS BROUGHT UNDER THIS SECTION OVER OTHER CIVIL ACTIONS OR PROCEEDING PENDING IN THE COURT.

Sec. 7. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 200 would require that evidence of United States citizenship be presented by every person to register to vote, that proof of identification be presented by every voter at the polling place prior to voting, that state and local governments verify the identity of all applicants for certain public benefits and that government employees report United States immigration law violations by applicants for public benefits.

Proposition 200 provides that for purposes of registering to vote, satisfactory evidence of United States citizenship includes:

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16-152. Registration form

A. The form used for the registration of electors shall contain:

1. The date the registrant signed the form.
2. The registrant's given name, middle name, if any, and surname.
3. The complete address of the registrant's actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.
4. The registrant's complete mailing address, if different from the residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail.
5. The registrant's party preference.
6. The registrant's telephone number, unless unlisted.
7. The registrant's state or country of birth.
8. The registrant's date of birth.
9. The registrant's occupation.
10. The registrant's Indian census number (optional to registrant).
11. The registrant's father's name or mother's maiden name.
12. One of the following identifiers for each registrant:
 - (a) The Arizona driver license number of the registrant or nonoperating identification license number of the registrant that is issued pursuant to section 28-3165.
 - (b) If the registrant does not have an Arizona driver license or nonoperating identification license, the last four digits of the registrant's social security number.
 - (c) If the registrant does not have an Arizona driver license or nonoperating identification license or a social security number and the registrant attests to that, a unique identifying number consisting of the registrant's unique identification number to be assigned by the secretary of state in the statewide electronic voter registration database.
13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.
14. The question to the registrant "Are you a citizen of the United States of America?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not to complete the form if the registrant checked "no".
15. The question to the registrant "Will you be eighteen years of age on or before election day?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not

to complete the form if the registrant checked "no".

16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.

17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.

18. A statement that executing a false registration is a class 6 felony.

19. The signature of the registrant.

20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.

21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

23. A statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.

B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a provisional ballot as prescribed in section 16-584, subsection B.

C. The state voter registration form shall be printed in a form prescribed by the secretary of state.

D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section 13-3602 and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.

E. Subsection A of this section does not apply to registrations received from the department of transportation pursuant to section 16-112.

16-579. Procedure for obtaining ballot by elector

(Caution: 1998 Prop. 105 applies. Amended by 2004 Prop. 200, sec 5.)

A. Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing and shall present one form of identification that bears the name, address and photograph of the elector or two different forms of identification that bear the name and address of the elector. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.

B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector's name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the qualified elector only one ballot, and his name shall be immediately checked on the precinct register.

D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.

16-166. Verification of registration

(Caution: 1998 Prop. 105 applies.)

A. Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by nonforwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall include a registration form and the information prescribed by section 16-131, subsection C and shall state that if the elector does not complete and return a new registration form with current information to the county recorder within thirty-five days, the name of the elector will be removed from the general register and transferred to the inactive voter list.

B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.

C. The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.

D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.

E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.

F. The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the

following:

1. The number of the applicant's driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship.

2. A legible photocopy of the applicant's birth certificate that verifies citizenship to the satisfaction of the county recorder.

3. A legible photocopy of pertinent pages of the applicant's United States passport identifying the applicant and the applicant's passport number or presentation to the county recorder of the applicant's United States passport.

4. A presentation to the county recorder of the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States immigration and naturalization service by the county recorder.

5. Other documents or methods of proof that are established pursuant to the immigration reform and control act of 1986.

6. The applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number.

G. Notwithstanding subsection F of this section, any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship unless the person is changing voter registration from one county to another.

H. For the purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.

I. A person who modifies voter registration records with a new residence ballot shall not be required to submit evidence of citizenship. After citizenship has been demonstrated to the county recorder, the person is not required to resubmit satisfactory evidence of citizenship in that county.

J. After a person has submitted satisfactory evidence of citizenship, the county recorder shall indicate this information in the person's permanent voter file. After two years the county recorder may destroy all documents that were submitted as evidence of citizenship.

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1 Q. All right. So let's --

2 A. I would have to look at the form.

3 Q. Well, let's stick with the naturalization
4 certificate number, because that's what's in the statute,
5 and I'll represent to you that's what's on your
6 registration form.

7 Are you aware of the process by which a
8 county recorder is able to verify a certificate of
9 naturalization number?

10 A. Yes. The process works through an information
11 exchange with the federal agency whose initials are ICE,
12 but I can't remember what that stands for. And that
13 information's communicated through the system through, I
14 think, a project called SAVE, S-A-V-E, where the
15 information is then confirmed electronically. So if the
16 voter provides that number to the county recorder, they
17 then can communicate that number to the federal agency
18 that oversees immigration and verify the citizenship
19 status of that person.

20 Q. Are you aware of any problems that county
21 recorders have had verifying certificate of naturalization
22 number?

23 A. I'm aware of an issue that came up where the
24 number that some voters put on their form was -- was not
25 the correct number, that was -- so that the recorder was

1 not able to verify that information with the federal
2 agency.

3 We, after doing our research and due
4 diligence on the issue, determined that the correct number
5 that needs to be provided by the voter in order for that
6 verification system to work -- and the statute does
7 require a verification -- the citizen needs to provide
8 what's called the alien registration number, which if I
9 understand correctly, is a number that appears on the
10 individual's certificate of naturalization.

11 Q. Do you understand that the alien registration
12 number is different from the certificate of naturalization
13 number?

14 A. Yes. I understand there are two numbers on that
15 certificate, one being the certificate number and the
16 other being the alien registration number.

17 Q. And let's go back to when you said certain
18 applicants have put an incorrect number. Is it fair to
19 say that certain applicants correctly completed the form
20 by providing their certificate of naturalization number
21 but that the Registrar was unable to verify that number
22 with ICE?

23 A. Yes.

24 Q. And thus those persons would have to present
25 their naturalization certificate in person in order to be

1 added to the rolls?

2 A. No. Their --

3 Q. Tell me how a person who correctly filled out the
4 registration form and provided the certificate of
13:52:43 5 naturalization number would subsequently be added to the
6 rolls.

7 A. The latest version of the Secretary of State's
8 procedures manual, which is currently awaiting
9 preclearance by the Department of Justice, which we expect
13:53:00 10 any day, has a procedure to address that issue. I would
11 have to look at the procedure again, but if I recall, what
12 it does is instruct the recorders in that instance to
13 inquire with the voter if the number is incorrect, whether
14 it is the alien registration number that -- Let me back
15 up. There are two -- my understanding is the recorders
16 can determine whether the number is right or wrong.

17 Q. Can we --

18 A. The recorders can determine if the number is
19 right or wrong and it might be as a result of the
13:53:37 20 communication that comes back from ICE. But again, you'll
21 have to talk to them about this -- that exact process.
22 That's not something we do.

23 If they determine that the number on the
24 application is -- is not the alien registration number but
13:53:54 25 maybe the certificate number, they are then to make

1 subsequent inquiry with the voter to obtain that number so
2 that they can then manually do the process again to
3 register that voter. And again, I would have to look at
4 the procedure but if I recall, the voter will be
13:54:11 5 retroactively registered to the initial date of
6 submission, not -- In other words, that process won't
7 toll -- or I'm sorry, that process won't delay the voter's
8 registration.

9 Q. Unless an election passes.

13:54:26 10 A. Well, the recorders are to make their best
11 efforts to do that before the election.

12 Q. So let me --

13 A. Remember, a voter has to register 29 days before
14 the election. So if -- You're not going to have a
15 situation where a voter registers three days before the
16 election and provides the incorrect number and is
17 disenfranchised because by law that person had to register
18 29 days out. That should give the recorder sufficient
19 time to communicate with the registrant, as they are
13:54:43 20 required to do by law, if the information on the form is
21 incorrect or incomplete or illegible. And at that point,
22 then, they should be able to make best efforts to contact
23 that person, get that number, and properly register that
24 person retroactive to the date upon which the person
13:54:59 25 submitted their registration.
13:55:17

1 Q. If I can summarize, Proposition 200 requires this
2 group of naturalized citizens to provide the number of
3 their certificate of naturalization. Is that correct?

4 A. It doesn't require them to do anything.

5 Q. All right. I'll ask my question again.

6 ARS 16-166 at 4 describes that an applicant
7 for voter registration shall provide the number of the
8 certificate of naturalization. Is that correct?

9 MR. RICHARDS: Object to the form.

10 THE WITNESS: It provides one form of
11 evidence that an individual can provide to establish
12 citizenship.

13 BY MS. PERALES:

14 Q. And this provision doesn't say anything about an
15 alien registration number, does it?

16 A. It doesn't use those specific words.

17 Q. And you do understand that the registrars are not
18 able to verify citizenship using the certificate of
19 naturalization number, don't you?

20 A. I understand that.

21 Q. There is also a provision in this same paragraph
22 that allows a naturalized citizen to present in person the
23 naturalization certificate and be added to the rolls.
24 Isn't that correct?

25 A. Yes.

1 Q. Are you making any plans -- Do you have any
2 plans to change the state voter registration form to
3 request an alien registration number instead of a
4 certificate of naturalization number?

5 A. When we revise the form, we may very well include
6 those words, so as to reduce any voter confusion.

7 Q. And that would be different, however, from the
8 language of the statute, Proposition 200, which only
9 refers to naturalization certificate numbers. Isn't that
10 correct?

11 A. If we only use those words, but I don't know how
12 we will word it.

13 Q. Do you understand that if you continue to ask for
14 a certificate of naturalization number on your voter
15 registration form, the county recorders will be unable to
16 verify the information provided by the applicant?

17 MR. RICHARDS: Object to the form.

18 THE WITNESS: No.

19 BY MS. PERALES:

20 Q. All right.

21 A. As I explained the procedure that we now have in
22 place to remedy that problem.

23 Q. So what you're describing is really a two-step
24 process. If the county recorder receives a properly
25 completed registration form providing the certificate of

1 naturalization number, your manual is going to instruct
2 them to engage in a further step of contacting the voter
3 to learn the alien registration number and then attempting
4 to verify that number. Is that right?

13:58:39

5 A. It imposes a burden on the election
6 administrators to properly ascertain the information to
7 register that voter, doesn't impose a burden on the voter
8 other than to provide that information when asked.

13:58:54

9 Q. And so for example, if the voter is contacted by
10 mail, it imposes the burden on the voter applicant to take
11 the time to respond and provide that number. Is that
12 right?

13 MR. RICHARDS: Form.

13:59:07

14 THE WITNESS: To the extent you consider
15 that a burden.

16 BY MS. PERALES:

17 Q. Does the Secretary of State's office have any
18 knowledge of noncitizens fraudulently registering to vote?

13:59:32

19 A. That's not a statistic that we keep in the
20 ordinary course of our business. We provided documents in
21 response to the interrogatories consisting of newspaper
22 articles and other information where similar prosecutions
23 and allegations have been made.

13:59:51

24 Q. Do you have any knowledge of any noncitizens
25 fraudulently registering to vote?

1 STATE OF ARIZONA)

2 COUNTY OF MARICOPA)

3 BE IT KNOWN the foregoing deposition was
4 taken by me pursuant to stipulation of counsel; that I was
5 then and there a Certified Reporter of the State of
6 Arizona, and by virtue thereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true, and accurate transcript of all
15 proceedings and testimony had and adduced upon the taking
16 of said deposition, all to the best of my skill and
17 ability.

18 I FURTHER CERTIFY that I am in no way
19 related to nor employed by any parties hereto nor am I in
20 any way interested in the outcome hereof.

21 DATED at Phoenix, Arizona, this 3rd day of
22 August, 2006.

23 Meri Coash

24 Meri Coash

25 Certified Reporter #50327

App. 5

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

MARIA M. GONZALEZ, et al.,)
)
 Plaintiffs,)
)
 -vs-) No. CV06-01268
) PHX-ROS (Lead)
 STATE OF ARIZONA, etc., et al.,) No. CV06-01362
) PCT-JT (Cons)
 Defendants.)
)
 -----)
 THE INTER TRIBAL COUNCIL OF)
 ARIZONA, INC., et al.,)
)
 Plaintiffs,)
)
 -vs-)
)
 JAN BREWER, in her official)
 capacity as Secretary of State)
 of Arizona,)
)
 Defendant.)
 -----)

30(b)(6) DEPOSITION OF THE MARICOPA County Recorder
BY AND THROUGH KAREN OSBORNE

Phoenix, Arizona
July 31, 2006

Prepared for:

MS. KAREN J. HARTMAN-TELLEZ, ESQ.

(Copy)

Reported by:

PAUL GROSSMAN
Arizona Certified
Reporter #50028
CA CSR #1487

1 satisfactory evidence of citizenship that you can accept
2 for registration.

3 A. Yes.

4 Q. Okay. And in subsection 1 it permits a
5 registrant to "use the number of the applicant's
6 driver's license or non-operating identification license
7 issued after October 1, 1996 by the Department of
8 Transportation or the equivalent governmental agency of
9 another state within the United States if the agency
10 indicates on the applicant's driver's license or
11 non-operating identification license that the person has
12 provided satisfactory proof of United States
13 citizenship." Is that correct?

14 A. Correct.

15 Q. So, based on the e-mail exchange in Exhibit
16 6, it's the understanding of your office that no other
17 state driver's license is acceptable for registration at
18 this time?

19 A. At this particular time in April of 2005 when
20 we were trying to understand the scope of how we do this
21 there were no other states in the union that had proof
22 of citizenship indicated on their driver's license.

23 Q. Has anything changed since April of 2005
24 anywhere?

25 A. Not that I know of. But I know that that was

1 the discussion at that time. We thought perhaps that
2 there was something else that we could take, but we
3 could not find any other -- any other state that had
4 that accommodation.

5 Q. So to your knowledge and to this date the
6 County Recorder's Office will only accept a driver's
7 license from Arizona as proof of citizenship?

8 A. As well as the non-operating ID and the other
9 components that we can take, but it would have to be the
10 Arizona driver's license.

11 Q. Thank you.

12 Are you aware of any other states that verify
13 citizenship when they give driver's licenses but don't
14 indicate so on the license?

15 A. No.

16 Q. Please.

17 A. Do I have an oops button?

18 It is my understanding that there are a
19 couple of states that now require some form of
20 identification. I don't know if it specifically goes to
21 citizenship or not. I don't know.

22 Q. A.R.S. 16-166 lists also in subsection 6 some
23 other items that can be used to prove citizenship.

24 Have you ever seen a Bureau of Indian Affairs
25 Card?

1 A. Yes.

2 Q. Did you attempt to verify the other number
3 listed on this document? Did anyone submit --

4 A. Yes.

5 Q. -- to you a registration form with the number
6 that isn't the A number?

7 A. Yes.

8 Q. And you attempted to verify that with the
9 federal government?

10 A. We did.

11 Q. And when was that?

12 A. That was the very first week that we were
13 accepting registrations and we were trying to learn how
14 to do this effectively and we were having to make calls
15 at that time and found out from INS that there were two
16 numbers on the certificate; that the first number that
17 appears at the top is simply that, it is a number of the
18 certificate. One up I guess. In 1492 they probably
19 start again with that amount. But the A number is what
20 we use in our match.

21 Q. So, in the statute it says the number of the
22 Certificate of Naturalization?

23 A. Correct.

24 Q. But that number is not the number that is
25 verifiable?

1 A. That's correct.

2 Q. Did you reject any registration form that
3 included the number of the certificate instead of the A
4 number?

5 A. No, we have not. We kept going until we
6 figured out the process that we could use to be able to
7 -- to be able to accommodate that type of number and we
8 have -- we finally figured out how to do that.

9 Q. How frequently do voters submit registration
10 forms with the certificate number instead of the A
11 number?

12 A. Rarely. They now -- once the information --
13 we try to do a education process through all of the
14 groups and everybody we can think of. We actually go to
15 the INS -- I mean, to the federal courthouse every
16 Friday when there's a swearing in. We try and provide
17 as much help as we can so they will just send in or they
18 will just put down the A number or they show us their
19 certificate so we can deal with that.

20 Q. Do any of the forms that are used for
21 registration include instructions about which number to
22 use off the naturalization form?

23 A. Yes.

24 Q. Which forms are those?

25 A. Well, any of the information that we send

1 different family members. They will have very many what
2 we would call a middle name. And we have asked that
3 they pick a name for the voter registration. We need to
4 make sure that we have -- we verify that information.
5 But as long as we can clearly see the A number then we
6 don't have to do that, but we do have to verify that.

7 And sometimes the copies are of such poor
8 quality and they may have been recopied and recopied
9 that we have to go back and the A number is the only
10 thing that we have and we can pull that up very quickly.
11 But sometimes we can't tell if it's a real document, but
12 for the most part we can.

13 Q. So you will pull up the A number only if the
14 copy of the Naturalization Certificate is illegible, is
15 that correct?

16 A. Illegible or of such a quality that we
17 can't -- we're not comfortable with it unless we check
18 it.

19 Q. If you could look back at Exhibit 7, the copy
20 of the Naturalization Certificate that's towards the
21 end. The bottom --

22 A. What page? Oh, okay. Okay.

23 Q. On the bottom left-hand corner underneath the
24 photograph --

25 A. Uh-huh.

1 on-line if somebody came in.

2 Q. Do voter registration organizations ask you
3 for registration forms?

4 A. Yes.

5 Q. Do they always specify Arizona registration
6 forms?

7 A. No. It's what we provide them because it
8 has -- we go to the extra expense of having individual
9 bar codes put on them and it makes our processing much
10 more accurate and much faster. So that's the only ones
11 that we have to give them.

12 Q. Do you believe that United States citizens
13 living in Maricopa County who are eligible to register
14 to vote have been unable to do so since Proposition
15 200's provisions and requirements went into effect
16 because they lack the necessary documents?

17 A. Yes.

18 Q. Do you have any estimate of how many people
19 you believe have been unable to register?

20 A. No.

21 I take that from one case where I had a woman
22 come in that had just moved from back east. She had not
23 yet had her information delivered in all the packed, you
24 know, stuff you have packed and hadn't moved it all yet.
25 She didn't have her birth certificate. She was probably

1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was
 4 taken before me, PAUL GROSSMAN, a Notary Public and
 5 Certified Reporter #50028 in and for the County of
 6 Maricopa, State of Arizona; that the witness before
 7 testifying was duly sworn by me to testify to the whole
 8 truth; pursuant to request, notification was provided
 9 that the deposition is available for review and
 10 signature; that the questions propounded to the witness
 11 and the answers of the witness thereto were taken down
 12 by me in shorthand and thereafter reduced to print by
 13 computer-aided transcription under my direction; that
 14 the foregoing 112 pages are a true and correct
 15 transcript of all proceedings had upon the taking of
 16 said deposition, all done to the best of my skill and
 17 ability.

18 I FURTHER CERTIFY that I am in no way related
 19 to any of the parties hereto, nor am I in any way
 20 interested in the outcome hereof.

21 DATED at Phoenix, Arizona, this 4th day of
 22 August, 2006.



23
 24 **PAUL GROSSMAN**
 Notary Public - Arizona
 Maricopa County
 Expires 10/13/09

23 *Paul Grossman*
 24 Paul Grossman, Notary Public
 AZ CR #50028

25

App. 6

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

1
2
3
4 MARIA M. GONZALEZ, et al.,)
5 Plaintiffs,) Case No.:
6 vs.) CV-06-1268-PHX-ROS
7 STATE OF ARIZONA, et al.,)
8 Defendants.)
9 _____)
10 THE INTER TRIBAL COUNCIL OF)
11 ARIZONA, INC., et al.,)
12 Plaintiffs,)
13 vs.)
14 JAN BREWER, in her official)
15 capacity as Secretary of)
16 State of Arizona,)
17 Defendant.)
18 _____)

DEPOSITION OF F. ANN RODRIGUEZ

August 2, 2006

Tucson, Arizona

REPORTED BY: KATHRYN A. LORENZ, CR NO. 50738
UNITED COURT REPORTERS, INC.
Court Reporting Service

(520) 792-2600 or (800) 759-9075

CONFERENCE ROOMS: MAILING ADDRESS:
Suite 200 P.O. Box 17507

177 North Church Avenue Tucson, Arizona 85731

1 Q. And what information is contained on that
2 card?

3 A. Their number, their picture, their signature,
4 the seal, and I think their district name. I think
5 that's all that's on there. It's been a while since
6 I've seen it.

7 Q. Do you know if the Pascua Yaqui issue a tribal
8 enrollment number?

9 A. I'm not sure I'm positive of that one. It did
10 come up in my presentation with them, that they are
11 considering doing something that would have their
12 residential address. The Pascua Yaqui nation, you have
13 to understand, is within addressing capabilities.
14 Everybody has an address of some sort.

15 Q. Let me just ask you a series of summary
16 questions, and then I believe that's all I have.

17 Would you agree with me that not all citizens
18 who are eligible to register to vote in Pima County
19 possess an Arizona driver's license or a non-operator's
20 license that was issued after October 1st of 1996?

21 A. That's true.

22 Q. And would you agree with me that not every
23 citizen who is eligible to vote in Pima County possesses
24 or has access to a birth certificate?

25 A. I agree.

1 Q. Would you agree with me that not every citizen
2 who is eligible to register to vote in Pima County
3 possesses a U.S. passport?

4 A. I'm one. I agree.

5 Q. Would you agree with me that not every citizen
6 eligible to vote in Pima County possesses naturalization
7 documents or tribal I.D.?

8 A. Agree.

9 Q. And would you agree with me that not every
10 citizen eligible to register to vote in Pima County
11 possesses at least one form of the I.D. necessary to
12 register?

13 A. I probably -- they may not have one form,
14 yeah.

15 MR. SILVERMAN: That's all the questions that
16 I have. Thank you very much.

17 MS. RAPP: Peter, do you have anything?

18 MR. SILVERMAN: I don't. Thank you very much.

19 MS. RAPP: Colleen, do you have anything?

20 MS. CONNOR: No. Thank you.

21 MS. RAPP: I don't have any questions for you
22 either, Ms. Rodriguez.

1 A. That is correct.

2 Q. And following Proposition 200, your flier on
3 your website asks for the number of the certificate of
4 naturalization.

5 A. That is correct.

6 Q. And following Proposition 200, the state's
7 standard form which you use also asks for the number of
8 the certificate of naturalization. Is that right?

9 A. That is correct.

10 Q. And is it possible for your office to verify,
11 with the Department of Homeland Security, citizenship by
12 using the number of the certificate of naturalization?

13 A. You are referring to the scroll number?

14 Q. Yes.

15 A. Yes, because we tried that one, too, and it
16 means nothing.

17 Q. So is it possible for you, as the Pima County
18 recorder, to carry out the language of the statute which
19 requires you to verify the certificate of naturalization
20 number?

21 A. We cannot verify the certificate of
22 naturalization number. We can only do what is called
23 the alien registration number. And we have another
24 standard form letter for that.

25 Q. Okay. Can you find in PIM 1, which is the

App. 7



MVD Home Page

Home Page :: MVC

Online Services

Frequently Asked
Questions

New To Arizona?

General Information

Customer Services

Commercial Services

Forms & Publications

Driver License

Frequently Asked Questions

- 1) How do I change my name on my driver license?
- 2) What hours are the MVD Driver License offices open?
- 3) How do I apply for a driver license?
- 4) How much will my driver license cost?
- 5) How can I replace a lost or stolen license, and how much will it cost?
- 6) How do I remove my Social Security Number from my driver license?
- 7) Do I have to take a test?
- 8) What if my current state is asking for a clearance letter from Arizona?
- 9) How do I change my address on my driver license?
- 10) How can I get a Motor Vehicle (Driver or Vehicle) Record?
- 11) What traffic convictions will show if an insurance company runs my MVR?
- 12) How many points do I have on my driving record?
- 13) How long does a conviction stay on my record?
- 14) Why do I have to attend Traffic Survival School?
- 15) What tickets do I have on my driving record?
- 16) Why is my driver license suspended/revoked?
- 17) What is the difference between a suspension and a revocation?
- 18) How can I reinstate a suspension?
- 19) What do I need to do if I have moved out of state and just now received a suspension notice?
- 20) When can I apply for a restricted driving permit?
- 21) What is an SR22?
- 22) How long am I required to have an SR22?
- 23) What is a judgment suspension?
- 24) How can I reinstate a revocation?
- 25) How do I obtain an Investigation Packet?
- 26) When am I going to hear about my investigation?
- 27) How do I schedule a hearing?
- 28) What is a Graduated driver license (class G) and what are some of the facts about its origin and use?
- 29) What are the new penalties for moving violations while under the age of 18?
- 30) When will I need to update my photo?
- 31) Can I renew my license by Internet or telephone?
- 32) Does my driver license expire at age 60?
- 33) What Instruction Permits are available?
- 34) What is needed for a person from another country to drive in Arizona?

1) How do I change my name on my driver license?

1) How do I change my name on my driver license?

You are required by law to notify MVD of a name or address change within 10 days. We are required to verify your Social Security Number before your record can be updated, therefore you must first contact the Social Security Administration at 800-772-1213 for information on how to change your name on their records. After you have changed your name with SSA, wait **two days** for their computer system to be updated. You should then visit an MVD office to present identification in both your new and previous names. This must be an original or certified copy (must be certified by the issuing agency) of one of the following: Marriage Certificate/License, Divorce Decree, Certificate of Citizenship/Naturalization or a court order.

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2) What hours are the MVD Driver License offices open?

Office hours and availability may vary by location and/or day. Saturday services are also available in some locations. See the Office Hours and Locations listing for the office nearest you.

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3) How do I apply for a driver license?

If you are currently licensed in another state, you must bring in your out-of-state driver license and one other form of identification, take the vision test, and pay the appropriate fee. A written test will not be required.

If you are between the ages of 16 and 18, a parent or legal guardian must sign the legal guardian section on the driver license application. The legal guardian's identification may serve as one form of identification, but you will still need two additional documents, such as an original birth certificate and Social Security card. You will be subject to the written, vision and road skills test as well as the appropriate application fee.

See Identification Requirements for a listing of acceptable proof of identification. One proof must be listed under Primary.

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4) How much will my driver license cost?

The fees are based on age, as follows:

- 16-39 \$25.00

- 40-44 \$20.00
- 45-49 \$15.00
- 50-above \$10.00

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5) How can I replace a lost or stolen license, and how much will it cost?

To replace a lost or stolen driver license or identification card, visit www.servicearizona.com or call toll free 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is \$4.00. If you visit an office you must have two forms of identification, one of which contains your photo (or three forms of identification, if no photo). Management approval may be required. If your license has been lost or stolen and you have reason to believe someone else is using it, the incident should be reported to your local police department as an identity theft.

See Identification Requirements for a listing of acceptable proof of identification. One proof must be listed under Primary.

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6) How do I remove my Social Security Number from my driver license?

To remove your Social Security Number from your driver license or identification card, and have it replaced by a system generated number, visit www.servicearizona.com or call toll free 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is \$4.00.

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7) Do I have to take a test?

If you have a current out-of-state driver license in your possession, you will normally not have to take a written or road test. However, you may be required to take a written or road test any time that you apply for a license.

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8) What if my current state is asking for a clearance letter from Arizona?

Clearance letters are no longer issued to individuals. Your state driver licensing jurisdiction must request clearance information directly for us.

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9) How do I change my address on my driver license?

You are required by law to notify MVD within 10 days of any change of address. When you submit a change of address, we will update your driver license or identification card record and each vehicle record where you are listed as the registration recipient.

You may change your address at www.servicearizona.com or submit the information by telephone, mail, or by completing a change of address card at any MVD or Authorized Third Party office. You will be required to provide your full name, date of birth, driver license number, old address and new address. There is no fee for a change of address.

If you want a license with your new address, you may apply for a duplicate license at www.servicearizona.com, or by calling 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is \$4.00. The record will be updated at the time the new credential is issued.

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10) How can I get a Motor Vehicle (Driver or Vehicle) Record?

A Motor Vehicle Record (MVR) is the computer printout of a driving or vehicle record. The manner in which driver license or motor vehicle record information may be released is regulated by the Federal Driver's Privacy Protection Act (or DPPA), 18 USC 2721-2725 and Title 28, Chapter 2, Article 5 of the Arizona Revised Statutes.

The DPPA requires you to have a "permissible use" for requesting and receiving an MVD record which contains personal identifying information (e.g., a person's driver license photograph/image, social security number, driver license number, name, address and medical/disability information). The Motor Vehicle Record Request form lists those permissible uses.

If eligible, you can obtain a copy of a record by completing a Motor Vehicle Record Request and submitting \$3.00 for an uncertified record (3-year for driving record) or \$5.00 for a certified record (5-year for driving record). Your signature on the form must be notarized, or witnessed by an MVD agent.

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11) What traffic convictions will show if an insurance company runs my MVR?

Any convictions received and showing on your driving record within the past 39 months will be provided to an insurance company.

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12) How many points do I have on my driving record?

The amount of points depends on the violations. A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number.

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13) How long does a conviction stay on my record?

Five years from the date of conviction.

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14) Why do I have to attend Traffic Survival School?

You may be required to attend a Traffic Survival School for one of the following:

- For convictions causing the accumulation of at least 8 points, but not more than 12 points, within a 12-month period, with no Traffic Survival School completed in the previous 24 months.
- For a conviction of one of the following violations: Aggressive Driving, Moving Violation Resulting In An Accident Causing Serious Physical Injury, Moving Violation Resulting In An Accident Causing Death.
- For the first moving violation of a driver under 18 years of age
- For a conviction for Red Light Running

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15) What tickets do I have on my driving record?

A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number, or you may purchase a Motor Vehicle Record (see #10).

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16) Why is my driver license suspended/revoked?

It depends on the violation. A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number, or you may purchase a Motor Vehicle Record (see #10).

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17) What is the difference between a suspension and a revocation?

A suspension has a specific start and end date; when the suspension period ends, the licensee pays the reinstatement fee and any reapplication fees to restore their driving privilege. Revocations are indefinite; there is a minimum length of time, usually one to three years, but the action does not automatically end on that date. The individual must go through an investigation process to determine whether it would be safe to restore their driving privilege. If approved for reinstatement, there would be reinstatement and reapplication fees.

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18) How can I reinstate a suspension?

This can vary, depending on the reason for the suspension. Court ordered suspensions require a clearance from the court. Other suspensions may require an SR-22. Once any required documentation is obtained, take the documents to your local driver license facility and pay the appropriate reinstatement and reapplication fees. A vision screening will be required, and you may be asked to take a written and/or road skills test. (See Question #24 for information on clearing a revocation.)

For reinstatement fees: Payment may be made by cash, cashier's check or money order. Some offices accept credit cards. Cash and credit card not accepted by mail. No personal checks accepted.

If you have met all the requirements to reinstate except for paying the fees, then you may be able to reinstate online at www.servicearizona.com.

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19) What do I need to do if I have moved out of state and just now received a suspension notice?

Depending on the violation, you may be eligible for a phone hearing, or may send the necessary reinstatement requirements by mail. Contact a Customer Service Representative by telephone to review your record and determine what action is necessary.

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20) When can I apply for a restricted driving permit?

Provided you meet the necessary requirements, a restricted driving permit can be issued to you either by mail or in any Driver License office. "Necessary

requirements" would be when a breath, blood or urine test has been submitted to MVD indicating a blood alcohol level of .08 or more and: it is the first DUI within five years, and the DUI did not result in serious physical injury. when found guilty of driving without insurance. when otherwise directed by the court, if permitted by law.

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21) What is an SR22?

Failure to maintain proper insurance could lead to the suspension of your vehicle registration and/or driver license. To reinstate these privileges, fees and future proof of financial responsibility must be filed with MVD. The future proof requirement is most commonly an SR22 from an insurance company licensed to conduct business in the state of Arizona.

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22) How long am I required to have an SR22?

You must maintain an SR22 for three years from the date of suspension, unless it is a judgment suspension. Because judgment suspension requirements can vary from case to case, contact a Customer Service Representative by telephone to review your record and determine the length of time you need to maintain the SR22 for a judgment suspension.

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23) What is a judgment suspension?

A judgment is generally a court order issued when someone has had an accident and was not insured. The judgment suspension is placed on the driving record in accordance with the court order.

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24) How can I reinstate a revocation?

If the license is revoked, you must request an investigation packet. Once the packet is completed, submit it to the Division. The investigation process takes approximately 7-10 days. If your reinstatement request is approved, you will pay the necessary reinstatement and reapplication fees and your privileges will be restored. If your request is denied, however, you must wait one year before you are eligible to reapply, although you are eligible to request an Administrative Hearing.

For reinstatement fees: Payment may be made by cash, cashier's check or money

order. Some offices accept credit cards. Cash and credit card not accepted by mail. No personal checks accepted.

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25) How do I obtain an Investigation Packet?

You may request an investigation packet by telephone. The Customer Service Representative may require your full name, date of birth and driver license number at the time of the call, to verify your eligibility to apply for reinstatement. The packet will be mailed to you.

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26) When am I going to hear about my investigation?

You will receive a written response within approximately 7-10 days from the date the packet was submitted.

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27) How do I schedule a hearing?

Your request must be made in writing to: Mail Drop 507M, Executive Hearing Office, Motor Vehicle Division, PO Box 2100, Phoenix, AZ 85001-2100, and must include your first, middle and last name, date of birth, license number, mailing address, home and business phones, and Case Number. Upon receipt of your written request, a hearing may be scheduled and you will be notified by mail as to the date, time and location.

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28) What is a Graduated driver license (class G) and what are some of the facts about its origin and use?

A number of documented driving studies have indicated that youthful drivers could benefit from the education and experience required by a graduated driver licensing program. While the laws vary from state to state the intent of the class G license contains three basic stages:

1. Instructional permit stage
2. Restricted or probationary stage (the class G in Arizona)
3. Full license stage (class D in Arizona).

A class G driver is not required to have an adult driver in the vehicle. There are no

passenger restrictions on class G drivers. It is not necessary to graduate from high school before obtaining a class G license.

A graduated driver license is issued to an applicant who is at least 16, but less than 18 years of age and is valid to operate any vehicle that does not require a motorcycle or commercial license.

An applicant for a class G license must have held an Arizona instruction permit for at least 5 months, or have a driver license from another state. The permit must be valid at the time of application. An applicant must also have satisfactorily completed a driver education program that is approved by MVD or the parent or guardian must certify in writing that the applicant has completed at least 25 hours of supervised driving practice, including at least 5 hours at night.

An applicant for a motorcycle license or endorsement who is under 18 must have held an Arizona instructional permit for at least 5 months, or have a motorcycle license from another state. The permit must be valid at the time of application. An applicant must also have satisfactorily completed a motorcycle driver education program that is approved by MVD or the parent or guardian must certify in writing that the applicant has completed at least 25 hours of motorcycle driving practice.

The holder of a class G license is not required to obtain an operator (class D) license at age 18, but may choose to obtain one.

One of the biggest misconceptions about the new graduated driver license has been that you will not be able to get your license until age 18. With a class G driver license, you are able to drive anywhere, with anyone in the car, at anytime of the day or night, provided you adhere to any curfew restrictions defined by city codes. The class G license also allows you to drive without a licensed driver in the vehicle.

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29) What are the new penalties for moving violations while under the age of 18?

1st Violation - If you attend Defensive Driving School your record will remain clean.

2nd Violation (first conviction) - You must attend Traffic Survival School.

3rd Violation (second conviction) - 3 month suspension.

4th Violation (third conviction) - 6 month suspension.

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30) When will I need to update my photo?

You are required to update your photo every 12 years. At the end of 12 years, a notice will be sent to you requesting that you visit a driver license facility for a new photo and replacement driver license.

Failure to comply with this request may result in disqualification for certain driver license services, including online services, such as duplicate replacements for lost or damaged licenses.

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31) Can I renew my license by Internet or telephone?

No. You must visit a driver license office in person to complete the application process and have a new photo taken.

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32) Does my driver license expire at age 60?

No. At one time driver licenses were issued with an expiration date on the driver's 60th birthday. Then the law changed to extend the expiration date an additional five years to age 65. The computer record for those licenses was automatically updated to reflect the new expiration date.

If you have a license that indicates that it expires at age 60, you may continue to use the license you have. No action on your part is required. However, because it has the old expiration date, it may no longer be viewed as a valid document when you present it as a means of identification.

If you have a digital photo on file, you may obtain a replacement (duplicate) license showing the new expiration date. To obtain a duplicate license you have three options:

- Internet - www.servicearizona.com (\$4.00, MC\Visa\AmEx\Discover credit cards only)
- Phone - toll free 877-301-8093 (\$4.00, MC\Visa credit cards only)
- Mail - Send a letter requesting a duplicate license to the address below; include your name, address, driver license number and date of birth. (Make check for \$4.00 payable to Motor Vehicle Division) Please allow 4 weeks processing time.

MAIL DROP 510
MOTOR VEHICLE DIVISION
PO BOX 2100
PHOENIX AZ 85001-2100

If you do not have a digital photo on file, you must visit a driver license office in person to complete the application process and have a new photo taken.

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33) What Instruction Permits are available?

If you are at least 15 years and 7 months of age you may be issued a graduated and/or a motorcycle instruction permit. You must be at least 18 for an operator permit.

With a graduated or operator permit you must be accompanied by a class A, B, C or D licensed driver, who occupies the seat beside you.

These permits are valid for 12 months.

With a motorcycle permit you are prohibited from operating a motorcycle on freeways or interstate highways, or between sunset and sunrise, or at any time when there is not enough light to clearly see persons or vehicles at a distance of 500 feet.

The motorcycle instruction permit is valid for 6 months and can be renewed one time within a 24-month period.

The commercial instruction permit is valid for a 6-month period. You must be at least 18 to apply. For additional information, see the Commercial Driver License Manual, available by calling the Customer Service Call Center.

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34) What is needed for a person from another country to drive in Arizona?

You may legally drive in Arizona using a valid driver license from another country. An International Driving License or Permit is not required, but is recommended since it can be printed in English, and can be used in conjunction with the driver license from the other country. If an International Driving License or Permit is used alone, it must be issued by a country other than the United States. Vehicle rental companies may have additional requirements.

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App. 8



Arizona Department of Health Services
Division of Public Health Services



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Birth Certificates

Applying for a Certified Copy of a Birth Certificate in Person:

Each request for a certified copy of a birth certificate must be in writing. The request must contain the applicant's mailing address and signature and must establish the applicant's eligibility to receive a certified copy of the certificate. This may mean you will be required to provide certified copies of documents which establish the appropriate relationship to the registrant.

An incomplete application will delay the processing of your request. A complete application must include the following:

- The full name of the registrant (person named on the birth certificate).
- The registrant's date of birth.
- The registrant's place of birth (city and county).
- The registrant's mother's full maiden name.
- The registrant's father's full name.
- Your relationship to the registrant, and the reason you are requesting a copy.
- Your signature.
- Your telephone number.
- If you are not the registrant or the registrant's parent you must provide proof of your relationship, such as a birth certificate.
- If you are applying for your spouse's birth certificate you must also provide written notarized permission from your spouse and a copy of your spouse's valid government issued picture identification. (We will not accept a copy of a marriage license/certificate as sole evidence.)

If you need assistance or have questions about eligibility, call (602) 364-1300 or, within Arizona, (888) 816-5907 to listen to a recorded message with this information. This can save you time and frustration.

Applying in person:

Same day service is only available for applicants requesting certified copies of birth certificates for births occurring from 1990 to present. All others will be mailed. There is no pick-up service.

Our lobby is open from 8:00 AM until 5:00 PM. However, only customers who arrive before 4:00 PM will be served.

- Bring the information listed above for the birth record.

- Bring both your payment and a valid government-issued picture identification which bears your signature. If you are not the registrant or the parent named on the certificate, you must provide proof of eligibility.
- We accept cash, traveler's checks, cashier's checks, and money orders made payable to the Office of Vital Records.
- Traveler's checks, cashier's checks, and money orders must be for the exact amount.
- We also accept Visa and MasterCard credit cards at the customer service counter.
- Certified copies of birth certificates for births occurring 1990 to present are \$10.00 each. All others are \$15.00 each.

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General comments, questions, or concerns: [ADHS Webmaster](#)

App. 9

Wednesday August 2, 2006

Passport Fees

March 8, 2005

Routine Services (Form DS-11)

Non-Refundable

Age 16 and older: The passport application fee is \$55. The security surcharge is \$12. The execution fee is \$30. The total is \$97.

Under Age 16: The passport application fee is \$40. The security surcharge is \$12. The execution fee is \$30. The total is \$82.

Methods of Payment -

At Our 14 Passport Agencies -

Both fees and the surcharge are combined into one payment to the "U.S. Department of State":

Credit Cards – VISA, MasterCard, American Express, Discover

Debit/Check cards (not ATM cards)

Checks (personal, certified, cashiers', travelers'), money orders (U.S. Postal, international, currency exchange), bank drafts

Note: If abroad, U.S. Embassies and Consulates accept the foreign currency equivalent, or a check drawn on a U.S. bank.

At our over 7,000 Passport Acceptance Facilities -

You pay the passport application fee and the security surcharge to the "U.S. Department of State" and the execution fee to the facility where you are applying.

For Passport Application Fee:

Personal checks, money orders, and bank drafts at all locations

Exact cash at some locations (verify with the Acceptance Facility)

For Execution Fee:

Money orders and bank drafts at all locations

Personal checks and exact cash at some locations (verify with the Acceptance Facility)

Credit cards at U.S. Postal Facilities and some other locations (verify with the Acceptance Facility)

Passport Renewal (Form DS-82)

Non-Refundable

You may use this form if your previous passport:

1. Was issued when you were 16 or older.

2. Was issued in the last 15 years.
3. Is not damaged.
4. Is submitted with your application.

The Passport fee is \$55. The Security Surcharge is \$12. The total fee is \$67.

Expedited Service - Add \$60 for each application

For any service - e.g., first-time application, renewal, additional pages, name change

Additionally, to receive your passport as soon as possible, we strongly suggest that you arrange **overnight delivery service** for:

1. **Sending your passport application**
AND
 2. **Returning your passport to you.**
-



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App. 10

U. S. Citizenship and Immigration Services

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Please review this page before downloading this form. It may contain important changes to the instructions for completing and filing the form. The form contained here is the latest printed version. Form changes cannot be made as quickly on the printed forms as they can on this website. Therefore, we are providing notices of changes through this page to assist you with the latest information. You may use the form provided here, but be sure to follow any special instructions listed on this page. **Failure to follow these instructions may result in your application or petition being delayed or denied.** You may wish to read our [General Instructions](#) on forms.

You will need [Adobe Reader](#) to fill, view or print these forms in Portable Document Format (PDF).

Form:

N-565, Application for Replacement Naturalization/Citizenship Document



Instructions:

Purpose of Form:	This form is used to apply for a replacement Declaration of Intention, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate, or to apply for a special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.
Number of Pages:	4
Edition Date:	10/26/05. 4/30/04 version also accepted.
Where to File:	File this application with the USCIS local Office with jurisdiction over your place of residence.
Filing Fee:	\$220 Please consult the "Paying Fees" section of your local office page to learn which forms of payment are accepted. Acceptable forms of payment may vary by office. Checks should be made payable to Department of Homeland Security or U.S. Citizenship and Immigration Services.

Special Instructions:

Effective August 2, 2004, USCIS has changed its requirements for photographs to a standard passport-style photograph. Please see this [informational flyer](#) for more details.

Download:

[N-565](#) (Fillable PDF, 797 KB)

Instructions

Purpose of This Form.

This form is used to apply to the U.S. Citizenship and Immigration Services (USCIS) for a replacement:

- Declaration of Intention, or
- Naturalization Certificate, or
- Certificate of Citizenship, or
- Repatriation Certificate, or to
- Apply for a special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.

NOTE: USCIS is comprised of offices of the former Immigration and Naturalization Service (INS).

Who May File?

You may apply for a replacement:

- If you have been issued a Naturalization Certificate, Certificate of Citizenship, Declaration of Intention or Repatriation Certificate which has been lost, mutilated, or destroyed, or;
- If your name has been changed by marriage or by court order after the document was issued and you seek a document in the new name.
- If you are a naturalized citizen desiring to obtain recognition as a citizen of the United States by a foreign country, you may apply for a special certificate for that purpose.

General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer is "none," so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item.

Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application in your behalf.

Initial Evidence Requirements.

You must file your application with the following evidence:

- You must submit two standard passport-style photographs in color of yourself taken within 30 days of this application. These photos must be glossy, unretouched and

unmounted, and have a white background. The dimension of your full frontal facial position should be about 1 inch from your chin to the top of your hair. Using pencil or felt pen, lightly print your name and A# if any, on the back of each photo. This requirement may be waived by USCIS if you can establish that you are confined because of age or physical infirmity.

- If you are applying for replacement of a mutilated document, you must attach the mutilated document.
- If you are applying for a new document because your name has been changed, you must submit the original USCIS (or former INS) document and a copy of the marriage certificate or court order showing the name change.
- If you are applying for a special certificate of naturalization, you must attach a copy of your naturalization certificate.

Copies.

If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where to File.

File this application at the local USCIS office having jurisdiction over your place of residence.

What Is the Fee?

The fee for this petition is **\$220.00**, except there is no fee if you check **block 2 (d)** of **Part 2** of the form.

The fee must be submitted in the exact amount. It cannot be refunded. **Do not mail cash.**

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the **Department of Homeland Security**, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the U.S. Virgin Islands, and are filing this application in the U.S. Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

How to Check If the Fee Is Correct.

The fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fee is correct by following one of the steps below:

- Visit our website at www.uscis.gov and scroll down to "Forms and E-Filing" to check the appropriate fee, or
- Review the Fee Schedule included in your form package, if you called us to request the form, or
- Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information.

Processing Information.

Rejection. Any application that is not signed or not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by USCIS.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your application.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. If you establish eligibility for the document, your application will be approved and the document issued. A special certificate of naturalization will be forwarded to the U.S. Department of State for delivery to a foreign government official. If your application is denied, you will be notified in writing of the reasons for the denial.

USCIS Forms and Information.

To order USCIS forms, call our toll-free forms line at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations or procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our USCIS internet website at www.uscis.gov.

Use InfoPass for Appointments.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our internet-based system, **InfoPass**. To access the system, visit our website at www.uscis.gov. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen. Print the notice and take it with you to your appointment. The notice gives the time and date of your appointment, along with the address of the USCIS office.

Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1439, 1440, 1443, 1445, 1446, and 1452. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.

A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex.

Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 10 minutes; (2) completing the form, 10 minutes; and (3) assembling and filing the application, 35 minutes, for an estimated average of 55 minutes per response.

If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., Washington, D.C. 20536; OMB No. 1615-0091. **Do not mail your completed application to this address.**

Part 5. Complete if applying to correct your document.

If you are applying for a new certificate or Declaration of Intention because your current one is incorrect, explain why it is incorrect and attach copies of the documents supporting your request.

Part 6. Complete if applying for a special certificate of recognition as a citizen of the U.S. by the Government of a foreign country.

Name of Foreign Country _____

Information about official of the country who has requested this certificate (if known)

Name _____

Official Title _____

Government Agency _____

Address: Street #
and Name _____

Room # _____

City _____

State/
Province _____

Country _____

Zip or
Postal Code _____

Part 7. Signature. *Read the information on penalties in the instructions before completing this part. If you are going to file this application at an USCIS office in the United States sign below. If you are going to file this application at a USCIS office abroad, sign it in front of a USCIS or Consular Official.*

I certify, or if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records which the U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking.

Signature _____

Date _____

Signature of USCIS
or Consular Official _____

Print Name _____

Date _____

NOTE: *If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for a certificate and this application may be denied.*

Part 8. Signature of person preparing form, if other than above. (Sign below.)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature _____

Print Your Name _____

Date _____

Firm Name and Address _____

Telephone Number (with area code) _____

E-Mail Address (if any) _____

App. 11

ARIZONA VOTER REGISTRATION FORM

FORMULARIO DE INSCRIPCIÓN DE VOTANTE EN ARIZONA

INSTRUCCIONES EN ESPAÑOL SE ENCUENTRAN AL REVERSO

Questions? For questions regarding voter registration, call your County Recorder listed on the back of the form

You Can Use This Form To:

- > Register to vote in the state of Arizona
- > Let us know that your name, address or party affiliation has changed

To Register To Vote In Arizona You Must (Qualifications):

- > Be a United States citizen (see citizenship requirements on back)
- > Be a resident of Arizona and the county listed on your registration
- > Be 18 years of age or more on or before the day of the next regular General Election

WARNING: Executing a false registration is a class 6 felony

You Cannot Register To Vote In Arizona If:

- > You have been convicted of a felony and have not yet had your civil rights restored
- > You have been adjudicated incompetent

How To Register To Vote:

- > You can mail or hand deliver your completed form to your County Recorder's office
- > Your County Recorder's office will mail you a proof of registration within 4 – 6 weeks
- > Your decision to register to vote or not, and where you submitted your registration, will remain confidential

Registrations Received By Mail:

- > In the case of registration by mail, a voter registration is valid if it complies with either of the following:
 1. The registration is dated 29 days or more before an election and is received by the County Recorder within 5 days after the last day to register to vote in that election.
 2. The form is postmarked 29 days or more before an election and is received by the County Recorder by 7 p.m. on the day of that election.

Citizens With Disabilities Can:

- > Contact the County Recorder/Elections Department for information about polling place access, early voting, assistance at the polling place and all other election related procedures

If you are not a citizen of the United States or will not be 18 by the next General Election, do not complete this form.

<Fold Line-----*USE BLACK PEN ~ COMPLETELY FILL OUT FORM *USE PLUMA DE TINTA NEGRA ~ LLENE EL FORMULARIO COMPLETAMENTE-----Fold Line>

[1] Are you registered to vote at another address? Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> List the former address, including county and state		BOX FOR OFFICE USE ONLY	
[2] Last Name	First Name	Middle Name	Jr./Sr./III
[3] Address where you live – If no street address, describe residence location using mileage, cross streets, or landmarks. Do not use post office box or business address. Draw a map below if located in rural area.			[4] Apt./Unit/Space No.
[5] City	[6] County	[7] Zip	[8] Address where you get your mail, if mail is not delivered to your home
[9] Birth Date (Month/Day/Year)	[10] State or Country of Birth	[11] Telephone number	[12] Father's name or mother's maiden name
[13] AZ Driver license number or AZ Nonoperating license number	[14] AZ Driver license number or AZ nonoperating license number issue date	[15] Last four digits of social security number	[16] Optional - Check ID type and write number in box <input type="checkbox"/> Indian census number, <input type="checkbox"/> Bureau of Indian Affairs card number, <input type="checkbox"/> Tribal treaty card number, or <input type="checkbox"/> Tribal enrollment number No.
[17] Specify Party Preference	[18] Occupation	[19] If your name was different the last time you registered, list former name	[20] Certificate of Naturalization number
[21] > Are you a citizen of the United States of America? Yes <input type="checkbox"/> No <input type="checkbox"/> If you checked "No" to either of these questions, do not submit this form. > Will you be 18 years of age on or before election day? Yes <input type="checkbox"/> No <input type="checkbox"/>			[22] If no street address draw a map here: <div style="text-align: center;"> N W ----- E S </div>
VOTER DECLARATION – By signing below, I swear or affirm that the above information is true, that I am a RESIDENT of Arizona, I am NOT a convicted FELON or my civil rights are restored, and I have NOT been adjudicated INCOMPETENT SIGN HERE _____ DATE _____			
[23] If you are unable to sign the form, the form can be completed at your direction. The person who assisted you must sign here. SIGNATURE OF PERSON ASSISTING _____ DATE _____			
[24] Will you be willing to work at a polling place on election day? Yes <input type="checkbox"/> No <input type="checkbox"/>			

<Remove tape and fold to mail-----Remove tape and fold to mail>

NEW REGISTRATION REQUIREMENTS

>Your completed voter registration form must contain the number of your Arizona driver license, or nonoperating identification license.
 If you do not have either of these licenses, you must include the last four digits of your social security number.
 If you do not have a driver license or nonoperating identification license or a social security number, a unique identifying number will be assigned by the Secretary of State.

>A complete voter registration form must also contain proof of citizenship or the form will be rejected.
 If you have an Arizona driver license or nonoperating identification license issued after October 1, 1996, this will serve as proof of citizenship. If not, you must enclose proof of citizenship with the form.
 The back of the form contains a list of acceptable documents to establish your citizenship and instructions on how to attach copies of the documents to the voter registration form.

ARIZONA VOTER REGISTRATION FORM (Translation) FORMULARIO DE INSCRIPCIÓN DE VOTANTE EN ARIZONA

¿Preguntas? Para preguntas con respecto a la inscripción de votante, llame a su Registrador del Condado indicado al reverso del formulario

Usted puede usar este formulario para:

- > Inscribirse para votar en Arizona
- > Informarnos que su nombre, dirección o afiliación de partido ha cambiado

Para inscribirse para votar en Arizona, usted tiene que (Requisitos):

- > Ser ciudadano de los Estados Unidos (vea los requisitos de la prueba de ciudadanía al revés)
- > Ser residente de Arizona y del condado indicado en su inscripción
- > Tener 18 años o más en o antes del día de la próxima Elección General normal

ADVERTENCIA: El ejecutar una inscripción falsa es un delito grave de clase 6

Usted no puede inscribirse para votar en Arizona si:

- > Usted ha sido condenado de un delito grave y todavía no se le han restituido sus derechos civiles
- > Usted ha sido juzgado incompetente

Cómo inscribirse para votar:

- > Usted puede enviar por correo su formulario llenado a la oficina de su Registrador del Condado o entregarlo personalmente
- > La oficina de su Registrador del Condado le enviará por correo una prueba de inscripción dentro de 4 a 6 semanas
- > Su decisión de inscribirse para votar o no inscribirse, y donde usted presentó su inscripción, se quedará confidencial

Inscripciones recibidas por correo:

- > En caso de inscripción por correo, una inscripción de votante es válida si cumple con cualquiera de los siguientes:
 1. El formulario está fechado 29 días o más antes de una elección y es recibido por el Registrador del Condado dentro de 5 días después del último día para inscribirse para votar en esa elección.
 2. El formulario tiene la fecha de matasellos de 29 días o más antes de una elección y es recibido por el Registrador del Condado para las 7 p.m. del día de esa elección.

Los ciudadanos con discapacidades pueden:

- > Comunicarse con el Registrador del Condado o el Departamento de Elecciones del Condado acerca del acceso al lugar de votación, votación temprana, ayuda en el lugar de votación y todos los otros procedimientos relacionados con elecciones

Si usted no es ciudadano de los Estados Unidos o no tendrá 18 años para la próxima Elección General, no llene este formulario.

NUEVOS REQUISITOS DE INSCRIPCIÓN

> Su formulario llenado de inscripción de votante tiene que contener el número de su licencia de manejar, o el número de su licencia de identificación no de manejar.

Si no tiene ninguna de estas licencias, tiene que incluir las últimas cuatro cifras de su número de seguro social.

Si no tiene una licencia de manejar ni una licencia de identificación no de manejar ni un número de seguro social, se le asignará un número único de identificación por la Secretaria de Estado.

> Un formulario llenado de inscripción de votante también tiene que contener prueba de ciudadanía o se rechazará el formulario.

Si usted tiene una licencia de manejar o una licencia de identificación no de manejar expedida después del 1 de octubre de 1996, ésta servirá como prueba de ciudadanía. Si no, tiene que adjuntar prueba de ciudadanía con el formulario.

El reverso del formulario contiene una lista de los documentos aceptables para establecer su ciudadanía e instrucciones sobre cómo adjuntar copias de los documentos al formulario de inscripción de votante.

PLACE STAMP HERE



~ USE ESTA SECCIÓN COMO EJEMPLO, LLENE LA CARA DEL FORMULARIO ~

[1] ¿Está usted inscrito para votar en otra dirección? Sí <input type="checkbox"/> No <input type="checkbox"/> No sé <input type="checkbox"/> Escriba la dirección anterior, incluyendo el condado y el estado		CASILLA SOLO PARA EL USO DE LA OFICINA 5	
[2] Apellido	Nombre de pila	Segundo nombre	Jr./Sr./III
[3] Dirección en donde Ud. vive – si no hay dirección de calle, describa la ubicación de su residencia usando el millaje, cruces de calles o puntos de referencia. No use un apartado postal ni dirección de negocio. Dibuje un mapa abajo si está ubicado en una zona rural.			[4] Dpto./Unidad/No. de espacio
[5] Ciudad	[6] Condado	[7] Código postal	[8] Dirección en la cual Ud. recibe su correspondencia, si no se entrega la correspondencia a su casa
[9] Fecha de nacimiento (Mes/Día/Año)	[10] Estado o país de nacimiento	[11] Número de teléfono	[12] Nombre de su padre o nombre de soltera de su madre
[13] Número de su licencia de manejar de AZ o número de su licencia de identificación no de manejar de AZ	[14] Fecha de expedición de su licencia de manejar de AZ o número de su licencia de identificación no de manejar de AZ	[15] Las últimas cuatro cifras de su número de seguro social	[16] Opcional - Marque el tipo de identificación y escriba el número en la casilla <input type="checkbox"/> Número del censo indio, <input type="checkbox"/> Número de tarjeta del Departamento de Asuntos Indios, <input type="checkbox"/> Número de tarjeta de tratado tribal, o <input type="checkbox"/> Número de inscripción tribal Número
[17] Especifique su Partido de Preferencia	[18] Ocupación	[19] Si su nombre ha cambiado desde la última vez que se inscribió, escriba su nombre anterior	[20] Número del Certificado de Naturalización
[21] > Es usted ciudadano de los Estados Unidos de América? Sí <input type="checkbox"/> No <input type="checkbox"/> > Tendrá usted 18 años de edad en o antes del día de la Elección? Sí <input type="checkbox"/> No <input type="checkbox"/> <i>Si marcó "No" a cualquiera de estas preguntas, no presente el formulario.</i>			[22] Si no hay una dirección de calle, dibuje un mapa aquí: N O ----- E S
DECLARACIÓN DE VOTANTE – Al firmar abajo, juro o afirmo que la información más arriba es verdad, que soy RESIDENTE de Arizona, que NO soy un CRIMINAL convicto, o mis derechos civiles están restituidos y no se me ha juzgado INCOMPETENTE			
FIRME AQUÍ _____ FECHA _____			
[23] Si usted no puede firmar el formulario, se puede llenar bajo su dirección. La persona que le ayudó tiene que firmar aquí. FIRMA DE LA PERSONA QUE AYUDA _____ FECHA _____			
[24] ¿Estará usted dispuesto a trabajar en un lugar de votación el día de la elección? Sí <input type="checkbox"/> No <input type="checkbox"/>			

<DESPEGUE LA CINTA ADHESIVA Y DOBLE PARA ENVIAR POR CORREO ----- DESPEGUE LA CINTA ADHESIVA Y DOBLE PARA ENVIAR POR CORREO>
*USE BLACK PEN ~ COMPLETELY FILL OUT FORM *USE PLUMA DE TINTA NEGRA ~ LLENE EL FORMULARIO COMPLETAMENTE

[1] Are you registered to vote at another address? Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> List the former address, including county and state		BOX FOR OFFICE USE ONLY 5	
[2] Last Name	First Name	Middle Name	Jr./Sr./III
[3] Address where you live – If no street address, describe residence location using mileage, cross streets, or landmarks. Do not use post office box or business address. Draw a map below if located in rural area.			[4] Apt./Unit/Space No.
[5] City	[6] County	[7] Zip	[8] Address where you get your mail, if mail is not delivered to your home
[9] Birth Date (Month/Day/Year)	[10] State or Country of Birth	[11] Telephone number.	[12] Father's name or mother's maiden name
[13] AZ Driver license number or AZ Nonoperating license number	[14] AZ Driver license number or AZ nonoperating license number issue date	[15] Last four digits of social security number	[16] Optional - Check ID type and write number in box <input type="checkbox"/> Indian census number, <input type="checkbox"/> Bureau of Indian Affairs card number, <input type="checkbox"/> Tribal treaty card number, or <input type="checkbox"/> Tribal enrollment number No.
[17] Specify Party Preference	[18] Occupation	[19] If your name was different the last time you registered, list former name	[20] Certificate of Naturalization number
[21] > Are you a citizen of the United States of America? Yes <input type="checkbox"/> No <input type="checkbox"/> > Will you be 18 years of age on or before election day? Yes <input type="checkbox"/> No <input type="checkbox"/> <i>If you checked "No" to either one of these questions, do not submit this form.</i>			[22] If no street address draw a map here: N W ----- E S
VOTER DECLARATION – By signing below, I swear or affirm that the above information is true, that I am a RESIDENT of Arizona, I am NOT a convicted FELON or my civil rights are restored, and I have NOT been adjudicated INCOMPETENT			
SIGN HERE _____ DATE _____			
[23] If you are unable to sign the form, the form can be completed at your direction. The person who assisted you must sign here. SIGNATURE OF PERSON ASSISTING _____ DATE _____			
[24] Will you be willing to work at a polling place on election day? Yes <input type="checkbox"/> No <input type="checkbox"/>			

VOTER REGISTRATION FORM - FORMULARIO DE INSCRIPCIÓN DE VOTANTE

VOTER REGISTRATION INFORMATION

If you meet the qualifications listed on the front of this form, complete, sign and return the attached registration form. This form may be used to register in any county in Arizona.

The form may be mailed or given to a person designated to receive voter registration forms. Call your County Recorder as listed below for more information.

NEW REGISTRATION REQUIREMENTS

If this is your first time registering to vote in Arizona or you have moved to another county in Arizona, your voter registration form must also include proof of citizenship or the form will be rejected. If you have an Arizona driver license or nonoperating identification license issued after October 1, 1996, write the number in box 13 on the front of this form. This will serve as proof of citizenship and no additional documents are needed. If not, you must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote.

The following is a list of acceptable documents to establish your citizenship:

- A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (i.e. marriage certificate) if the name on the birth certificate is not the same as your current legal name
- A legible photocopy of pertinent pages of a United States passport identifying the applicant
- Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization in box 20 on the front of this form
- The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number in box 16 on the front of this form
- A legible photocopy of a driver license or nonoperating license from another state within the United States if the license indicates that the applicant has provided satisfactory proof of citizenship
- A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs Affidavit of Birth.

If you need to include a photocopy of proof of citizenship, please fold the proof along with the voter registration form and place both items in an envelope and mail them to your County recorder listed below. **Send legible photocopies and not the originals. Photocopies will not be returned to you.**

If you are registered in Arizona and use this registration form because you move within a county, change your name, or change your political party affiliation, you do not need to provide photocopies of proof of citizenship. If you move to a different Arizona county, you will need to provide proof of citizenship.

ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES

Alternative format materials, sign language interpretation, and assistive listening devices are available upon 72 hours advance notice to your County Recorder.

To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request.

GENERAL INFORMATION

1. You must re-register whenever you:
 - **Move**
 - **Change your name**
 - **Change your political party affiliation**
2. Early ballots may be requested from the County Recorder of your county of residence.
3. Keep this copy as your receipt. After the County Recorder receives your registration and places it in the county general register, a notice will be sent to you within 4-6 weeks indicating that your name appears on the register. If you do not receive your notice contact your County Recorder.

INFORMACIÓN PARA LA INSCRIPCIÓN DE VOTANTE

Si usted satisface los requisitos indicados en la cara de este formulario, llene, firme y regrese el formulario de inscripción adjunto. Se puede usar este formulario para inscribirse en cualquier condado en Arizona.

Se puede enviar por correo el formulario o se puede darlo a una persona designada para recibir los formularios de inscripción de votante. Para más información, llame a su Registrador del Condado como se indica en la lista abajo.

REQUISITOS DE UNA NUEVA INSCRIPCIÓN

Si esto es su primera vez de inscribirse para votar en Arizona, o si se ha mudado a otro condado, su formulario de inscripción de votante también tiene que incluir prueba de ciudadanía o se rechazará el formulario. Si usted tiene una licencia de manejar de Arizona, o una licencia de identificación no de manejar de Arizona, expedida después del 1 de octubre de 1996, escriba el número en la casilla 13 en la cara de este formulario. Esto servirá como prueba de ciudadanía y no se necesitan ningunos otros documentos. Si no es así, tiene que adjuntar prueba de ciudadanía al formulario. Solamente se necesita una forma aceptable de prueba para inscribirse para votar.

Lo siguiente es una lista de los documentos aceptables para establecer su ciudadanía:

- Una fotocopia legible de un acta de nacimiento que verifica la ciudadanía y la documentación legal acreditativa (ej. Acta de Matrimonio) si el nombre en el acta de nacimiento no es el mismo como su nombre legal actual
- Una fotocopia legible de las páginas pertinentes de un pasaporte de los Estados Unidos que identifican al solicitante
- La presentación al Registrador del Condado de documentos de naturalización de los Estados Unidos o el número del certificado de naturalización en la casilla 20 en la cara de este formulario
- El Número de la Tarjeta del Departamento de Asuntos Indios, el Número de la Tarjeta de Tratado Tribal, o el Número de Inscripción Tribal en la casilla 16 en la cara de este formulario
- Una fotocopia legible de una licencia de manejar o licencia no de manejar de otro estado dentro de los Estados Unidos, si la licencia indica que el solicitante ha proporcionando prueba satisfactoria de ciudadanía
- Una fotocopia legible de un Certificado Tribal de Sangre India o Tribal o una Declaración Jurada de Nacimiento del Departamento de Asuntos Indios.

Si usted necesita adjuntar una fotocopia de prueba de ciudadanía, favor de doblar la prueba junto con el formulario de inscripción de votante y ponga los dos en un sobre y envíelos por correo a su Registrador del Condado indicado en la lista abajo. **Envíe fotocopias legibles y no los originales. No se regresarán las fotocopias a usted.**

Si usted es inscrito en Arizona y usa este formulario de inscripción porque se muda dentro de un condado, se cambia su nombre, o cambia su afiliación de partido político, no tiene que proporcionar fotocopias de prueba de ciudadanía. Si se muda a otro condado en Arizona, tendrá que proporcionar prueba de ciudadanía.

PARA ACOMODAR A LAS NECESIDADES DE LAS PERSONAS CON DISCAPACIDADES

Los materiales en formatos alternativos, interpretación por señas y dispositivos de audición asistida están disponibles al dar aviso previo de 72 horas a su Registrador del Condado.

Al punto posible, se harán disponibles más acomodamientos razonables dentro de las limitaciones de tiempo de la solicitud.

INFORMACIÓN GENERAL

1. Usted tiene que volver a inscribirse siempre que:
 - **Se mude**
 - **Se cambie su nombre**
 - **Cambie su afiliación de partido político**
2. Se puede solicitar boletas electorales tempranas del Registrador del Condado del condado de su residencia.
3. Conserve esta copia como su recibo. Después de que el Registrador del Condado reciba su inscripción y la anote en el registro general del condado, se le enviará un aviso dentro de 4 a 6 semanas que indica que su nombre aparece en el registro. Si usted no recibe su aviso, póngase en contacto con su Registrador del Condado.

Apache County Recorder St. Johns, AZ 85936 (928) 337-7516 (TDD# 337-4402)	Graham County Recorder Safford, AZ 85546 (928) 428-3560 (TDD# 428-3562)	Mohave County Recorder Kingman, AZ 86402 (928) 753-0767 (TDD# 753-0769)	Santa Cruz County Recorder Nogales, AZ 85621 (520) 375-7990 (TDD# 761-7816)
Cochise County Recorder Bisbee, AZ 85603 (520) 432-8354 (TDD# 432-8360)	Greenlee County Recorder Clifton, AZ 85533 (928) 865-2632 (TDD# 865-2632)	Navajo County Recorder Holbrook, AZ 86025 (928) 524-4192 (TDD# 524-4294)	Yavapai County Recorder Prescott, AZ 86305 (928) 771-3248 (TDD# 771-3530)
Cocconino County Recorder/ Elections Department Flagstaff, AZ 86001 (928) 779-6589 (TDD# 226-6073)	La Paz County Recorder Parker, AZ 85344 (928) 669-6136 (TDD# 669-8400)	Pima County Recorder Tucson, AZ 85701 (520) 740-4330 (TDD# 740-4320)	Yuma County Recorder Yuma, AZ 85364 (928) 373-6034 (TDD# 373-6033)
Gila County Recorder Globe, AZ 85501 (928) 425-3231 (TDD# 425-0839)	Maricopa County Recorder/ Elections Department Phoenix, AZ 85003 (602) 506-1511 (TDD# 506-2348)	Pinal County Recorder Florence, AZ 85232 (520) 866-6850 (TDD# 866-6851)	State of Arizona Secretary of State Form Rev. 3/05

App. 12

Q: How can I register to vote?**Answer:**

Online : You may register online using Service Arizona [EZ Voter Registration](#) by clicking ([here](#)) and follow the instructional steps. Note: In order to use this link you must have an Arizona Driver License and/or an Arizona non-operating Identification Card issued by the Motor Vehicle Division (MVD) on or after July 1997. Upon successful completion of the online EZ Voter registration, you will receive a confirmation number. The confirmation number is your receipt the information you entered has been accepted and changed.

Print a Form: You may obtain a [printable form](#) online, fill in the form, print the form, sign and date it, affix the proper postage and mail the form to the County Recorder of the county in which you are a legal resident.

By Mail : You may request an Arizona Voter Registration form from the [County Recorder](#) in the county in which you are a legal resident.

In Person : You may visit the [County Recorder](#) in the county you are a legal resident and complete an Arizona Voter Registration form.

Q: What are the qualifications to register to vote?**Answer:**

- Must be a Citizen of the United States of America
- Must be a resident of Arizona
- Must be 18 years of age or more on or before the day of the next regular General Election
- Must not be a convicted felony, unless your civil rights have been restored
- Must not be adjudicated incompetent

Q: What are the types of documents that are acceptable for proving citizenship?**Answer:**

If this is your first time registering to vote in Arizona or you have moved to another county in Arizona, your voter registration form must also include proof of citizenship or the form will be rejected. If you have an Arizona driver license or non-operating identification issued after October 1, 1996, write the number in box 13 on the front of the Arizona Voter Registration form. This will serve as proof of citizenship and no additional documents are needed. If not, you must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote. The following is a list of acceptable documents to establish your citizenship:

- A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (i.e. marriage certificate) if the name on the birth certificate is not the same as your current legal name
- A legible photocopy of pertinent pages of a United States passport identifying the applicant
- Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization in box 20 on the front of this form
- The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number in box 16 on the front of the voter registration form
- A legible photocopy of a driver license or non-operating identification from another state within the United States if the license indicates that the applicant has provided satisfactory proof of citizenship
- A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs

Affidavit of Birth.

If you are registered in Arizona and use this registration form because you move within a county, change your name, or change your political party affiliation, you do not need to provide photocopies of proof of citizenship. If you move to a different Arizona county, you will need to provide proof of citizenship.

App. 13

NOTICE

New Voter Registration Requirements

For Implementation of Prop 200

If this is your first time registering to vote in Arizona or you have moved from another county in Arizona, your voter registration form must also include proof of citizenship or the form will not be processed.

List of acceptable documents to establish your citizenship:

1. Arizona Driver's License number or non-operating identification license number issued after 10/01/1996 (number only; **DO NOT** send in the card).
2. A legible photocopy of a driver's license or non-operating identification license issued by another state that identifies United States Citizenship on the license.
3. A legible photocopy of a birth certificate that verifies United States Citizenship.
4. A legible photocopy of your United States passport containing your name and passport number.
5. A legible photocopy of United States naturalization documents or the number of the certification of naturalization. If only the number is provided, it will need to be verified before the voter registration can be processed.
6. A Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number (number only; **DO NOT** send in the card).

DO NOT send originals; only send legible photocopies as outlined above.

Issue date: 02/03/05 – Pima County Recorder's Office

EXHIBIT NO. PLM 2

DATE: 8-2-06

WITNESS: RODRIGUEZ

REPORTER: K. LORENZ

App. 14



P. O. Box 3145
Tucson, AZ 85702-3145

Christopher J. Roads
Chief Deputy Recorder
Registrar of Voters

located in the Old Courthouse at:
115 North Church Avenue, Tucson, AZ

F. Ann Rodriguez
Pima County Recorder

Recording history one document at a time.

Document Recording: (520) 740-4350
Voter Registration: (520) 740-4330
Fax: (520) 623-1785

<http://www.recorder.pima.gov>

Dear Pima County Registrant:

The Pima County Recorder's Office received your voter registration form. In our attempt to process your voter form, we were not able to verify the Naturalization Certificate Number you provided.

During the 2004 Presidential Election, Proposition 200 was passed by the voters of the State of Arizona and became law effective January 24, 2005. That proposition requires every new registered voter to establish citizenship when registering to vote. A naturalization number can be used to establish citizenship, but we are required to confirm the number with the United States Department of Homeland Security. Your voter registration form provided your Certificate of Naturalization Number. In order to verify your citizenship, we **must** have your INS Registration Number or Alien Registration Number (that begins with the letter "A"). We will hold open your voter registration for 35 days. If we do not hear from you by February 10, 2006, your voter registration will be moved to our declined file.

Please provide us with the information requested below and return it to us in the enclosed self-addressed envelope. You may also include a photocopy of your naturalization document along with this letter to speed up the process.

If you have any questions, please do not hesitate to contact our office at 740-4330, and ask for Jan Fisher.

UNITED STATES INS NUMBER OR ALIEN REGISTRATION NUMBER: _____

DATE ISSUED: _____

SIGNATURE

DATE

To comply with the Federal Voting Rights Acts,
this letter has been prepared in both English and Spanish.

EXHIBIT NO. P14
to

DATE: 8-2-06

WITNESS: RODRIGUEZ

REPORTER: K. LORENZ

05LTR019

App. 15

Karen Osborne - RISCX

From: Kanefield, Joe (jkanefield@azsos.gov)
Sent: Tuesday, March 07, 2006 7:00 PM
To: Ana Wayman-Trujillo; Berta Manuz (E-mail); Candace Owens; Christine Rhodes; F. Ann Rodriguez (E-mail); Helen Purcell - RISCX; Joan McCall (E-mail); Laura Dean-Lytle (E-mail); Laurie Justman (E-mail); LeNora Y. Johnson (E-mail); Linda Haught Ortega (E-mail); Shelly Baker (E-mail); Susan Hightower Marler (E-mail); Suzie Sainz (E-mail); Wendy John (E-mail)
Cc: Brewer, Jan; Tynne, Kevin; Waite, Kris; Stender, Craig; Allen McVey (E-mail); Chris J Roads (E-mail); Chris Roll (E-mail); Claudia Lopez; Gene Zawacky (E-mail); Holly Hawn (E-mail); Jerry Jaramillo; Karen Osborne - RISCX; Kim Stewart (E-mail); Kristi Jones; Martin Brannan (E-mail); Nancy Duke (E-mail); Patty Hansen (E-mail); Ruth Robinson; Suzanna Cuthbertson (E-mail); Sylvia Gruhn
Subject: Letter from EAC re: Federal Mail Voter Registration Form
Attachments: EACletter.pdf


 EACletter.pdf
 (273 KB)

TO: County Recordors

FROM: Joseph Kanefield
 State Election Director

DATE: March 8, 2006

SUBJECT: Letter from Election Assistance Commission re: National Voter Registration Form

Yesterday Secretary Brewer received the attached letter from the executive director of the U.S. Election Assistance Commission. The letter deals with the Federal Mail Voter Registration Form (Federal Form) and concludes that Arizona may not apply the proof of citizenship requirement set forth in Proposition 200 to the Federal Form. The EAC makes clear that its opinion does not affect the state registration form and applies only to federal elections. We question whether the letter is legally correct and have sought advice from our counsel at the Arizona Attorney General's Office. Please note that this EAC opinion does not affect any voter registrations for the upcoming elections next week. We will keep you informed as we learn more about this issue.

Joseph Kanefield
 State Election Director
 Arizona Secretary of State's Office
 1700 West Washington, 7th Floor
 Phoenix, Arizona 85007
 (602) 542-6167 (direct)
 (602) 542-6172 (fax)
 jkanefield@azsos.gov
 <<EACletter.pdf>>

Item 1

MAR-06-2006 11:52 FROM: EAC

2025663128

TO: 602 542 1575

P. 2



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

March 6, 2006

Jan Brewer
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, AZ 85007-2888

Dear Secretary Brewer,

This letter responds to your office's December 12, 2005 e-mail to the U.S. Election Assistance Commission (EAC) requesting that the EAC apply Arizona state policy (derived from Proposition 200) to the Federal Mail Voter Registration Form ("Federal Registration Form" or "Federal Form"). Specifically, the inquiry sought to apply proof of citizenship requirements for Arizona voter registration to the Federal Form registration process. This request was sent by Robert A. Flores, Voter Outreach Coordinator in response to the EAC's requests for updates pertaining to the Federal Registration Form. As you may know, use and acceptance of the Federal Form are mandated by the National Voter Registration Act of 1993, 42 U.S.C. §1973gg *et seq.*, (NVRA). The EAC is the Federal agency charged with regulating the development and substance of the Federal Form. (42 U.S.C. §1973gg-7(a)). After review of your request, the EAC concludes that the policies you propose would effectively result in a refusal to accept and use the Federal Registration Form in violation of Federal law (42 U.S.C. §1973gg-4(a)).

Arizona's Policy. On December 12, 2005, the office of the Arizona Secretary of State (Chief State Election Official) requested that the EAC apply new Arizona procedural requirements to the Federal Form. These new procedural requirements reflected proof of citizenship provisions recently adopted by the state in Proposition 200. Generally, proposition 200 requires Arizona registrants to submit additional proof of citizenship with their voter registration forms. This usually requires the individual to record, on the form, his or her driver's license number (or non-operating identification license) issued after October 1, 1996. If the registrant cannot provide this information (because they have no license or an older license) he or she will need to provide a copy of an alternative form of identification. These alternative forms include: a birth certificate, passport, certificate of naturalization number and other documents. This portion of Proposition 200 amended Arizona Revised Statute §§ 16-152 and 16-166, which set requirements for the State's registration form and verification of the form. The proposition did not amend Arizona's registration qualifications, found in Arizona Revised Statute §16-101. If Arizona were to apply this policy to its use and acceptance of the Federal Registration Form, the Federal Form's acceptance would be conditioned upon the receipt of supplemental documentation of citizenship. In this way, any registrant who failed to supplement their Federal Registration Form would have their form rejected, resulting in the loss of voting rights.

Federal Authority To Regulate Elections. It is a well settled matter of Constitutional law that the United States Congress, pursuant to Article I, Section 4 and

MAR-06-2006 11:52 FROM: EAC

2025663120

TO: 602 542 1575

P. 3

Article II, Section 1 of the U.S. Constitution, has the authority to pass laws regulating the manner in which Federal elections are held. This Federal authority has been broadly read by the Supreme Court to include the comprehensive Congressional regulation of a States' voter registration process for Federal elections. Voting Rights Coalition v. Wilson, 60 F.3d 1411, 1413-1414 (9th Cir. 1995), *cert. denied*, 516 U.S. 1093 (1996) (citing, Smiley v. Holm, 285 U.S. 355, 366 (1932)); Association of Community Organizations for Reform Now v. Edgar, 56 F.3d 791, 793-794 (7th Cir. 1995) (citing Smiley, 285 U.S. at 366, Ex parte Siebold, 100 U.S. 371 (1879) and United States v. Original Knights of the Ku Klux Klan, 250 F.Supp 330, 351 - 355 (E.D.La 1965)); Association of Community Organizations for Reform Now v. Miller, 129 F.3d 833, 836 (6th Cir. 1995). The Constitution "explicitly grants Congress the authority either to 'make' laws regarding federal elections... or to 'alter' the laws initially promulgated by the states. Thus... article I, section 4 specifically grants Congress the authority to force states to alter their regulations regarding federal elections." Miller, 129 F.3d at 836.

In this way, while Article I, section 2 and the Seventeenth Amendment authorize States to set requirements regarding voter qualifications in a Federal election (Edgar at 794), this does not limit the Federal authority to set voter registration procedures for such elections. Voting Rights Coalition, at 1413. This is true even where States have declared voter registration to be a voting qualification (Wilson, at 1414) or where Federal registration requirements may indirectly make it more difficult for a State to enforce qualification requirements (Edgar at 794-795).

National Voter Registration Act. Consistent with its authority to regulate voter registration in Federal elections, Congress passed the NVRA. The NVRA's regulation of the voter registration process has been specifically and consistently upheld as constitutional by the Courts. Voting Rights Coalition, 60 F.3d F.3d 1411; Edgar, 56 F.3d 791; Miller, 129 F.3d 833. The NVRA mandates that States "shall accept and use the mail voter registration application proscribed by the U.S. Election Assistance Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office." 42 U.S.C. §1973gg-4(a) (emphasis added). The statute further allows States to create, use and accept their own form (in addition to the Federal form) if it meets the minimum NVRA criteria for the Federal form. 42 U.S.C. §1973gg-4(b). The EAC is the Federal agency charged with creating and regulating the Federal Form.¹ The NVRA requires the Federal Voter Registration Form to specify each voter eligibility requirement, contain an attestation that the applicant meets such requirements, and require the signature of the applicant. 42 U.S.C. §1973gg-7(b)(2). The Help America Vote Act (HAVA) has added the requirement that the Federal form include two check boxes for an applicant to affirm their citizenship and age. 42 U.S.C. §15483(b)(4).

Discussion. While Arizona has authority to determine registrant/voter qualifications, the manner in which it registers voters for Federal elections is subject to Federal regulation. The Federal Government, through the NVRA and the Federal Form has regulated the process of registering voters in Federal Elections. Acceptance of the

¹ The Help America Vote Act amended the National Voter Registration Act transferring regulatory authority over the Federal Form to the EAC. (See 42 U.S.C. §15532 and 42 U.S.C. §1973gg-7(a)).

MAR-05-2006 11:52 FROM: EAC

2025663128

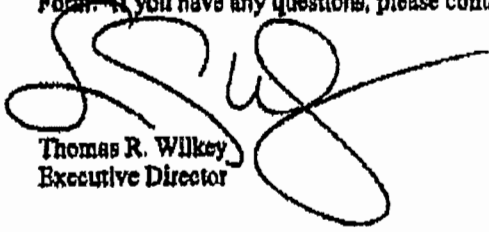
TO: 602 542 1575

P. 4

Federal Form is mandated by the NVRA. The Federal Form sets the proof required to demonstrate voter qualification. No state may condition acceptance of the Federal Form upon receipt of additional proof.

Arizona's voting qualifications remain unchanged and are contained in Arizona Revised Statute §16-101.² These qualifications are presently reflected on the Federal Form. The statutory changes Arizona has initiated in Proposition 200, which require some residents to submit documentary evidence of citizenship, do not alter the state's voter qualifications. Rather, the statutory scheme is merely an additional means to document or prove the existing voter eligibility requirement of citizenship. As such, Arizona's statutory changes deal with the manner in which registration is conducted and are, therefore, preempted by Federal law. The NVRA, HAVA and the EAC have determined the manner in which voter eligibility shall be documented and communicated on the Federal form. State voter requirements are documented by the applicant via a signed attestation and, in the case of citizenship, a "checkbox."³ (42 U.S.C. §1973gg-7(b)(2) and 42 U.S.C. §15483(b)(4)). This Federal scheme has regulated the area and preempts state action. Congress specifically considered whether states should retain authority to require that registrants provide proof of citizenship, but rejected the idea as "not necessary or consistent with the purpose of [the NVRA]."³ The state may not mandate additional registration procedures that condition the acceptance of the Federal Form. The NVRA requires States to both "accept" and "use" the Federal Form. Any Federal Registration Form that has been properly and completely filled-out by a qualified applicant and timely received by an election official must be accepted in full satisfaction of registration requirements. Such acceptance and use of the Federal Form is subject only to HAVA's verification mandate. (42 U.S.C. §15483).

Conclusion. While Arizona may apply Proposition 200 requirements to the use of its state registration form in Federal elections (if the form meets the minimum requirements of the NVRA), the state may not apply the scheme to registrants using the Federal Registration Form. Consistent with the above, Arizona may not refuse to register individuals to vote in a Federal election for failing to provide supplemental proof of citizenship, if they have properly completed and timely submitted the Federal Registration Form. If you have any questions, please contact the undersigned at (202) 566-3100.





Thomas R. Wilkey
Executive Director

² These qualifications require a registrant to demonstrate that he or she is (1) a citizen of the United States, (2) at least 18 years of age before the date of the next general election, (3) a resident of Arizona for at least twenty-nine days, (4) has not been convicted of a felony unless restored to civil rights and (5) has not been determined mentally incapacitated.

³ *Joint Conference Committee Report on the National Voter Registration Act of 1993*, H. Rept. 103-66 (April 28, 1993).

Karen Osborne - RISCX

From: Kanefield, Joe [jkanefield@azsos.gov]
Sent: Monday, March 13, 2006 5:35 PM
To: Ana Wayman-Trujillo; Berta Manuz (E-mail); Candace Owens; Christine Rhodes; F. Ann Rodriguez (E-mail); Helen Purcell - RISCX; Joan McCall (E-mail); Laura Dean-Lytle (E-mail); Laurie Justman (E-mail); LeNora Y. Johnson (E-mail); Linda Haught Ortega (E-mail); Shelly Baker (E-mail); Susan Hightower Marler (E-mail); Suzie Sainz (E-mail); Wendy John (E-mail)
Cc: Brewer, Jan; Tyna, Kevin; Waite, Kris; Stender, Craig; Maaske, Bill; Fontes, Mary; Allen McVey (E-mail); Chris J Roads (E-mail); Chris Roll (E-mail); Claudia Lopez; Gene Zawacky (E-mail); Holly Hawn (E-mail); Jerry Jaramillo; Karen Osborne - RISCX; Kim Stewart (E-mail); Kristi Jones; Martin Brannan (E-mail); Nancy Duke (E-mail); Patty Hansen (E-mail); Ruth Robinson; Suzanne Cuthbertson (E-mail); Sylvia Gruhn
Subject: Letter from Election Assistance Commission re: National Voter Registration Form
Attachments: Letter from SOS to EAC 3-9-06 (Federal VR Form).pdf; Letter from SOS to EAC 3-13-06 (Federal VR Form).pdf

 
 Letter from Letter from
 S to EAC 3-9-06 to EAC 3-13-0

TO: County Recordors

FROM: Joseph Kanefield
 State Election Director

DATE: March 13, 2006

SUBJECT: Letter from Election Assistance Commission re: National Voter Registration Form

Last week I sent you a copy of the letter Secretary Brewer received from the executive director of the U.S. Election Assistance Commission (EAC) on March 6, 2006. Attached are two letters sent by Secretary Brewer to the EAC Chairman, Paul DeGregorio, in response to this letter. The second letter sent this afternoon states Secretary Brewer's position that the proof of citizenship requirement set forth in A.R.S. § 16-166(F) must continue to be enforced for all newly registered voters and voters moving from one county to another. Secretary Brewer made this decision after consulting with the Arizona Attorney General's Office. We will continue to keep you informed about this matter.

Joseph Kanefield
 State Election Director
 Arizona Secretary of State's Office
 1700 West Washington, 7th Floor
 Phoenix, Arizona 85007
 (602) 542-6167 (direct)
 (602) 542-6172 (fax)
 jkanefield@azsos.gov

<<Letter from SOS to EAC 3-9-06 (Federal VR Form).pdf>> <<Letter from SOS to EAC 3-13-06 (Federal VR Form).pdf>>

Item 2



**JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA**

March 9, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue N.W.
Washington, DC 20005

Dear Chairman DeGregorio:

I was extremely disappointed to receive a letter from the Election Assistance Commission's executive director, Thomas Wilkey, on Monday, March 6, 2006, that expresses his opinion that our State's proof of citizenship requirement when registering to vote is preempted by federal law with regard to the Federal Mail Voter Registration Form (Federal Form).

On November 2, 2004, over one million Arizona citizens passed into law Proposition 200, which requires all applications for voter registration in Arizona to be accompanied by satisfactory evidence of United States citizenship. Mr. Wilkey's letter provides questionable legal support for its conclusion that a state may not condition acceptance of the Federal Form upon receipt of proof of citizenship and I have asked the Arizona Attorney General to advise me on this matter.

What upsets me most is the manner in which the EAC has handled this issue. My staff proposed changes to the Arizona Instructions to the Federal Form in December of 2005, to reflect our new proof of citizenship requirement. At no point over the past three months was my office ever told that the EAC was questioning whether federal law preempted Arizona's proof of citizenship requirement for registrants using the Federal Form. Moreover, I am told the Commission spent a lot of time researching this question, but never had the courtesy to ask the State of Arizona for its input. Although Mr. Wilkey and the other Commissioners attended the NASS/NASED meeting in early February along with my State Election Director Joseph Kanefield, no one reached out to him to inform me about this issue.

In addition, to make matters worse, my office began getting press inquiries shortly after receiving the letter. It is my understanding that one of the Commissioners distributed this letter before I even had a chance to review it with my staff. I find this very upsetting coming from a federal agency that I believe should be working with the States to implement the National Voter Registration Act and not against them.

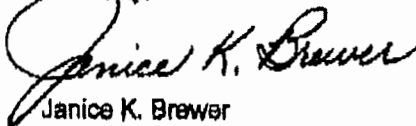
State Capitol: 1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-1575

Paul S. DeGregorio, Chairman
March 9, 2006
Page 2 of 2

Perhaps most importantly, this matter never appeared as an agenda item at any of the EAC's past public meetings and no formal vote was ever taken by the EAC to support Mr. Wilkey's opinion. I cannot help but feel that in your staff's haste to opine on this issue, the matter was not appropriately vetted by the Commission.

I therefore respectfully request that the Commission provide me an opportunity to respond to the legal points raised by Mr. Wilkey before taking a position on this issue, and then properly notice this matter for a future meeting at which time my input can be taken into consideration before a final vote is taken by the EAC. Thank you for considering my request.

Sincerely,



Janice K. Brewer
Arizona Secretary of State

cc: The Honorable John McCain
The Honorable John Kyl
The Honorable Rick Renzi
The Honorable Trent Franks
The Honorable John Shadegg
The Honorable Ed Pastor
The Honorable J.D. Hayworth
The Honorable Jeff Flake
The Honorable Raul Grijalva
The Honorable Jim Kolbe
The Honorable Terry Goddard
The Honorable Sam Reed, President,
National Association of Secretaries of State
Linda Lamone, President,
National Association of State Elections Directors



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

March 13, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue, N.W.
Washington, DC 20005

Dear Chairman DeGregorio,

As the Secretary of State and Chief Election Officer for the State of Arizona, I have significant concerns about the March 6, 2006, letter from your executive director asserting that Arizona may not implement its proof of citizenship law with respect to voters who register using a Federal Mail Voter Registration Form (Federal Form). In my mind, such a policy is completely inconsistent, unlawful, and without merit.

The executive director's opinion is incorrect and unlawfully prevents the State of Arizona from implementing an important voting security measure with respect to those voters using the Federal Form. Arizona's proof of citizenship requirement was passed by over one million voters in 2004, and was pre-cleared by the U.S. Department of Justice (DOJ) on January 24, 2005. In addition, DOJ separately pre-cleared our Arizona Voter Registration Form on May 6, 2005, which includes the proof of citizenship instructions now required of all citizens registering to vote in Arizona. The DOJ has civil enforcement power over the National Voter Registration Act, and has expressed no concern about Arizona's proof of citizenship requirement when registering to vote.

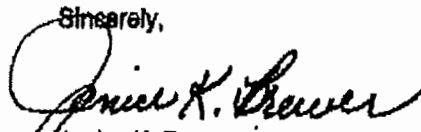
As I stated in my March 9, 2006, letter, I believe your letter provides questionable legal support for its conclusion. After consulting with the Arizona Attorney General, I will instruct Arizona's county recorders to continue to administer and enforce the requirement that all voters provide evidence of citizenship when registering to vote as specified in A.R.S. § 18-166(F).

State Capitol: 1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-1575

Paul S. DeGregorio, Chairman
March 13, 2008
Page 2 of 2

As I requested of you in December, I urge you to instruct voters using the Federal Form to register in Arizona that they provide sufficient proof of citizenship. To do otherwise would be incredibly irresponsible and may unnecessarily disenfranchise voters using the Federal Form to register.

Sincerely,



Janice K. Brewer
Arizona Secretary of State

JKB:kt

Karen Osborne - RISCX

From: Kanefield, Joe [jkanefield@azsos.gov]
Sent: Thursday, April 20, 2006 11:08 AM
To: Ana Wayman-Trujillo; Berta Manuz (E-mail); Candace Owens; Christine Rhodes; F. Ann Rodriguez (E-mail); Helen Purcell - RISCX; Joan McCall (E-mail); Laura Dean-Lytle (E-mail); Laurie Justman (E-mail); LeNora Y. Johnson (E-mail); Linda Haught Ortega (E-mail); Shelly Baker (E-mail); Susan Hightower Marler (E-mail); Suzie Sainz (E-mail); Wendy John (E-mail)
Cc: Tyne, Kevin; Waite, Kris; Stender, Craig; Allen McVey (E-mail); Chris J Roads (E-mail); Chris Roll (E-mail); Claudia Lopez; Gene Zawacky (E-mail); Holly Hawn (E-mail); Jerry Jaramillo; Karen Osborne - RISCX; Kim Stewart (E-mail); Kristi Jones; Martin Brannan (E-mail); Nancy Duke (E-mail); Patty Hansen (E-mail); Ruth Robinson; Suzanne Cuthbertson (E-mail); Sylvia Gruhn
Subject: Letter from Election Assistance Commission re: National Voter Registration Form
Attachments: Letter from SOS to DOJ 04-17-2006 (Federal (National Voter Registration Form ID Requirement)).pdf



Letter from
S to DOJ 04-17-

TO: County Recorders

FROM: Joseph Kanefield
State Election Director

DATE: April 20, 2006

SUBJECT: Letter from Election Assistance Commission re: National Voter Registration Form

I have previously reported to you about a letter Secretary Brewer received from the executive director of the U.S. Election Assistance Commission (EAC) on March 6, 2006, regarding the National Voter Registration Form and Secretary Brewer's response to those letters.

After receiving Secretary Brewer's response to the March 6, 2006 letter, the EAC referred the matter to the Department of Justice (DOJ). Attached is Secretary Brewer's response to that letter. Also, on March 27, 2006, and April 17, 2006, two separate groups sent Secretary Brewer a notice of intent to file suit under the National Voter Registration Act based on the opinion set forth in the March 6, 2006 letter from the EAC. Under the NVRA, a private party may bring suit 90 days after filing its notice. Although this letter of intent was sent to Secretary Brewer, it is very likely that the county recorders will be named in these suits when they are filed.

We will continue to keep you informed about this matter.

<Letter from SOS to DOJ 04-17-2006 (Federal (National Voter Registration Form ID Requirement)).pdf>

Joseph Kanefield
State Election Director
Arizona Secretary of State's Office
1700 West Washington, 7th Floor
Phoenix, Arizona 85007
(602) 542-6167 (direct)
(602) 542-6172 (fax)
jkanefield@azsos.gov

Item 3



**JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA**

April 17, 2006

John K. Tanner
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Voting Section, 1800G
Washington, D.C. 20530

Dear Mr. Tanner:

The U.S. Election Assistance Commission (EAC) recently wrote to you regarding the Arizona requirements for voter registration and the National Voter Registration Act (NVRA). Because the EAC misrepresents my position in this matter, it is necessary for me to address you directly to establish that Arizona is in full compliance with the NVRA. I urge you to advise the EAC to instruct Arizona voters using the Federal Mail Voter Registration Form (Federal Form) regarding the Arizona registration requirements.

On March 6, 2006, I received a letter from the EAC concluding that the NVRA preempts States from requiring proof of citizenship for registrants using the Federal Form. The EAC overstepped its authority and erroneously interpreted federal law¹. Moreover, the EAC is unnecessarily disenfranchising voters using the Federal Form by refusing to properly instruct them regarding Arizona's citizenship requirement under A.R.S. § 16-166(F)².

The EAC wrongfully asserts that Arizona is refusing to accept the Federal Form. Arizona uses and accepts the Federal Form and has done so since the NVRA's inception. The case law cited by the EAC in its March 6, 2006 letter affirms the

¹ The EAC has no authority to determine whether a state law complies with the NVRA. Section 209 of HAVA provides that the EAC "shall not have any authority to issue any rule, promulgate and regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a))." 42 U.S.C. § 15329. That section of the NVRA permits the EAC to "develop a mail voter registration application form for elections for Federal offices..." and do so "in consultation with the chief election officers of the States." 42 USC 1973gg-7(a)(2) (emphasis added). This provision does not provide the EAC authority to refuse to instruct voters about State registration requirements.

² Over one million Arizona voters passed this measure in 2004 through Proposition 200 to assure the accuracy of Arizona's voter registrations and to prevent voter fraud. The Department of Justice precleared Proposition 200 on January 24, 2005, and precleared the revised Arizona voter registration form incorporating the proof of citizenship requirement into its instructions on May 6, 2005.

Mr. John K. Tanner
 April 17, 2006
 Page 2

authority of Congress to legislate in the area of elections for federal office. The EAC did not cite any cases for its conclusion that "[n]o state may condition acceptance of the Federal Form upon receipt of additional proof."

In *Association of Community Organizations for Reform Now v. Miller*, 912 F. Supp. 976, 987 (W.D. Mich. 1995), *aff'd* 129 F.3d 833 (6th Cir. 1997), the court concluded that "under the NVRA the states are still left the task of determining that an applicant is eligible, and that the registration form as submitted complies with state law." The court rejected the notion that an applicant must be registered upon providing information—accurate or not—on a Federal Form.

A House Committee Report on the NVRA also stated that local officials may continue to confirm an applicant's eligibility, including as to citizenship:

Only the election officials designated and authorized under State law are charged with the responsibility to enroll eligible voters on the list of voters. [NVRA] should not be interpreted in any way to supplant that authority. The Committee is particularly interested in ensuring that election officials continue to make determinations as to applicant's eligibility, such as citizenship, as are made under current law and practice.

National Voter Registration Act of 1993: Report 103-9 from the Comm. on House Administration, 103d Congress, 1st Sess., at 8 (emphasis added).

The Federal Election Commission (FEC), in explaining the NVRA, also concluded that an application received by the local voter registration official may be subject to verification procedures that exist under State law.³ See "Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples," Federal Election Commission, January 1, 1994, at 1-6. The FEC stated, "although completing a voter registration application may be *simultaneous* with other transactions, such application does not constitute *automatic* registration." *Id.* (Emphasis in original).

The EAC's position also runs counter to the intent of Congress under HAVA, which requires verification of voter registration information. Section 303, for instance, requires States to implement "provisions to ensure that voter registration records in the State are accurate" and to have a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote." 42 U.S.C. § 15483(a)(2)(B)(4). Section 303 also requires first time registrants by mail to provide proof of identity with their registrations. 42 U.S.C. § 15483(b). In addition, HAVA requires States to verify driver license and social security information provided by registrants to ensure their eligibility to vote under State law. See 42 U.S.C. § 15483(a)(2)(B)(5).

³ The FEC's administrative responsibilities under the NVRA were transferred to the EAC in Section 802 of HAVA.

Mr. John K. Tanner
April 17, 2006
Page 3

The EAC erroneously argues that NVRA and HAVA create a Federal scheme that regulates the manner in which voters prove citizenship to simply checking a box on the form. This assertion is contrary to the clear language in Sections 304 and 305 of HAVA, which leaves it up to the States' discretion to determine the methods of complying with the requirements of HAVA and specifically provides that "nothing in [HAVA] shall be construed to prevent a State from establishing election technology and administration requirements that are more strict than the requirements established under [HAVA] so long as such State requirements are not inconsistent with the Federal requirements under [HAVA]...."⁴ Moreover, the EAC's interpretation, if correct, would require the States to accept all information on the Federal Form as true on its face without any mechanism for verification.

The EAC never consulted me about its intent to omit instructions in the Federal Form on Arizona's new law. To the contrary, the EAC sent my office proposed Arizona instructions on April 7, 2005, which included instructions on how to prove citizenship under A.R.S. § 16-166(F), and then reversed itself in its March 6, 2006 letter⁵.

I urge you to advise the EAC to follow the lead of the Federal Voting Assistance Program, which incorporated the proof of citizenship requirement into the Arizona instructions for the Federal Post Card Application used by military and overseas citizens to register to vote. See 2006-07 Voting Assistance Guide, published by the Department of Defense Federal Voting Assistance Program, at p. 53. The EAC advises military and overseas voters on page one of its instructions to the Federal Form not to use that form to register to vote, but instead to use the Federal Post Card Application. See www.eac.gov/docs/NVRA%20FINAL%20UPDATE%2003-13-05.pdf.

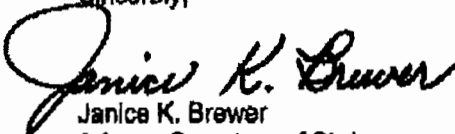
I appreciate the opportunity to clarify and respond to the EAC's claims. If you have any questions, please contact my State Election Director, Joseph Kanefield, at (602) 542-6167, or Peter Silverman, Assistant Attorney General, at (602) 542-8305.

⁴ Sections 304 and 305 of HAVA recognize the long-established compelling state interests in preventing voter fraud and protecting the integrity of the electoral process. See *Anderson v. Celebrezze*, 460 U.S. 780, 788 n. 9 (1983) (state has a compelling interest in preserving the integrity and reliability of its election process); *Burson v. Freeman*, 504 U.S. 191, 199-200 (1992) (state has a compelling interest in ensuring that an individual's right to vote is not undermined by fraud in the election process); *Rondebusch v. Harike*, 450 U.S. 15, 24 (1972) (states may "provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns.")

⁵ This is typical of the erratic behavior displayed by the EAC over the past several months. The EAC released its March 6, 2006 letter to the press before I received it.

Mr. John K. Tanner
April 17, 2008
Page 4

Sincerely,


Janice K. Brewer
Arizona Secretary of State

JKB/jk

cc: The Honorable John McCain
The Honorable John Kyl
The Honorable Rick Renzi
The Honorable Trent Franks
The Honorable John Shadegg
The Honorable Ed Pastor
The Honorable J.D. Hayworth
The Honorable Jeff Flake
The Honorable Raul Grijalva
The Honorable Jim Kolbe
The Honorable Terry Goddard
The Honorable Sam Reed, President,
National Association of Secretaries of State
Linda Lamone, President,
National Association of State Elections Directors
Peter Silverman, Assistant Attorney General

App. 16

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA M. GONZALEZ; et al.,

Plaintiffs,

and

THE INTER TRIBAL COUNCIL OF
ARIZONA, INC.; et al.,

Plaintiffs - Appellants,

v.

STATE OF ARIZONA; et al.,

Defendants - Appellees,

and

YES ON PROPOSITION 200,

Defendant-Intervenor.

Nos. 06-16702, 06-16706

D.C. No. CV-06-01268-ROS

District of Arizona,

Phoenix

ORDER

Before: TASHIMA and W. FLETCHER, Circuit Judges.

Appellants' emergency motion for injunction pending interlocutory appeal is granted. The court enjoins implementation of Proposition 200's voting identification requirement in connection with Arizona's November 7, 2006 general election; and

06-16706

enjoins Proposition 200's registration proof of citizenship requirements so that voters can register before the October 9, 2006 registration deadline. This injunction shall remain in effect pending disposition of the merits of these appeals.

The briefing schedule previously established by this court on September 27, 2006 remains in effect.

App. 17

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by TERRY GODDARD ATTORNEY GENERAL February 4, 2005	No. I05-001 (R04-038) Re: Identification Requirements For Voter Registration
---	---

To: The Honorable Janice K. Brewer
Arizona Secretary of State

Question Presented

Under A.R.S. § 16-166(F)(1), as amended by Proposition 200, is an Arizona driver or nonoperating identification license issued after October 1, 1996, satisfactory evidence of United States citizenship for the purpose of registering to vote?

Summary Answer

Pursuant to A.R.S. § 16-166(F)(1), the number of a driver or nonoperating identification license issued in Arizona after October 1, 1996, is satisfactory evidence of United States citizenship to register to vote.

Background

A. Voter Registration Requirements in Proposition 200.

Arizona voters approved Proposition 200 in the general election of November 2004. The Proposition calls for (1) verifying the identity and eligibility of applicants for

state and local public benefits, and (2) requiring identification to register to vote and to receive a ballot.¹

Your question concerns the identification requirements of Proposition 200 when registering to vote. Proposition 200 amended A.R.S. § 16-166, a section of the Arizona Revised Statutes entitled “Verification of registration.” Section 16-166 now provides, in relevant part:

F. The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the following:

1. The number of the applicant’s driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant’s driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship.

The other “satisfactory evidence” of citizenship specified in A.R.S. § 16-166(F) includes a copy of a birth certificate, passport copy, naturalization documents, other methods of proof established under the Immigration Reform and Control Act of 1986, and an Indian affairs card number, tribal treaty card number or tribal enrollment number. A.R.S. § 16-166(F)(2)-(5).

In addition to presenting the documentation required by A.R.S. § 16-166(F), a person registering to vote must sign a statement declaring that he or she is a United States citizen and acknowledging that executing a false registration is a class 6 felony. A.R.S. §

¹ Arizona could not implement the provisions relating to voting and voter registration in Proposition 200 until the U.S. Department of Justice precleared them as required under the federal Voting Rights Act. 42 U.S.C. § 1973c. The Department of Justice precleared those provisions on January 24, 2005.

16-152(A)(14), (18). It is a state and federal crime to falsely claim to be a United States citizen when registering to vote. A.R.S. § 16-152 (A)(18); 18 U.S.C. § 1015 (f).

B. Proof Required to Obtain an Arizona Driver License or Nonoperating Identification License.

Since July 1996, Arizona has required that a person establish that he or she is lawfully present in the United States in order to obtain an Arizona driver or identification license. 1996 Ariz. Sess. Laws, Ch. 230, §§ 5-7. (codified at A.R.S. §§ 28-3153(D), -3158(C)). The statutes prohibit the Department of Transportation from issuing or renewing a driver license or nonoperating identification license “for a person who does not submit proof satisfactory to the department that the applicant’s presence in the United States is authorized under federal law.” A.R.S. § 28-3153(D).

In addition, under a Motor Vehicle Division (“MVD”) policy, effective on or about October 8, 2000, noncitizens of the United States that can demonstrate lawful presence in this country are issued a Type F driver license. MVD can determine whether a person was issued a license with a Type F designation by accessing the internal records it maintains, but the designation is not apparent from the license face. You noted in your opinion request that people with a Type F driver license cannot register online through the EZ voter registration program administered by the Secretary of State and the Department of Transportation.

Analysis

Section 16-166(F)(1), A.R.S., establishes when a driver license number or nonoperating identification license number is satisfactory evidence of citizenship for the purpose of registering to vote in Arizona. When interpreting a statute, the primary goal is to effectuate the intent of its framers and, in the case of an initiative, the voters who

adopted it. *State v. Givens*, 206 Ariz. 186, 188, 76 P.3d 457, 459 (App. 2003). The language of a statute is the best indicator of its intent. *Id.*

In its first clause, A.R.S. § 16-166(F)(1) establishes that the number of a driver license or nonoperating identification license issued by the Department of Transportation in Arizona after October 1, 1996, shall be satisfactory evidence of U.S. citizenship for the purpose of registering to vote.² The next clause addresses driver licenses and identification from other jurisdictions. It permits the use of a license number issued by the “equivalent government agency” of another state, if the license confirms that the holder provided proof of U.S. citizenship. Under the statutory language, the requirement that “the agency indicates on the applicant’s driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship” modifies the phrase “equivalent government agency of another state.” Thus, the statute requires that a license from another jurisdiction indicate that the person provided satisfactory proof of United States citizenship in order for that license to be acceptable identification to register to vote in Arizona, but an Arizona driver license is acceptable as long as it was issued after October 1, 1996.³

² It is unclear why the authors of Proposition 200 chose October 1, 1996 as a cutoff date. One possibility is that they attempted to tie the voter identification rules of Proposition 200 to Arizona’s authorized presence law which took effect August 1, 1996. The Legislature also renumbered the relevant statutes in 1996, 1996 Ariz. Sess. Laws Ch. 76, and, in 1997, approved a comprehensive rewrite of Title 28. 1997 Ariz. Sess. Laws, Ch. 1. The rewritten version of the relevant statutes took effect October 1, 1997, exactly one year after the date specified in A.R.S. § 16-166(F)(1). *Id.*, §§ 188, 192, 194, 506.

³ The “last antecedent” principle of statutory construction also supports this reading of the statute. *See Tanner Companies v. Ariz. State Land Dep’t*, 142 Ariz. 183, 189, 688 P.2d 1075, 1081 (App. 1984) (a qualifying word or phrase is typically applied to the word or phrase that immediately precedes it).

The Legislative Council's analysis of Proposition 200 supports this construction. The Council's analysis is designed to "assist voters in rationally assessing an initiative proposal by providing a fair, neutral explanation of the proposal's contents and the changes it would make if adopted." *Fairness & Accountability in Ins. Reform v. Greene*, 180 Ariz. 582, 590, 886 P.2d 1338, 1346 (1994). The analysis is included in the general election publicity pamphlet that is given to each voter, A.R.S. § 19-123(A)(4) and (C), and may be used to interpret an initiative. *Calik v. Kongable*, 195 Ariz. 496, 500, 990 P.2d 1055, 1059 (1999).

The Legislative Council informed voters that "Proposition 200 would require that evidence of United States citizenship be presented by every person to register to vote." *Arizona Secretary of State, Ballot Propositions and Judicial Performance Review* 43 (Nov. 2, 2004). Regarding the evidence that would satisfy Proposition 200, the Council advised:

Proposition 200 provides that for purposes of registering to vote, satisfactory evidence of United States citizenship includes:

- an Arizona driver or nonoperating identification license issued after October 1, 1996.
- a driver or nonoperating identification license issued by another state if the license indicates that the person has provided proof of United States citizenship.

Id. at 43-44. Voters were entitled to rely on this analysis in weighing the effects of Proposition 200. *Fairness & Accountability in Ins. Reform*, 180 Ariz. at 590, 886 P.2d at 1346.

The difficulty presented by the question you have raised is that a person need not be a United States citizen to obtain an Arizona driver license or identification card, even after October 1, 1996. The Department of Transportation verifies that a person is

lawfully present in the United States. A.R.S. §§ 28-3153(D), -3158(C). Thus, citizens of other nations who are lawfully present in the United States are eligible for Arizona driver licenses and identification cards. Moreover, an Arizona license does not indicate a person's citizenship on its face.

For these reasons, it might be argued that *no* Arizona driver license – regardless of when it was issued – should be acceptable identification to register to vote. This interpretation, however, is contrary to the statutory language that Arizona voters approved in A.R.S. §16-166(F)(1). *Samaritan Health Sys. v. Superior Court*, 194 Ariz. 284, 289, 981 P.2d 584, 589 (App. 1998) (a legislature is presumed to express itself in “as clear a manner as possible.”). Such an interpretation renders meaningless the statutory directive that an Arizona license issued after October 1, 1996 “shall be” acceptable evidence of citizenship to register to vote and ignores the guidance voters received in the Publicity Pamphlet. It also renders superfluous the statutory distinctions between licenses in Arizona issued before or after October 1, 1996 and between licenses issued by the Arizona Department of Transportation and other jurisdictions. This contradicts the principle that courts must “give effect to each word of the statute.” *Bilke v. State*, 206 Ariz. 462, 464, 80 P.3d 269, 271 (2003). Furthermore, the authors of a statute are presumed to know the existing law. *State v. Box*, 205 Ariz. 492, 496, 73 P.3d 623, 627 (App. 2003); *McLaughlin v. State Bd. of Educ.*, 89 Cal. Rptr.2d 295, 305 (App. 1999).

Although relying on Arizona licenses issued after October 1, 1996 as identification does not, by itself, screen all non-citizens from registering to vote, it certainly prevents undocumented immigrants from doing so. In this way, the statutory

language in A.R.S. § 16-166(F)(1) furthers a purpose of Proposition 200, which focused on issues relating to illegal immigration and undocumented immigrants from receiving benefits for which they are not eligible. *See* Proposition 200, § 2 (findings and declarations).⁴ In addition, the requirement that a person registering to vote attest that he or she is a citizen and the associated criminal penalties for violating this requirement provide additional protections against non-citizens registering to vote in Arizona. *See* A.R.S. § 16-152(A)(18); 18 U.S.C. § 1015(f). In sum, Arizona law protects against a non-citizen registering to vote by requiring that a person attest that he or she is a citizen of the United States and provide an Arizona driver license number issued after October 1, 1996 or some other identification specified by A.R.S. § 16-166(F)(1).

Conclusion

Under A.R.S. § 16-166(F)(1), the number of a driver or nonoperating identification license issued in Arizona after October 1, 1996, is satisfactory evidence of United States citizenship for the purpose of registering to vote.

Terry Goddard
Attorney General

438501

⁴The Proposition's Findings and Declarations stated:

This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

App. 18



SERVICES **Start/Stop/Transfer**

Agreements and Notifications - Step 8 of 9

There will be a \$35 (plus tax) service establishment charge on your first billing.

Southwest Gas Corporation's minimum residential security deposit is \$80.00 and is due ten (10) days after service has been established to avoid interruption of service. A deposit is not required if one of the following conditions are met:

1. Previous acceptable credit with Southwest Gas Corporation.
2. Forwarding a letter of credit from a previous electric or gas utility.

Either of the above options require:

- Service in customer's name.
- Service was for at least one (1) year and within the last two years.
- Bills were paid on time.

In submitting this service request you, the customer, agree to take and pay for gas from Southwest Gas Corporation in accordance with this application including the above clause(s) hereof and the rates, terms and conditions contained in Southwest Gas Corporation's gas tariffs as amended from time to time and available for inspection at any business office of Southwest Gas Corporation.

By clicking next and continuing this service request process, you are acknowledging and agreeing to the above conditions.

BACK

NEXT



You may **cancel** your request at anytime.



SEARCH NEWS: GO

KEY FEATURES

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- Basic Services
- Emergency Bulletins
- Feature Programs
- Volunteer
- Web Links
- About AZ 2-1-1
- Provider Tools
- Contact Us

UTILITY ASSISTANCE



Utility Assistance Programs, such as The Low-Income Home Energy Assistance Program (LIHEAP) and the Utility Repair, Replacement and Deposit Program (URRD), provide energy assistance to eligible individuals (based on income eligibility requirements).

Other Helpful Information:

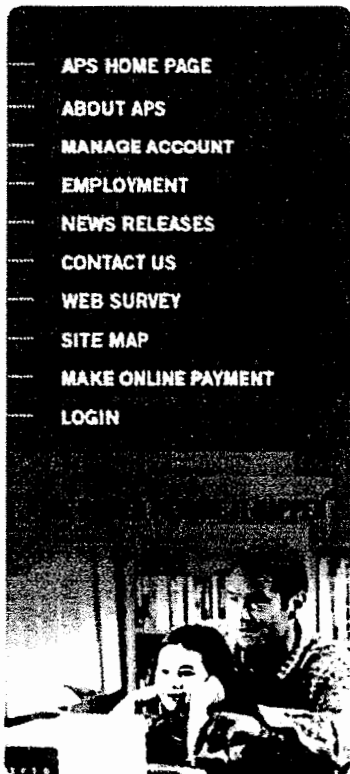
- To locate the agency nearest to you that can assist you to obtain utility assistance, contact the Department of Economic Security, Community Services Administration at 1-800-582-5706.
- Arizona Self Help allows individuals to Pre-Screen for eligibility for LIHEAP and other programs.
- Find Help keywords: utility assistance, utility program, cash assistance.

KEY PROVIDERS



RESIDENTIAL SERVICE
Low Income Assistance

MY ACCOUNT MY HISTORY



SEARCH



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Need a Little Help?

APS understands that sometimes everybody needs a little help. By using the following links, you can save money and access a variety of services and resources in your community.

APS Energy Support Program (E-3)
APS discount for low-income customers

APS Energy Wise Low Income Weatherization Program
Weatherization assistance program for low-income customers.

Project SHARE
Emergency financial assistance to pay energy bills.

Safety Net
APS offers the Safety Net program which sends written notification to an authorized third party.

Arizona 2-1-1
Health/human services & emergency resources.

Low Income Home Energy Assistance Program (LIHEAP)
LIHeap is a federal program that provides a one time payment for a delinquent utility bill.

Use Energy Wisely
Check here for information on ways you can save energy and reduce your monthly electric bill.

quick links



Energy Audit



Saving Energy



SPECIAL PROGRAMS



- **Energy Assistance Programs**
 - **Nevada Energy Connection**
 - **California Alternate Rates for Energy (CARE)**
 - **Low-Income Ratepayer Assistance (LIRA) for Arizona**
 - **Low-Income Weatherization**
 - **California Additional Baseline**
 - **Deferred Payment**
- **Energy Share**
- **Gift Announcements**
- **Landlord Agreement Program**
- **Third-Party Notification Program**
- **Services for the Hearing Impaired**
- **Services for the Visually Impaired**
- **Language Interpretation Service**
- **Referral Program**

Low-Income Ratepayer Assistance (LIRA)

Get a discount on your gas bill!

- Low-Income Ratepayer Assistance (LIRA) provides a 20% reduction on the "per therm" rate.
- This is applied to the first 150 therms of natural gas used each month from November 1 through April 30.

Review the chart below, and if you think you may qualify, complete and return the application linked at the bottom of this page.

LIRA Program Income Requirements	
Maximum House Income for 2006	
Number of Persons Living in My Home	Total Combined Annual Income from ALL Sources
1	\$14,700
2	\$19,800
3	\$24,900
4	\$30,000
5	\$35,100
For each additional person, add \$5,100	

Fill out a LIRA application online.

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SRP® - Delivering More Than Power

Save \$168 with the Economy Price Plan

Energy can represent a significant expense, especially to households on tight budgets. Customers with limited incomes (see chart below) can receive \$14 off SRP charges each month through the Economy Price Plan – that's \$168 a year.

Here's how it works

If you meet the eligibility requirements listed below, simply fill out an application form and mail it to SRP. Once your application is approved, you will automatically begin receiving \$14 off your SRP electric bill each month. Should your bill in a given month be less than \$14, the total bill will be decreased to zero.

If you are an SRP M-Power customer, \$14 credit will be added monthly to one of your smart card purchases.

You must reapply annually to continue qualifying for this special program. SRP will send you a new application form when it is time to reapply.

View the plan

For information about the cost of electricity, you can view the [price plan details](#)*.

To view the plan, you'll need [Adobe Acrobat Reader](#). Then, return to this page and click the links to view.

How to enroll

To enroll, please download, print and complete the [application](#)* (170K) or call SRP at (602) 236-8888 (outside the Phoenix area 1 (800) 258-4777) to request that an application be mailed to you. Then, simply complete the application and mail to SRP at:

Economy Price Plan CUN250
SRP
P. O. Box 52025
Phoenix AZ 85072-2025

Please remember to review the eligibility requirements below.

Eligibility

You may be eligible for this discount if you meet the following conditions:

1. You are an SRP residential customer with an account in your name
2. Your total monthly household income **before taxes and/or deductions** should be at or below the federal income guidelines below:

Household size	Monthly income level	Household size	Monthly income level
1 person	\$1,225	4 people	\$2,500
2 people	\$1,650	5 people	\$2,925

3 people	\$2,075	6 people	\$3,350
For more than 6 people, add \$425 per person (Example: 7 people = \$3,775)			

*The above income guidelines are effective until June 30, 2007. Current eligibility guidelines define "income" as including, but not limited to, the combined income of all people living in your home including salary, Social Security income, Veteran's benefits, disability, unemployment and retirement benefits, pensions, rental income, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), interest and dividends.

Credit counseling

We know that energy can represent a significant expense, especially to households on tight budgets. In many cases, SRP's Customer Resource Counselors can offer referrals for possible assistance.

When appropriate, SRP representatives will refer customers to our counseling staff. Counselors then link these customers to resources available in the community, such as energy funds, shelter, food, clothing or medical care.

As part of SRP's efforts to provide value to the communities we serve, our counselors also conduct energy education workshops and participate in various community events, recommending beneficial SRP programs.

* To view the application and the price plan sheet, you'll need the Adobe Acrobat Reader plug-in for your Web browser if you don't already have it. If you do not have the plug-in, you can [download Adobe Acrobat Reader](#) for free. Then, return to this page and click the appropriate link to view the application or price plan.

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App. 19



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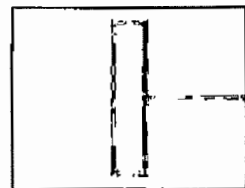
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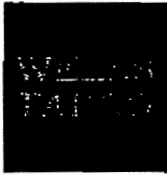
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Interest	None
Monthly service fee	None
Minimum daily balance required (to waive monthly service fee)	Not applicable (\$100 minimum opening deposit)
Gold Check Card	<ul style="list-style-type: none"> • Use it instead of cash or checks at millions of locations worldwide • No monthly or annual card fee² • Unlimited purchases for no bank fee² • Option to earn rewards for your purchases³ <p>Learn more about the Check Card.</p>
Protection against bounced checks	Overdraft Protection available with a Wells Fargo credit card or eligible savings account. To set up overdraft protection with a savings account, please call 1-800-956-4442 option 4, option 1.
More benefits	<ul style="list-style-type: none"> • Cancelled checks kept on file for free, or paper Image Statements (a fee may apply) • Interest rate discount on select loans and lines of credit when payments are automatically deducted from this account⁴
Bank where, when, and how you like	<ul style="list-style-type: none"> • Free, secure online access with two months of free Bill Pay⁵ • More than 6,500 Wells Fargo ATMs and 3,000 stores • Unlimited automated calls, 24 hours a day, 7 days a week at 1-800-869-3557
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App. 20

STATE OF ARIZONA REGISTRATION REPORT

2006 Primary Election - September 12, 2006
 Compiled and issued by the Arizona Secretary of State

		ACTIVE					
	Precincts	Date/Period	Democratic	Libertarian	Republican	Other	TOTAL
Apache	45	P.E. 2004	25,422	107	6,104	6,444	38,077
	45	MAR 2006	26,862	116	6,777	7,636	41,391
	45	P.E. 2006	24,406	103	5,945	7,438	37,892
Cochise	64	P.E. 2004	21,490	217	21,336	11,971	55,014
	64	MAR 2006	22,400	248	24,356	14,953	61,957
	64	P.E. 2006	19,241	208	22,750	14,066	56,265
Coconino	83	P.E. 2004	26,692	534	18,371	19,901	65,498
	85	MAR 2006	25,652	644	17,969	18,267	62,532
	85	P.E. 2006	25,510	620	17,884	18,882	62,896
Gila	40	P.E. 2004	12,464	87	8,463	3,846	24,860
	40	MAR 2006	13,207	118	10,010	5,003	28,338
	39	P.E. 2006	13,161	120	10,249	5,517	29,047
Graham	18	P.E. 2004	7,242	28	4,761	1,943	13,974
	18	MAR 2006	7,314	37	5,324	2,233	14,908
	18	P.E. 2006	7,149	38	5,140	2,281	14,608
Greenlee	8	P.E. 2004	3,156	13	872	369	4,410
	8	MAR 2006	2,829	10	817	436	4,092
	8	P.E. 2006	2,831	11	854	497	4,193
La Paz	12	P.E. 2004	2,590	13	2,667	1,555	6,825
	12	MAR 2006	2,701	18	2,831	1,801	7,351
	12	P.E. 2006	2,447	17	2,623	1,765	6,852
Maricopa	1,058	P.E. 2004	453,701	10,925	634,052	352,942	1,451,620
	1,142	MAR 2006	461,865	10,656	662,868	392,992	1,528,381
	1,142	P.E. 2006	442,498	10,049	638,383	390,996	1,481,926
Mohave	73	P.E. 2004	25,626	303	38,367	22,498	86,794
	73	MAR 2006	24,826	336	38,154	23,469	86,785
	73	P.E. 2006	24,363	347	38,257	25,077	88,044
Navajo	70	P.E. 2004	24,801	167	17,769	10,764	53,501
	70	MAR 2006	25,028	186	17,682	11,343	54,239
	70	P.E. 2006	25,301	192	18,241	12,165	55,899
Pima	401	P.E. 2004	162,573	3,646	132,554	102,332	401,105
	409	MAR 2006	179,549	3,818	150,081	126,197	459,645
	409	P.E. 2006	164,446	3,243	138,395	114,770	420,854
Pinal	67	P.E. 2004	34,883	408	26,438	19,202	80,931
	67	MAR 2006	39,287	518	35,164	26,532	101,501
	74	P.E. 2006	36,319	477	33,542	26,318	96,656
Santa Cruz	24	P.E. 2004	11,360	110	3,966	3,896	19,332
	24	MAR 2006	11,930	133	4,237	4,676	20,976
	24	P.E. 2006	12,147	137	4,374	5,102	21,760
Yavapai	104	P.E. 2004	23,316	702	43,598	23,301	90,917
	104	MAR 2006	24,448	649	46,888	25,683	97,668
	104	P.E. 2006	24,424	638	47,482	27,039	99,583
Yuma	42	P.E. 2004	20,759	169	16,962	9,396	47,286
	42	MAR 2006	22,963	306	19,262	12,264	54,795
	42	P.E. 2006	23,247	329	19,858	13,399	56,833
TOTALS:	2,109	P.E. 2004	856,075	17,429	976,280	590,360	2,440,144
	2,203	MAR 2006	890,861	17,793	1,042,420	673,485	2,624,559
	2,209	P.E. 2006	847,490	16,529	1,003,977	665,312	2,533,308
PERCENTAGES:		P.E. 2004	35.08	0.71	40.01	24.19	
		MAR 2006	33.94	0.68	39.72	25.66	
		P.E. 2006	33.45	0.65	39.63	26.26	

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Congressional	Precincts	ACTIVE				TOTAL
		Democratic	Libertarian	Republican	Other	
Congressional District 1						
Apache	45	24,406	103	5,945	7,438	37,892
Coconino	78	25,202	615	17,804	18,675	62,296
Gila	39	13,161	120	10,249	5,517	29,047
Graham	18	7,149	38	5,140	2,281	14,608
Greenlee	8	2,831	11	854	497	4,193
Navajo	52	24,109	180	17,883	11,264	53,436
Pinal	39	20,787	151	11,384	9,435	41,757
Yavapai	102	24,424	638	47,482	27,039	99,583
TOTALS	381	142,069	1,856	116,741	82,146	342,812
Congressional District 2						
Coconino	7	308	5	80	207	600
La Paz	1	10	0	5	4	19
Maricopa	205	85,500	1,554	140,835	77,242	305,131
Mohave	73	24,363	347	38,257	25,077	88,044
Navajo	18	1,192	12	358	901	2,463
Yavapai	2	0	0	0	0	0
TOTALS	306	111,373	1,918	179,535	103,431	396,257
Congressional District 3						
Maricopa	255	89,817	2,422	145,013	79,022	316,274
TOTALS	255	89,817	2,422	145,013	79,022	316,274
Congressional District 4						
Maricopa	177	89,801	1,703	42,586	54,742	188,832
TOTALS	177	89,801	1,703	42,586	54,742	188,832
Congressional District 5						
Maricopa	250	85,557	2,295	137,873	84,570	310,295
TOTALS	250	85,557	2,295	137,873	84,570	310,295
Congressional District 6						
Maricopa	217	76,073	1,793	160,060	83,603	321,529
Pinal	22	10,054	245	15,647	11,589	37,535
TOTALS	239	86,127	2,038	175,707	95,192	359,064
Congressional District 7						
La Paz	11	2,437	17	2,618	1,761	6,833
Maricopa	38	15,750	282	12,016	11,817	39,865
Pima	134	65,024	1,276	24,522	38,343	129,165
Pinal	11	4,114	72	3,388	3,602	11,176
Santa Cruz	19	10,657	112	2,986	4,220	17,975
Yuma	42	23,247	329	19,858	13,399	56,833
TOTALS	255	121,229	2,088	65,388	73,142	261,847
Congressional District 8						
Cochise	64	19,241	208	22,750	14,066	56,265
Pima	275	99,422	1,967	113,873	76,427	291,689
Pinal	2	1,364	9	3,123	1,692	6,188
Santa Cruz	5	1,490	25	1,388	882	3,785
TOTALS	346	121,517	2,209	141,134	93,067	357,927
STATE TOTALS	2,209	847,490	16,529	1,003,977	665,312	2,533,308

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		Democratic	Libertarian	Republican	Other	
Legislative District 1						
Coconino	22	5,688	235	7,042	6,016	18,981
Yavapai	80	21,382	553	41,051	23,646	86,632
TOTALS	102	27,070	788	48,093	29,662	105,613
Legislative District 2						
Apache	32	20,976	62	2,931	5,622	29,591
Coconino	56	18,362	363	8,995	11,328	39,048
Mohave	1	250	0	42	122	414
Navajo	37	12,205	40	2,287	4,251	18,783
Yavapai	1	0	0	0	0	0
TOTALS	127	51,793	465	14,255	21,323	87,836
Legislative District 3						
Coconino	6	1,460	22	1,847	1,538	4,867
La Paz	5	849	7	1,337	866	3,059
Mohave	72	24,113	347	38,215	24,955	87,630
TOTALS	83	26,422	376	41,399	27,359	95,556
Legislative District 4						
Maricopa	74	27,399	447	57,542	28,228	113,616
Yavapai	23	3,042	85	6,431	3,393	12,951
TOTALS	97	30,441	532	63,973	31,621	126,567
Legislative District 5						
Apache	13	3,430	41	3,014	1,816	8,301
Coconino	1	0	0	0	0	0
Gila	37	12,506	119	10,231	5,470	28,326
Graham	18	7,149	38	5,140	2,281	14,608
Greenlee	8	2,831	11	854	497	4,193
Navajo	33	13,096	152	15,954	7,914	37,116
Pinal	0	0	0	0	0	0
TOTALS	110	39,012	361	35,193	17,978	92,544
Legislative District 6						
Maricopa	67	23,432	720	41,399	23,992	89,543
TOTALS	67	23,432	720	41,399	23,992	89,543
Legislative District 7						
Maricopa	61	22,036	537	44,286	24,276	91,135
TOTALS	61	22,036	537	44,286	24,276	91,135
Legislative District 8						
Maricopa	73	23,254	517	52,650	27,509	103,930
TOTALS	73	23,254	517	52,650	27,509	103,930
Legislative District 9						
Maricopa	64	27,307	403	42,049	20,810	90,569
TOTALS	64	27,307	403	42,049	20,810	90,569
Legislative District 10						
Maricopa	59	21,423	583	25,822	16,682	64,510
TOTALS	59	21,423	583	25,822	16,682	64,510
Legislative District 11						
Maricopa	84	30,429	727	47,547	21,339	100,042
TOTALS	84	30,429	727	47,547	21,339	100,042
Legislative District 12						
Maricopa	71	33,159	701	42,556	30,960	107,376
TOTALS	71	33,159	701	42,556	30,960	107,376
Legislative District 13						
Maricopa	47	20,984	362	10,899	13,959	46,204
TOTALS	47	20,984	362	10,899	13,959	46,204
Legislative District 14						
Maricopa	40	17,793	362	8,500	11,222	37,877
TOTALS	40	17,793	362	8,500	11,222	37,877

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		Democratic	Libertarian	Republican	Other	
Legislative District 15						
Maricopa	59	24,351	677	15,931	16,435	57,394
TOTALS	59	24,351	677	15,931	16,435	57,394
Legislative District 16						
Maricopa	44	33,595	491	11,285	17,938	63,309
TOTALS	44	33,595	491	11,285	17,938	63,309
Legislative District 17						
Maricopa	72	23,507	772	24,799	19,166	68,244
TOTALS	72	23,507	772	24,799	19,166	68,244
Legislative District 18						
Maricopa	54	14,036	402	25,658	13,596	53,692
TOTALS	54	14,036	402	25,658	13,596	53,692
Legislative District 19						
Maricopa	65	21,660	437	45,881	22,338	90,316
TOTALS	65	21,660	437	45,881	22,338	90,316
Legislative District 20						
Maricopa	57	24,036	585	38,201	23,170	85,992
TOTALS	57	24,036	585	38,201	23,170	85,992
Legislative District 21						
Maricopa	73	26,971	648	48,201	28,195	104,015
TOTALS	73	26,971	648	48,201	28,195	104,015
Legislative District 22						
Maricopa	56	22,832	609	52,558	27,856	103,855
Pinal	7	3,240	52	5,016	3,559	11,867
TOTALS	63	26,072	661	57,574	31,415	115,722
Legislative District 23						
Gila	2	655	1	18	47	721
Maricopa	11	3,339	45	1,630	2,681	7,695
Pinal	62	30,895	392	24,676	20,413	76,376
TOTALS	75	34,889	438	26,324	23,141	84,792
Legislative District 24						
La Paz	7	1,598	10	1,286	899	3,793
Yuma	42	23,247	329	19,858	13,399	56,833
TOTALS	49	24,845	339	21,144	14,298	60,626
Legislative District 25						
Cochise	46	13,992	144	13,489	8,802	36,427
Maricopa	11	955	24	989	644	2,612
Pima	28	9,305	201	7,419	6,616	23,541
Pinal	3	820	24	727	654	2,225
Santa Cruz	20	10,678	113	3,012	4,234	18,037
TOTALS	108	35,750	506	25,636	20,950	82,842
Legislative District 26						
Pima	85	30,923	520	39,573	25,179	96,195
Pinal	2	1,364	9	3,123	1,692	6,188
TOTALS	87	32,287	529	42,696	26,871	102,383
Legislative District 27						
Pima	67	36,031	678	15,271	21,665	73,645
TOTALS	67	36,031	678	15,271	21,665	73,645
Legislative District 28						
Pima	92	34,282	765	22,256	20,608	77,911
TOTALS	92	34,282	765	22,256	20,608	77,911
Legislative District 29						
Pima	59	27,613	554	13,813	17,305	59,285
TOTALS	59	27,613	554	13,813	17,305	59,285

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		Democratic	Libertarian	Republican		Other
Legislative District 30						
Cochise	18	5,249	64	9,261	5,264	19,838
Pima	78	26,292	525	40,063	23,397	90,277
Santa Cruz	4	1,469	24	1,362	868	3,723
TOTALS	100	33,010	613	50,686	29,529	113,838
STATE TOTALS	2,209	847,490	16,529	1,003,977	665,312	2,533,308

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INACTIVE							
	Precincts	Date/Period	Democratic	Libertarian	Republican	Other	TOTAL
Apache	45	P.E. 2004	3,242	14	938	762	4,956
	45	MAR 2006	2,440	11	771	631	3,853
	45	P.E. 2006	3,753	26	1,498	1,271	6,548
Cochise	64	P.E. 2004	1,895	33	1,776	941	4,645
	64	MAR 2006	1,574	33	1,529	859	3,995
	64	P.E. 2006	3,543	48	2,468	2,496	8,555
Coconino	83	P.E. 2004	3,589	111	2,976	5,087	11,763
	85	MAR 2006	4,367	227	3,226	6,138	13,958
	85	P.E. 2006	4,735	250	3,646	6,698	15,329
Gila	40	P.E. 2004	3,189	41	2,694	1,202	7,126
	40	MAR 2006	2,328	33	1,826	906	5,093
	39	P.E. 2006	2,239	32	1,769	875	4,915
Graham	18	P.E. 2004	1,838	18	1,326	595	3,777
	18	MAR 2006	1,100	13	750	486	2,349
	18	P.E. 2006	1,266	16	1,131	601	3,014
Greenlee	8	P.E. 2004	334	4	120	39	497
	8	MAR 2006	291	2	120	48	461
	8	P.E. 2006	285	2	120	48	455
La Paz	12	P.E. 2004	497	6	510	291	1,304
	12	MAR 2006	369	4	382	248	1,003
	12	P.E. 2006	645	4	665	468	1,782
Maricopa	1,058	P.E. 2004	36,540	1,791	43,844	39,952	122,127
	1,142	MAR 2006	59,325	2,348	69,190	68,190	199,053
	1,142	P.E. 2006	85,193	3,286	105,820	102,676	296,975
Mohave	73	P.E. 2004	1,373	17	1,424	1,122	3,936
	73	MAR 2006	3,322	39	4,783	3,427	11,571
	73	P.E. 2006	4,889	66	6,498	4,884	16,337
Navajo	70	P.E. 2004	2,911	16	952	601	4,480
	70	MAR 2006	2,785	24	1,630	1,045	5,484
	70	P.E. 2006	2,717	22	1,546	1,003	5,288
Pima	401	P.E. 2004	26,653	1,356	22,402	23,427	73,838
	409	MAR 2006	10,317	407	8,161	10,717	29,602
	409	P.E. 2006	26,810	973	20,754	28,997	77,534
Pinal	67	P.E. 2004	9,127	82	4,878	3,238	17,325
	67	MAR 2006	4,288	61	2,886	2,614	9,849
	74	P.E. 2006	8,767	160	7,286	6,858	23,071
Santa Cruz	24	P.E. 2004	757	19	394	237	1,407
	24	MAR 2006	2	0	1	2	5
	24	P.E. 2006	3	0	1	2	6
Yavapai	104	P.E. 2004	2,734	142	4,657	4,386	11,919
	104	MAR 2006	1,997	129	2,992	2,994	8,112
	104	P.E. 2006	2,693	169	3,946	4,035	10,843
Yuma	42	P.E. 2004	5,832	29	5,363	2,605	13,829
	42	MAR 2006	3,662	34	3,309	2,134	9,139
	42	P.E. 2006	3,860	36	3,502	2,290	9,688
TOTALS:	2,109	P.E. 2004	100,511	3,679	94,254	84,485	282,929
	2,203	MAR 2006	98,167	3,365	101,556	100,439	303,527
	2,209	P.E. 2006	151,398	5,090	160,650	163,202	480,340
PERCENTAGES:		P.E. 2004	35.53	1.30	33.31	29.86	
		MAR 2006	32.34	1.11	33.46	33.09	
		P.E. 2006	31.52	1.06	33.45	33.98	

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		Democratic	Libertarian	Republican	Other	
Congressional District 1						
Apache	45	3,753	26	1,498	1,271	6,548
Coconino	78	4,714	250	3,642	6,680	15,286
Gila	39	2,239	32	1,769	875	4,915
Graham	18	1,266	16	1,131	601	3,014
Greenlee	8	285	2	120	48	455
Navajo	52	2,664	22	1,541	996	5,223
Pinal	39	5,305	51	2,856	3,031	11,243
Yavapai	102	2,693	169	3,946	4,035	10,843
TOTALS	381	22,919	568	16,503	17,537	57,527
Congressional District 2						
Coconino	7	21	0	4	18	43
La Paz	1	1	0	6	0	7
Maricopa	205	12,683	343	17,957	13,818	44,801
Mohave	73	4,889	66	6,498	4,884	16,337
Navajo	18	53	0	5	7	65
Yavapai	2	0	0	0	0	0
TOTALS	306	17,647	409	24,470	18,727	61,253
Congressional District 3						
Maricopa	255	16,465	616	21,124	19,909	58,114
TOTALS	255	16,465	616	21,124	19,909	58,114
Congressional District 4						
Maricopa	177	14,482	635	6,895	13,438	35,450
TOTALS	177	14,482	635	6,895	13,438	35,450
Congressional District 5						
Maricopa	250	23,673	1,129	30,854	33,116	88,772
TOTALS	250	23,673	1,129	30,854	33,116	88,772
Congressional District 6						
Maricopa	217	15,284	507	26,820	19,991	62,602
Pinal	22	2,547	91	3,481	3,024	9,143
TOTALS	239	17,831	598	30,301	23,015	71,745
Congressional District 7						
La Paz	11	644	4	659	468	1,775
Maricopa	38	2,606	56	2,170	2,404	7,236
Pima	134	11,420	434	4,949	11,547	28,350
Pinal	11	755	17	596	649	2,017
Santa Cruz	19	3	0	1	1	5
Yuma	42	3,860	36	3,502	2,290	9,688
TOTALS	255	19,288	547	11,877	17,359	49,071
Congressional District 8						
Cochise	64	3,543	48	2,468	2,496	8,555
Pima	275	15,390	539	15,805	17,450	49,184
Pinal	2	160	1	353	154	668
Santa Cruz	5	0	0	0	1	1
TOTALS	346	19,093	588	18,626	20,101	58,408
STATE TOTALS	2,209	151,398	5,090	160,650	163,202	480,340

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		Democratic	Libertarian	Republican	Other	
Legislative District 1						
Coconino	22	842	40	818	1,052	2,752
Yavapai	80	2,445	154	3,415	3,610	9,624
TOTALS	102	3,287	194	4,233	4,662	12,376
Legislative District 2						
Apache	32	3,098	20	777	885	4,780
Coconino	56	3,712	209	2,603	5,430	11,954
Mohave	1	9	0	4	10	23
Navajo	37	398	2	23	41	464
Yavapai	1	0	0	0	0	0
TOTALS	127	7,217	231	3,407	6,366	17,221
Legislative District 3						
Coconino	6	181	1	225	215	622
La Paz	5	257	1	312	213	783
Mohave	72	4,880	66	6,494	4,874	16,314
TOTALS	83	5,318	68	7,031	5,302	17,719
Legislative District 4						
Maricopa	74	2,799	83	5,364	3,386	11,632
Yavapai	23	248	15	531	425	1,219
TOTALS	97	3,047	98	5,895	3,811	12,851
Legislative District 5						
Apache	13	655	6	721	386	1,768
Coconino	1	0	0	0	1	1
Gila	37	2,160	32	1,767	866	4,825
Graham	18	1,266	16	1,131	601	3,014
Greenlee	8	285	2	120	48	455
Navajo	33	2,319	20	1,523	962	4,824
Pinal	0	0	0	0	0	0
TOTALS	110	6,685	76	5,262	2,864	14,887
Legislative District 6						
Maricopa	67	4,551	177	6,437	5,656	16,821
TOTALS	67	4,551	177	6,437	5,656	16,821
Legislative District 7						
Maricopa	61	3,601	117	6,659	4,787	15,164
TOTALS	61	3,601	117	6,659	4,787	15,164
Legislative District 8						
Maricopa	73	5,002	203	9,633	7,412	22,250
TOTALS	73	5,002	203	9,633	7,412	22,250
Legislative District 9						
Maricopa	64	4,501	123	6,079	4,459	15,162
TOTALS	64	4,501	123	6,079	4,459	15,162
Legislative District 10						
Maricopa	59	5,673	199	5,870	6,557	18,299
TOTALS	59	5,673	199	5,870	6,557	18,299
Legislative District 11						
Maricopa	84	3,506	139	4,416	3,872	11,933
TOTALS	84	3,506	139	4,416	3,872	11,933
Legislative District 12						
Maricopa	71	5,921	139	6,413	6,590	19,063
TOTALS	71	5,921	139	6,413	6,590	19,063
Legislative District 13						
Maricopa	47	4,343	105	2,412	3,680	10,540
TOTALS	47	4,343	105	2,412	3,680	10,540
Legislative District 14						
Maricopa	40	2,995	159	1,427	2,899	7,480
TOTALS	40	2,995	159	1,427	2,899	7,480

STATE OF ARIZONA REGISTRATION REPORT

2006 Primary Election - September 12, 2006
 Compiled and Issued by the Arizona Secretary of State

Legislative	Precincts	INACTIVE				TOTAL
		Democratic	Libertarian	Republican	Other	
Legislative District 15						
Maricopa	59	4,385	192	2,503	4,693	11,773
TOTALS	59	4,385	192	2,503	4,693	11,773
Legislative District 16						
Maricopa	44	4,071	215	1,414	3,400	9,100
TOTALS	44	4,071	215	1,414	3,400	9,100
Legislative District 17						
Maricopa	72	9,007	557	8,518	13,062	31,144
TOTALS	72	9,007	557	8,518	13,062	31,144
Legislative District 18						
Maricopa	54	4,935	192	6,486	6,726	18,339
TOTALS	54	4,935	192	6,486	6,726	18,339
Legislative District 19						
Maricopa	65	4,334	139	7,832	5,205	17,510
TOTALS	65	4,334	139	7,832	5,205	17,510
Legislative District 20						
Maricopa	57	5,664	214	7,961	7,333	21,172
TOTALS	57	5,664	214	7,961	7,333	21,172
Legislative District 21						
Maricopa	73	5,369	211	7,706	6,888	20,174
TOTALS	73	5,369	211	7,706	6,888	20,174
Legislative District 22						
Maricopa	56	3,988	108	8,331	5,632	18,059
Pinal	7	847	24	1,186	1,025	3,082
TOTALS	63	4,835	132	9,517	6,657	21,141
Legislative District 23						
Gila	2	79	0	2	9	90
Maricopa	11	400	6	179	307	892
Pinal	62	7,492	132	5,538	5,501	18,663
TOTALS	75	7,971	138	5,719	5,817	19,645
Legislative District 24						
La Paz	7	388	3	353	255	999
Yuma	42	3,860	36	3,502	2,290	9,688
TOTALS	49	4,248	39	3,855	2,545	10,687
Legislative District 25						
Cochise	46	2,848	37	1,560	1,731	6,176
Maricopa	11	148	8	180	132	468
Pima	28	1,156	31	966	1,032	3,185
Pinal	3	268	3	209	178	658
Santa Cruz	20	3	0	1	1	5
TOTALS	108	4,423	79	2,916	3,074	10,492
Legislative District 26						
Pima	85	4,313	139	5,511	5,117	15,080
Pinal	2	160	1	353	154	668
TOTALS	87	4,473	140	5,864	5,271	15,748
Legislative District 27						
Pima	67	6,261	227	2,973	6,451	15,912
TOTALS	67	6,261	227	2,973	6,451	15,912
Legislative District 28						
Pima	92	7,675	293	4,636	8,421	21,025
TOTALS	92	7,675	293	4,636	8,421	21,025
Legislative District 29						
Pima	59	4,434	179	2,350	4,636	11,599
TOTALS	59	4,434	179	2,350	4,636	11,599

STATE OF ARIZONA REGISTRATION REPORT

2006 Primary Election - September 12, 2006
 Compiled and Issued by the Arizona Secretary of State

Legislative	Precincts	INACTIVE				TOTAL
		Democratic	Libertarian	Republican	Other	
Legislative District 30						
Cochise	18	695	11	908	765	2,379
Pima	78	2,971	104	4,318	3,340	10,733
Santa Cruz	4	0	0	0	1	1
TOTALS	100	3,666	115	5,226	4,106	13,113
STATE TOTALS	2,209	151,398	5,090	160,650	163,202	480,340

App. 21

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This slip opinion is subject to revision and may not reflect the final opinion adopted by the Court.

Opinion

Supreme Court of Missouri

Case Style: Kathleen Weinschenk, et al., Respondents, v. State of Missouri, Appellant, Robin Carnahan, Secretary of State, Respondent, Dale Morris and Senator Delbert Scott, Intervenors-Appellants.

Case Number: SC88039

Handdown Date: 10/16/2006

Appeal From: Circuit Court of Cole County, Hon. Richard G. Callahan

Counsel for Appellant: Mark E. Long, Mark F. (Thor) Hearne, II, James B. Deutsch and Alok Ahuja

Counsel for Respondent: Barbara Jane Wood, Don M. Downing and Erica L. Airsman

Opinion Summary:

During its 2006 legislative session, the general assembly passed Senate Bill No. 1014, which addressed various election issues. One of the bill's provisions, section 115.427, RSMo, requires voters to present certain forms of photographic identification ("photo ID") before voting. Specifically, it prohibits otherwise qualified and lawfully registered voters from casting a regular ballot unless they present a valid, unexpired state or federal identification document with the person's name, as listed in the voter registration records, and the person's photograph. These would include a Missouri driver's license, a Missouri non-driver's license and a United States passport. The bill took effect August 28, 2006.

A group of taxpayers subsequently sued the state of Missouri and its secretary of state. A Missouri voter and the bill's sponsor, Sen. Delbert Scott, R-Lowry City, were permitted to intervene as defendants in the suit. At trial, evidence was presented that all of the plaintiffs are qualified, registered Missouri voters who lack requisite photo ID. The plaintiffs presented evidence that some 169,000 to 240,000 citizens, or between 3 and 4 percent of Missourians, lack the requisite photo ID and, therefore, would need to obtain a Missouri driver's or non-driver's license or a passport to vote. They presented evidence that each of these forms of identification normally costs money to obtain and that those costs present a practical problem for Missourians who cannot afford the costs or who believe they should not be forced to pay fees to exercise their right to vote. The record shows that Missouri charges \$15 to provide a birth certificate required to obtain a non-driver's license and that Missourians born in other states must pay fees ranging from \$5 to \$30 to obtain their birth certificates. The record shows that Missourians must also wait between six and eight weeks to receive a birth certificate after paying the required amount. The record shows that it costs between \$97 and \$236 to obtain a passport. The record shows that many Missourians, particularly those born at home, do not have a birth certificate and that it is more difficult to obtain a passport without a birth certificate. The record further shows that, to obtain the requisite photo ID, voters whose names have changed must supply additional documentation that requires the voters to pay additional fees. The plaintiffs also presented evidence, through the testimony of state and local Missouri election officials and exhibits, that voter impersonation fraud is not a problem in Missouri and that, while there have been instances of absentee ballot and registration fraud, SB 1014's photo ID requirement will not solve these fraud problems.

The trial court held that the portion of section 115.427 that requires voters to present certain forms of photo ID before voting violates Missourians' rights to vote and to equal protection of the law granted by the state constitution. The trial court also held that, because SB 1014 requires local election authorities to fund the cost of providing provisional ballots and other costs, the bill imposes new mandates on local governments without appropriating state funds to cover these increased costs in violation of article X, section 21 of the state constitution, known as the Hancock amendment. The trial court did not provide any remedy for the Hancock violation. The state, Morris and Scott appeal.

AFFIRMED.

Court en banc holds: (1) The trial court properly held that SB 1014's photo ID requirement violates the equal protection clause of article I, section 2 of the state constitution. It also properly held that the photo ID requirement violates the right to vote as guaranteed by article I, section 25 of the state constitution, which provides more expansive and concrete protection to the right to vote than the federal constitution. In reaching these conclusions, this Court applies strict scrutiny analysis, in

which any limitation on a fundamental right must serve compelling state interests and must be narrowly tailored to meet those interests. SB 1014's photo ID requirement fails to pass constitutional scrutiny because it creates a heavy burden on the fundamental right to vote and is not narrowly tailored to meet a compelling state interest.

(2) Many of the between 3 and 4 percent of Missourians who lack the requisite photo ID are eligible registered voters who, under the new law, will not be able to cast a regular ballot (or, after 2008 when the provisional ballot availability expires, any ballot at all) unless they obtain the requisite photo ID. Requiring these Missourians to obtain one of the limited types of photo ID approved by SB 1014 in order to vote is more than a *de minimis* (very small or trifling) burden on their constitutional right of suffrage.

(3) The United States Supreme Court has held that wealth or payment of money should have no relation to the free exercise of the right to vote. *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 668 (1966). There can be no lesser requirement under Missouri law. The fact that Missouri has waived the costs normally charged for a non-driver's license does not make the license free because, as the evidence showed, Missourians without certified copies of the documentation needed for the license still must expend sums of money to obtain the license. Specific Missouri voters testified that to acquire the requisite photo ID, at the very least they will have to incur the costs associated with birth certificates, which in Missouri costs \$15. The evidence also showed that, if a person requires documentation beyond a birth certificate, the costs are greater. These are fees that qualified, eligible, registered voters who lack approved photo ID are required to pay to exercise their right to vote under SB 1014. Procuring the documentation necessary to obtain the mandatory identification requires funds, time and advance planning to allow for the six to eight weeks the record showed it takes to obtain a Missouri birth certificate. The trial court correctly concluded that the photo ID provisions of SB 1014 represent a heavy and substantial burden on Missourians' free exercise of their right to vote.

(4) While Missouri has a compelling state interest in preserving the integrity of the election process and preventing voter fraud, the trial court properly found that the evidence presented negates the claim that the photo ID requirement is narrowly tailored to accomplish that purpose. The parties acknowledge that the photo ID requirement can only prevent impersonation of a registered voter and will not affect absentee ballot fraud or registration fraud. There was no evidence of any voter impersonation fraud in Missouri since the general assembly enacted the previous version of section 115.427, which was passed in 2002 in response to the federal Help America Vote Act and allowed voters to present many more and different types of identification in order to vote. While Missouri also has an interest in combating perceptions of voter fraud, where the fundamental rights to vote of Missouri citizens are at stake, more than mere perception is required for their abridgment. The identification requirement does not address any perception of voter fraud with precision, nor is it necessary to solve any existing voter fraud problems. This requirement, therefore, fails to pass constitutional scrutiny and cannot stand.

(5) As a transitional measure, SB 1014 allows voters who lack the requisite photo ID but are otherwise qualified to vote to cast a provisional ballot in elections between now and November 2008. Section 115.247.13. Transitional provisions cannot stand on their own where, as here, what they transition to is invalid. The transitional provisions of section 115.427.13, therefore, must be struck down together with the permanent provisions of SB 1014's photo ID requirement.

(6) Because this Court determines that the transitional provisions are not severable from the permanent provisions, it need not and does not reach the question of whether the transitional provisions are constitutionally valid. The validity of the permanent provisions is ripe because the dispute regarding the photo-ID requirement is immediate and concrete. If this requirement is valid and enforceable, then Missouri voters must take action and incur costs between now and when the transitional period ends in November 2008 to secure their ability to vote in the future. Further, the procedures one must follow to obtain proper identification and the cost of obtaining the necessary supporting documentation were proved with sufficient certainty to the trial court. That the general assembly in the next two years might change these identification requirements is no barrier to this Court's determination of whether the version of section 115.427 presently in effect is valid.

(7) Although the trial court found that SB 1014 violates the Hancock amendment, it nonetheless entered judgment on this issue in favor of the state. The state, therefore, is not aggrieved by the trial court's dicta on this issue, and the taxpayers have not appealed it. This Court, therefore, does not address the Hancock issue further.

Dissenting opinion by Judge Limbaugh: (1) The author agrees that the Court should not address the Hancock issue at this time, but the author would reverse the trial court's decision declaring the transitional provisions unconstitutional. The author notes that, during the two-year transitional period before the 2008 general election, every person who is registered properly to vote will be allowed to do so, and even those without a valid photographic identification will be allowed to cast a provisional ballot using the same means of identification that have been required since 2002. The author further would hold that the transitional provisions do not violate the constitution, disenfranchise any voter or place a real burden on an individual's right to vote. The author notes that section 115.427.12, which provides that if any voter is unable to sign his or her name, an election judge shall print the voter's name and witness the voter making his or her mark, applies to the provisional voter affidavit used in lieu of the voter identification certificate for those voters casting a provisional ballot. The author would find that a signature match is a constitutionally permissible means to verify a voter's identity. The author notes that, once the affidavit signature is verified, the provisional ballot shall be counted. The author would hold that, under the rules of statutory construction, because section 115.430 was amended to incorporate section 115.427 and that section's application to "any election," the amendment to section 115.430 served to repeal, by implication, section 115.430's limitation to primary and general elections. The author would hold that the two-year transitional provisions could be severed from the remainder of the voter-identification law pursuant to the controlling language of section 1.140, RSMo, which provides that all statutes presumptively are severable. The author notes that the provisional sections in fact stand alone, are complete and are capable

of being executed in accordance with legislative intent and that the general assembly did not specify that these sections should be severed, even though it did state such an intent with regard to other sections.

(2) The author also would reverse, on jurisdictional grounds, the trial court's decision declaring the permanent provisions of SB 1014 unconstitutional. The author would hold that any determination of the constitutional validity of the photograph-identification provisions of SB 1014 as they apply after the two-year transitional period is not yet ripe for adjudication because there currently is no harm to voters and because, in the interim, the general assembly may act to alleviate the perceived deficiencies regarding the cost of obtaining the photographic identification.

(3) The author notes that there was evidence of voter fraud in Missouri during the 2000 presidential election, giving rise to a need to address such a problem through SB 1014. The author further would caution against categorically disallowing all photographic identifications as an unconstitutional infringement on the right to vote.

Citation:

Opinion Author: PER CURIAM

Opinion Vote: AFFIRMED. Wolff, C.J., Stith, Teitelman and White, J.J., and Blackmar, Sr. J., and Rahmeyer, Sp. J., concur; Limbaugh, J., dissents in separate opinion filed. Price and Russell, J.J., not participating.

Opinion:

After a 2006 statute was enacted requiring registered voters to present certain types of state- or federally-issued photographic identification in order to cast regular ballots, Ms. Kathleen Weinschenk and others sued the state to block enforcement of the law on the grounds that it interfered with the fundamental right to vote as protected by the Missouri and United States constitutions. Ms. Weinschenk and the others claimed that the new law required them and other voters – particularly those who are low-income, disabled or elderly and who do not have driver's licenses – to spend money to obtain the necessary documents such as birth certificates in order to obtain the requisite photo ID. The trial court declared the law unconstitutional.

The State of Missouri and Intervenors Dale Morris and Senator Delbert Scott (collectively "Appellants"),^(FN1) appeal the trial court's holding that the portion of Senate Bill 1014 ("SB 1014") requiring presentation of certain forms of photographic identification ("photo ID") to vote is unconstitutional because it violates Missourians' rights to vote and to equal protection of the laws. These rights are at the core of Missouri's constitution and, hence, receive state constitutional protections even more extensive than those provided by the federal constitution. The trial court so held because it found that those portions of SB 1014, which now are found at Section 115.427, 2006 Mo. Laws 728-32,^(FN2) ("Photo-ID Requirement") unnecessarily burden the right to vote of Missourians who are properly registered but are nonetheless barred from voting at their designated voting precinct (or permitted to vote only provisionally) because they do not have one of the limited types of identifying documents required by SB 1014 to exercise their right of suffrage.

This Court agrees that SB 1014's Photo-ID Requirement violates Missouri's equal protection clause, *Mo. Const. art. I, sec. 2*, and Missouri's constitutional guarantee of the right of its qualified, registered citizens to vote. *Mo. Const. art. I, sec. 25; art. VIII, sec. 2*. While this Court fully agrees with Appellants that there is a compelling state interest in preventing voter fraud, the evidence supports the trial court's conclusion that the Photo-ID Requirement is not narrowly tailored to accomplish that purpose.

Witnesses in the trial court did testify to past instances of fraud in the form of absentee ballot and registration fraud. But, as Appellants acknowledge, the Photo-ID Requirement is intended to prevent only impersonation of a registered voter and will not affect absentee ballot or registration fraud. The evidence below shows, however, that our legislature has already eliminated the opportunity to commit voter impersonation fraud with the enactment of the precautions it adopted in response to the federal *Help America Vote Act ("HAVA")* in 2002.^(FN3) In fact, the only specific instance of possible fraud that has occurred since 2002 of which the witnesses were aware involved an attempt (whether intentional or accidental is not clear) by a person who had voted absentee to then vote in person. This conduct would not be affected by SB 1014 and was discovered and prevented prior to the implementation of the Photo-ID Requirement.

Appellants argue that the Photo-ID Requirement nonetheless should remain in place because it will reassure voters who "perceive" that fraud exists. As there has been no reported case of voter impersonation fraud since the HAVA protections were put in place, however, this justification places too great an encumbrance on the right to vote of Missourians who cannot show the very specific and often costly to obtain photo IDs the statute requires.

The statute does provide an alternative identification procedure that will allow voters who lack one of the specified photo IDs to cast a provisional ballot in certain elections between now and November 2008, but these transitional provisions are not severable from the permanent provisions, so this Court need not decide the question of their constitutionality.

Accordingly, the trial court judgment enjoining enforcement of the Photo-ID Requirement of SB 1014, now section 115.427, is affirmed.

I. FACTUAL AND PROCEDURAL BACKGROUND

SB 1014's Photo-ID Requirement prohibits otherwise qualified and lawfully registered Missourians from voting if they present only out-of-state picture identification, social security cards, utility bills, school or work IDs, or other documents that

served as proper identification under the version of section 115.427 in effect prior to the enactment of SB 1014.(FN4) See *sec. 115.427.1, RSMo Supp. 2005*. As amended by SB 1014, section 115.427 now requires that Missourians present as identification a document issued by the state or federal governments that contains the person's name as listed in the voter registration records, the person's photograph, and an expiration date showing that the ID is not expired. *Sec. 115.427.1.(FN5)* In practical effect, the only documents that most Missourians would have that could meet these requirements are a Missouri driver's or non-driver's license or a United States passport.(FN6)

The record below reveals that between 3 and 4 percent of Missouri citizens lack the requisite photo ID and would, thus, need to obtain a driver's or non-driver's license or a passport in order to vote. Specifically, the trial court noted that the Secretary of State's analysis in August 2006 estimated that approximately 240,000 registered voters may not have the required photo ID and that the Department of Revenue's estimate of the same was approximately 169, 215 individuals. Each of these forms of ID, however, normally costs money to obtain. This presents a practical problem for Missourians who will be discouraged from attempting to vote because of their concern that they must pay a fee to do so. It also presents a legal problem in that the United States Supreme Court held in *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966), that any tax or fee imposed on the right to vote presents an undue burden on the exercise of that right. As the high court stated, wealth or payment of money should have no relation to the free exercise of the right to vote. *Harper*, 383 U.S. at 668 ("To introduce wealth or payment of a fee as a measure of a voter's qualifications is to introduce a capricious or irrelevant factor"). The legislature provided that Missourians who lack a proper unexpired photo ID may obtain a Missouri non-driver's license free of charge. *Sec. 115.427.7*. To aid them in doing so, SB 1014 provides that "mobile processing units," at which these free non-driver's licenses can be obtained, will be made available upon request to "any disabled or elderly person otherwise competent to vote . . . [who is] physically unable to otherwise obtain" a non-driver's license. *Id.*

SB 1014 also provides a mechanism for waiving the Photo-ID Requirement for certain classes of persons who are otherwise registered and meet all of Missouri's constitutional qualifications to vote but, under SB 1014, nonetheless would be denied the right to vote for lack of a proper ID. Those persons can cast a "provisional ballot" if they sign an affidavit swearing that the reason they have no acceptable photo ID is that they are unable to obtain such identification because of a disability or handicap, because of a sincerely held religious belief, or because they were born on or before 1941. *Sec. 115.427.4*. Lack of funds or time to undertake the sometimes laborious process of obtaining a proper photo ID in situations in which a birth certificate is not easily available or in which a woman has changed her name since birth are not grounds for casting a provisional ballot under this provision.(FN7)

In addition, the provisional ballot will not be counted unless the signature on the affidavit matches the signature on file with the election authority. *Id.* An election official testified below that signatures may change over time or due to disability or age. Further, the trial court found that at least one of the individual plaintiffs in this case "is unable to make a consistent signature or mark, [and] therefore, her signature will not match the signature on her voter registration record." Nonetheless, no exception to the signature match requirement is made for Missourians who are unable, because of disability or age, to make a signature or whose signature has changed due to disability or the passage of time since they made their original signature when they initially registered to vote. Thus, such persons' provisional ballots will not be counted under the statute.(FN8) Plaintiffs allege that the particular Photo-ID Requirement set out in SB 1014 (unlike the anti-fraud ID provisions required under HAVA and in effect in Missouri from 2002 until SB 1014 became effective) does not pass constitutional scrutiny on a multitude of grounds.(FN9) The trial court agreed that Plaintiffs established the unconstitutionality of SB 1014 on three grounds relating to the burdens the law imposes on Missourians' free exercise of their right to vote as set out in the Missouri Constitution.(FN10)

More specifically, the trial court agreed with Plaintiffs that, while on its face the Photo-ID Requirement appears to permit Missourians without an acceptable photo ID to obtain one without cost, in reality it does not do so because the Photo-ID Requirement of SB 1014 must be read together with the requirements of the *Federal REAL ID Act of 2005, Pub. L. 109-13, Title II*. That federal act does not permit Missouri to issue "free" non-driver's licenses to its citizens unless applicants first present identification such as a United States passport or birth certificate. *Id.*; see also *12 CSR 10-24.448*.

Both passports and birth certificates are themselves costly. In fact, the record reveals that Missouri charges \$15 to provide the certified, embossed copy of a birth certificate required by the *Federal REAL ID Act* to obtain a non-driver's license. Missourians born in other states must pay fees ranging from \$5 to \$30 to obtain official copies of their birth certificates. A passport is even more expensive. The record reveals that a person born in the United States who wishes to obtain a United States passport must pay between \$97 and \$236, depending on the speed with which one may need the passport. For a person born outside the country, the cost of a passport may be higher due to the cost of additional documents needed as proof of citizenship or naturalization.(FN11)

Furthermore, the record shows that if a voter's name has changed, he or she must supply additional documentation to obtain one of the requisite photo IDs.(FN12) Names change for a myriad of reasons in our society: women often follow the social custom of taking their husband's name upon marriage; in the event of a divorce, women occasionally revert to using their maiden name; certain individuals choose to change their name for personal or political reasons; still others experience a name change when their parents' marital status changes subsequent to birth. All those citizens who lack a proper photo ID and whose names have changed from the time they received their birth certificate (or their passport) must obtain additional documentation of the name change (e.g., certified marriage certificate, certified divorce decree, amended birth certificate) to obtain an ID that comports with the requirements of SB 1014. This additional documentation requires the payment of further fees. For example, the cost of a certified copy of a marriage license ranges from \$5 to \$30.

The trial court also noted that, in addition to the monetary costs imposed on persons seeking to obtain the proper photo ID, the process to do so imposes additional practical costs, including navigating state and/or federal bureaucracies, and travel to and from the Department of Revenue and other government agencies. One of these practical costs is the time it takes to receive the appropriate documentation. In Missouri, the waiting period for a birth certificate alone is six to eight weeks. In Louisiana, the birthplace of many Katrina refugees who have taken shelter in Missouri, the processing period is eight to ten weeks. Should citizens need additional documents, the bureaucratic hurdles and waiting periods would increase.

Plaintiffs claim that for many of Missouri's qualified voters, including the poor, elderly and disabled, these hurdles to obtaining the proper photo ID are not insignificant. The trial court agreed, finding these concerns real rather than speculative based on evidence pertaining to the individual plaintiffs, all of whom are qualified Missouri voters who lack an acceptable photo ID and who would struggle or be unable to obtain one.

For example, Ms. Weinschenk testified that she does not currently have a birth certificate. She was born in Arkansas, where the fee to obtain a birth certificate is \$12. Ms. Weinschenk has cerebral palsy. She testified that, although obtaining a proper photo ID is a substantial burden because of her disability, she is not "unable" to do so. But, even could she truthfully swear that her disability prevented her from obtaining the proper photo ID needed to vote, because her disability prevents her from making a consistent signature mark, her signature will not match the signature on her voter registration record. Thus, any provisional ballot she casts will not be counted.

The record also contains evidence regarding the situation of other plaintiffs. Mr. William Kottmeyer has limited mobility, making it difficult for him to gather the necessary documents to obtain a non-driver's license and to stand in line at the Department of Revenue. Mr. Robert Pund has a physical condition that requires him to arrange transportation to and from the Department of Revenue and to employ an attendant to assist him in order to obtain a non-driver's license. Ms. Amanda Mullaney was born in Kentucky, and her current name does not match the name on her birth certificate because her parents were not married at the time of her birth. Thus, to obtain the proper photo ID needed to vote, she will have to provide proof of her name change by means of either a certified court order or a certified amended birth certificate. Mr. Richard von Glahn unsuccessfully attempted to obtain a non-driver's license last June and was told that, since he was not over 65-years-old, the ID would cost him \$11. Additionally, Mr. von Glahn lacked a birth certificate, for which the state of his birth, Ohio, charges \$20. Ms. Maudie Mae Hughes was born in Mississippi, but the state has repeatedly informed her that it does not have any record of her birth, thereby compounding her difficulties in obtaining the photo ID necessary to vote in Missouri.

The trial court found the evidence pertaining to each of these plaintiffs to be credible. It also found credible testimony from five state and local Missouri election officials regarding the nature of voter fraud currently experienced in Missouri. These government officials, all of whom have been closely involved with Missouri elections in their official capacities and have many years of experience,^(FN13) testified that voter impersonation fraud is not a problem in Missouri. For instance, Ms. Betsy Byers, the Co-Director of Elections for the Secretary of State's Office for the last five years, testified that, since 2000, she has not received any reports of voter impersonation fraud from anywhere in the state. During that same period, she received reports of absentee ballot fraud, but testified that the Photo-ID Requirement does not solve such problems.

Adding to the testimony of these government officials, Plaintiffs also presented exhibits indicating that voter impersonation fraud is not a problem in Missouri. In a letter to Governor Matt Blunt, Secretary of State Robin Carnahan echoed the sentiments of Ms. Byers, stating there is no evidence that voter impersonation fraud actually exists or that the Photo-ID Requirement would solve any existing problems in our elections system.

In addition, the record contains two letters written in 2004 by then-Secretary of State Matt Blunt on the subject of voter fraud. He described Missouri's statewide elections in 2002 and 2004 to then-Governor Bob Holden as "two of the cleanest and problem free elections in recent history." To the St. Louis Post-Dispatch, Blunt characterized the same elections as "fraud-free."

While Appellants offered affidavits of persons who reached conclusions contrary to some of those offered by Plaintiffs' witnesses, the trial court found Plaintiffs' evidence and witnesses to be more credible, and this Court considers the record in the light most favorable to the judgment of the trial court. *Reddish v. Heartland Auto Plaza*, 197 S.W.3d 634, 636 (Mo. App. S.D. 2006).

Thus, this Court turns to the issue whether the Photo-ID Requirement of SB 1014 can withstand constitutional scrutiny despite the cost and other burdens the trial court found it placed on qualified Missouri voters. Whether a statute is unconstitutional is a question of law, the review of which is *de novo*. *Doe v. Phillips*, 194 S.W.3d 833, 841 (Mo. banc 2006). Because a statute is cloaked in a presumption of constitutionality, an appellate court may find the statute unconstitutional only if it clearly contravenes a specific constitutional provision. *State v. Kinder*, 89 S.W.3d 454, 459 (Mo. banc 2002).

"Nonetheless, if a statute conflicts with a constitutional provision or provisions, this Court must hold the statute invalid." *Id.*

II. EQUAL PROTECTION ANALYSIS

A. Framework for Evaluating an Equal Protection Clause Challenge.

Both the United States and Missouri constitutions guarantee to their citizens the enjoyment of equal protection of the laws. *U.S. Const. amend. XIV, sec. 1* ("No state shall . . . deny to any person within its jurisdiction the equal protection of the laws"); *Mo. Const. art. I, sec. 2* ("all persons . . . are entitled to equal rights and opportunity under the law"). Courts undertake a two-part analysis to determine the constitutionality of a statute under either the state or federal equal protection clause. The first step is to determine whether the statute implicates a suspect class or impinges upon a fundamental right explicitly or implicitly protected by the Constitution. *Etling v. Westport Heating & Cooling Sys., Inc.*, 92 S.W.3d 771, 744 (Mo. banc 2003); accord *Kadmas v. Dickinson Public Schools*, 487 U.S. 450, 457-58 (1988). "If so, the classification is

subject to strict scrutiny." *Eting*, 92 S.W.3d at 774. If not, the classification will be subject to rational basis scrutiny. *Id.* The second step is to apply the appropriate level of scrutiny to the challenged statute. In order to survive strict scrutiny, a limitation on a fundamental right must serve compelling state interests and must be narrowly tailored to meet those interests. *Komosa v. Komosa*, 939 S.W.2d 479, 482 (Mo. App. E.D. 1997) ("Any state restriction which significantly interferes with the exercise of a fundamental right is subject to strict scrutiny and cannot be upheld unless it is supported by sufficiently important state interests and is closely tailored to effectuate only those interests."). See also *Manifold v. Blunt*, 863 F.2d 1368, 1373 (8th Cir. 1988) ("The application of strict scrutiny for purposes of equal protection challenges . . . involves a two-part analysis: the restriction must be necessary to serve a compelling state interest, and may not go beyond what the state's interest actually requires.").

B. Voting is a Fundamental Right, Particularly under the Missouri Constitution.

The Missouri Constitution expressly guarantees that "all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." *Mo. Const. art. I, sec. 25*. Additionally, rather than leaving the issue of voter qualification to the legislature, the Missouri Constitution has established an exclusive list of qualifications necessary to vote in Missouri. *Mo. Const. art. VIII, sec. 2* ("All citizens of the United States . . . over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if . . . they are registered within the time prescribed by law"). These constitutional provisions establish with unmistakable clarity that the right to vote is fundamental to Missouri citizens.(FN14)

The express constitutional protection of the right to vote differentiates the Missouri constitution from its federal counterpart. Federal courts also have consistently held that the right to vote is equally fundamental under the United States Constitution. See, e.g., *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) ("The right to vote freely for the candidate of one's choice is of the essence of a democratic society"); *Wesberry v. Sanders*, 376 U.S. 1, 17-18 (1964) ("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live"). But, the right to vote in state elections is conferred under federal law only by implication, not by express guarantee. See *Harper v. Virginia State Bd. Elections*, 383 U.S. 663, 665 (1966) ("the right to vote in state elections is nowhere expressly mentioned" in the United States Constitution).

Moreover, the qualifications for voting under the federal system are left to legislative determination, not constitutionally enshrined, as they are in Missouri. Compare U.S. Const. art. I, sec. 2 (providing that "Electors" shall be equivalent to those for state positions) with *Mo. Const. art. VIII, sec. 2* (establishing exclusive qualifications for voting in Missouri).(FN15) Compare also U.S. Const. amend. XV (protecting right to vote from abridgment "on account of race, color or previous condition of servitude") with *Mo. Const. art. I, sec. 25* (protecting right to vote from all "power, civil or military" that "interferes to prevent the free exercise of the right of suffrage").

Due to the more expansive and concrete protections of the right to vote under the Missouri Constitution, voting rights are an area where our state constitution provides greater protection than its federal counterpart. See *California v. Ramos*, 463 U.S. 992, 1013-14 ("It is elementary that States are free to provide greater protections . . . than the [f]ederal Constitution requires."); *State v. Rushing*, 935 S.W.2d 30, 34 (Mo. banc 1996) ("Provisions of our state constitution may be construed to provide more expansive protections than comparable federal constitutional provisions."); *State ex rel. J.D.S. v. Edwards*, 574 S.W.2d 405, 409 (Mo. banc 1978) (holding that Missouri Constitution due process and equal protection clauses provide more protection than United States Constitution where United States Supreme Court precedent "dilute[s] these important rights").(FN16)

Of course, some regulation of the voting process is necessary to protect the right to vote itself. Such regulations are in place in all state and federal elections, and the Missouri Constitution further specifically delegates to the legislature the right to regulate registration. *Mo. Const. art. VIII, sec. 5*. In addition, many matters may tangentially affect voting, such as rules regarding who may run for office and how candidates are listed on ballots. For this reason, the extent of the burden this statute imposes on the right to vote must be evaluated before determining the level of scrutiny it will receive.

C. SB 1014's Photo-ID Requirement Burdens Missourians' Fundamental Right to Vote.

The record supports the trial court's determination that SB 1014's Photo-ID Requirement places a burden on the right of Missourians to vote. As set out at length above, it requires each of the individual plaintiffs in this case to present a Missouri driver's license, a Missouri non-driver's license, or a United States passport on election day in order to vote. *Sec. 115.427.1*. The record reveals that between 3 and 4 percent of Missouri citizens (estimates vary from 169,215 to 240,000 individuals) lack the requisite photo ID. Appellants concede that many of these citizens, including all of the individual plaintiffs in this case, are eligible to vote and, in many cases, are already registered to vote. Nevertheless, under the new law these eligible registered voters will not be able to cast a regular ballot (or after 2008 any ballot at all) unless they undertake to obtain one of the requisite photo IDs. This will constitute a dramatic increase in provisional ballots over the previous law, as only 8,000 provisional ballots were cast statewide in the 2004 general election.(FN17) As conceded by Appellants, denial of the right to vote to these Missourians is more than a *de minimis* burden on their suffrage.(FN18)

It is to these citizens that the Court directs its attention, as it determines whether this statute places into jeopardy their ability to exercise their fundamental right to vote under article I, section 25 of the Missouri Constitution. To do so, the Court must examine the required processes for them to obtain a photo ID to determine the extent of the burden it imposes on their right to vote.

1. SB 1014's Photo-ID Requirement requires payment of money to exercise the right to vote.

Those citizens who do not possess the requisite photo ID, with few exceptions, must expend money to gather the necessary

documentation to obtain it in order to exercise their right to vote. Appellants argue that because the documentation-related expenses are one step removed from obtaining the photo ID, which itself is "free," those expenses should not be considered in this Court's analysis. The fact that Missouri has waived collection of costs normally charged to persons seeking a non-driver's license does not make that license "free" if Missourians without certified copies of birth certificates or passports must still expend sums of money to obtain the license. Many voters who presently lack one of the required photo IDs would have to, at the very least, expend money to obtain a birth certificate. In Missouri, obtaining a birth certificate requires at least a \$15 payment, which, Appellants conceded at oral argument, is not a *de minimis* cost. If the citizen requires documentation beyond a birth certificate, the costs are greater.

Although this Court has not previously had occasion to evaluate the validity of putting a direct or indirect price or fee on the franchise under the Missouri Constitution, the United States Supreme Court held, in the context of addressing a \$1.50 poll tax: "Wealth or fee-paying has . . . no relation to voting qualifications; the right to vote is too precious, too fundamental to be so burdened." *Harper*, 383 U.S. at 670. While requiring payment to obtain a birth certificate is not a poll tax, as was the \$1.50 in *Harper*, it is a fee that qualified, eligible, registered voters who lack an approved photo ID are required to pay in order to exercise their right to free suffrage under the Missouri Constitution.(FN19) *Harper* makes clear that all fees that impose financial burdens on eligible citizens' right to vote, not merely poll taxes, are impermissible under federal law. There can be no lesser requirement under Missouri law.

Appellants highlight that the federal courts in Indiana and Georgia each rejected claims that photo ID requirements constitute a poll tax, see *Common Cause/Georgia v. Billups*, 439 F. Supp. 2d 1294, 1355 (N.D. Ga. 2006); *Ind. Democratic Party v. Rokita*, No. 05-CV-0634-SEB-VSS, 2006 WL 1005037, at *38 (S.D. Ind. Apr. 14, 2006), and urge this Court to do likewise.

This case stands in stark contrast to the Georgia and Indiana cases, for their decisions were largely based on those courts' findings that the parties had simply presented theoretical arguments and had failed to offer specific evidence of voters who were required to bear these costs in order to exercise their right to vote.(FN20) Plaintiffs in this case, on the other hand, offered testimony of specific Missouri voters who *will* have to incur the costs associated with birth certificates and other documentation to acquire a photo ID and vote. Specifically, Plaintiff Weinschenk will have to pay \$12 for her birth certificate; Plaintiff von Glahn, who was asked to pay \$11 for his "free" non-driver's license required to vote under the statute, will have to pay another \$20 for his birth certificate. Others, like Plaintiff Mullaney, may have to incur more substantial costs for additional documentation because their names have changed since their birth. Additionally, elections officials testified to the substantial number of other otherwise qualified Missouri voters who also must pay a fee in order to vote.

Based on this evidence, the trial court found that this cost was directly connected to Plaintiffs' exercise of the right to vote. The trial court also found that the citizens who currently lack the requisite photo ID are generally "the least equipped to bear the costs." For Missourians who live beneath the poverty line, the \$15 they must pay in order to obtain their birth certificates and vote is \$15 that they must subtract from their meager ability to feed, shelter, and clothe their families. The exercise of fundamental rights cannot be conditioned upon financial expense. Cf. *Griffin v. Illinois*, 351 U.S. 12, 16-19 (1956) (holding that due process and equal protection require that indigent defendants are entitled to pursue appeals without payment of costs). In this case, Plaintiffs proved that these costs must be incurred for citizens who lack the SB 1014 mandated photo IDs to exercise their right to vote.

2. SB 1014's Photo-ID Requirement requires time and ability to navigate bureaucracies in order to vote.

Persons who wish to vote who do not already have the requisite photo IDs must arrange to obtain them by presenting a birth certificate or passport and, if necessary, proof of name changes. To do so requires both funds and advance planning to allow for the six to eight weeks that the record shows it takes to obtain a Missouri birth certificate (which is more time than exists between the date of this decision and the next general election). Once the birth certificate is in hand, the voter must use it to obtain one of the requisite photo IDs. "This is plainly a cumbersome procedure." *Harman v. Forssenius*, 380 U.S. 528, 541 (1965) (holding that six-month advance registration to avoid poll tax unduly burdened the right to vote). Those things that require substantial planning in advance of an election to preserve the right to vote can tend to "eliminate from the franchise a substantial number of voters who did not plan so far ahead." *Id.* at 539-40.(FN21)

Evaluating a similar procedure mandated by the Georgia photo ID law (which was found to violate the federal constitution), a Georgia federal district court concluded that "many voters who are elderly, disabled, or have certain physical or mental problems simply cannot navigate that process or any long waits successfully." *Common Cause/Georgia*, 439 F. Supp. 2d at 1347.

As it will require payment of money and significant advance planning to obtain necessary documentation, the Photo-ID Requirement is an "onerous procedural requirement which effectively handicap[s] exercise of the franchise." *Lane v. Wilson*, 307 U.S. 268, 275 (1939).(FN22) It is undisputed that between 3 and 4 percent of the population, some 169,000 to 240,000 Missourians, and each of the individual plaintiffs here, currently do not possess the type of photo ID required by SB 1014 to obtain a regular ballot to vote. This Court agrees with the trial court that the Photo-ID Requirement of SB 1014 represents a heavy and substantial burden on Missourians' free exercise of the right of suffrage.

D. SB 1014's Photo-ID Requirement is Subject to Strict Scrutiny.

In light of the substantial burden that the Photo-ID Requirement places upon the right to vote, the statute is subject to strict scrutiny. This is consistent with the past decisions of Missouri courts, which have uniformly applied strict scrutiny to statutes impinging upon the right to vote.(FN23)

Missouri election-law cases in which strict scrutiny was not applied simply recognize, as does this Court today, that

reasonable regulation of the voting process and of registration procedures is necessary to protect the right to vote.(FN24) So long as those regulations do not impose a heavy burden on the right to vote, they will be upheld provided they are rationally related to a legitimate state interest. If the regulations place a heavy burden on the right to vote, as here, our constitution requires that they be subject to strict scrutiny.

Appellants' argument that this Court should not apply strict scrutiny but should apply a "flexible" test for examining voting restrictions such as that announced by the United States Supreme Court in *Burdick v. Takushi*, 504 U.S. 428 (1992), also is not persuasive. Here, the issue is constitutionality under Missouri's Constitution, not under the United States Constitution. Even under *Burdick's* "flexible" test, however, a court will "weigh the character and magnitude of the asserted injury to the rights protected . . . against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights." *Id.* at 434. When those rights are subject to "reasonable nondiscriminatory restrictions," rational basis scrutiny applies. *Id.* When those rights are subject to "severe restrictions," the Supreme Court has directed that strict scrutiny applies. *Id.* Because, here, the restrictions on the right to vote are severe, strict scrutiny would also adhere under the federal constitutional provision. Several federal courts that have evaluated these types of burdens on the right to vote since *Burdick* are in accord that strict scrutiny must apply to direct burdens on the right to vote. See *Republican Party of Arkansas v. Faulkner County, Arkansas*, 49 F.3d 1289, 1298-99 (8th Cir. 1995) (applying strict scrutiny to Arkansas requirement that political parties conduct and pay for primary elections because such provisions had the effect of forcing "many voters who wish[ed] to vote in the Republican primary to vote either in the Democratic primary or not at all," thereby burdening "the ability of persons to exercise their right to vote for the person or persons of their choice.")(FN25)

Applying strict scrutiny, the issues are whether the burden that SB 1014's Photo-ID Requirement places upon Missourians' fundamental right to vote serves a compelling state interest and whether it is necessary and narrowly tailored to accomplish that interest. *Komosa*, 939 S.W.2d at 482.

E. Missouri has a Compelling Interest in Combating Election Fraud

Missouri's broad interests in preserving the integrity of the election process and combating voter fraud are significant, compelling and important.

F. SB 1014's Photo-ID Requirement is Not Necessary or Narrowly Tailored to Meeting the State's Compelling Interest in Preventing Impersonation Fraud at the Polling Place.

Recognizing that the State does have compelling interests in preserving electoral integrity and combating voter fraud, the issue becomes whether the record shows that the type of Photo-ID Requirement enacted in SB 1014 "is necessary to accomplish a compelling state interest." *Etling*, 92 S.W.3d at 774. Because, for the reasons set out above, this Court has found that the Photo-ID Requirement imposes a severe burden on the right to vote, it can survive strict scrutiny only by showing it is necessary to accomplish a compelling state interest or that it is "narrowly drawn to express the compelling state interest at stake." *In re Norton*, 123 S.W.3d at 173.

Yet, Appellants do not demonstrate that SB 1014's requirement of state or federally issued, non-expired photo IDs is strictly necessary or narrowly tailored to accomplish the State's asserted interests. To the contrary, Appellants concede that the only type of voter fraud that the Photo-ID Requirement prevents is in-person voter impersonation fraud at the polling place. It does not address absentee voting fraud or fraud in registration. While the Photo-ID Requirement may provide some additional protection against voter impersonation fraud, the evidence below demonstrates that the Photo-ID Requirement is not "necessary" to accomplish this goal. As the trial court found: "No evidence was presented that voter impersonation fraud exists to any substantial degree in Missouri. In fact, the evidence that was presented indicates that voter impersonation fraud is not a problem in Missouri."(FN26)

The only evidence that Appellants marshal of voter impersonation fraud occurred *prior* to the enactment of identification requirements in 2002. The 2002 identification law, enacted in response to the federal HAVA law, required voters to present some proof of identity or residence when they arrived at the polling place. The list of acceptable identification under the 2002 requirements is much broader than the three types of photo ID that SB 1014 allows and included a utility bill, bank statement, expired passport, out-of-state driver's license, and other commonly available documents of identification. *Sec. 115.427, RSMo Supp. 2005.*

Although Appellants protest that some of the approved identification documents under the 2002 law do not provide proof of eligibility to vote, neither does the Photo-ID Requirement. The Photo-ID Requirement assists in prevention of voter impersonation, but the evidence reveals that the 2002 requirements, which are much less restrictive on the right to vote, have been sufficient to prevent this type of fraud. These facts compel the conclusion that the Photo-ID Requirement is not "necessary to accomplish a compelling state interest."

The conclusion that the Photo-ID Requirement is not necessary to serve the State's asserted end should not be taken as an indication that the State's interest in combating voter fraud is insubstantial. Indeed, legislative efforts to combat the types of voter fraud and opportunities for voter fraud that persist in Missouri, such as absentee ballot fraud, voter intimidation, and inflated voter registration rolls, should be encouraged. Where the legislature places a heavy burden on the right to vote, however, the Missouri Constitution requires that the burden be justified by a compelling interest and the statute be narrowly tailored or necessary to accomplish the statutory goals. The Photo-ID Requirement could only prevent a particular type of voter fraud that the record does not show is occurring in Missouri, yet it would place a heavy burden on the free exercise of the franchise for many citizens of this State.(FN27)

Appellants also urge that the State has a compelling interest in combating perceptions of voter fraud. While the State does have an interest in combating those perceptions, where the fundamental rights of Missouri citizens are at stake, more than mere perception is required for their abridgement.(FN28) Perceptions are malleable. While it is agreed here that the State's concern about the perception of fraud is real, if this Court were to approve the placement of severe restrictions on Missourians' fundamental rights owing to the mere perception of a problem in this instance, then the tactic of shaping public misperception could be used in the future as a mechanism for further burdening the right to vote or other fundamental rights. Moreover, the public could believe that the new law has prevented fraud in Missouri elections, whereas the type of fraud that has been shown to exist – fraud in registration and in absentee ballots – is not addressed by the Photo-ID Requirement and may still need resolution. *See Jo Mannies, Suspect Voter Cards Found, St. Louis Post-Dispatch, Oct. 11, 2006, at A1.* The protection of our most precious state constitutional rights must not founder in the tumultuous tides of public misperception. For these reasons, this Court holds that the Photo-ID Requirement violates the equal protection clause of the *Missouri Constitution, article I, section 2.*

III. SEVERABILITY

Recognizing that it will take time for many Missouri voters to obtain the photo ID required under SB 1014, the legislature enacted a transitional provision that allows voters who lack the requisite photo ID to cast a provisional ballot in certain elections between now and November 2008.(FN29) During this transitional period, an otherwise qualified voter who lacks the requisite photo ID can cast a provisional ballot after presenting one of the many forms of identification that could be presented under the previous version of section 115.427. *Sec. 115.247.13.* As with the provisional ballots cast under the exception to the Photo-ID Requirement discussed in Section I above, for a transitional-period provisional ballot to be counted, the signature on the affidavit must match the signature on file with the election authority, however long ago the signature on file was made and without regard to any disability or infirmity of the voter. *Id.*

This Court rejects Appellants' argument that, even if constitutional infirmities exist as to the permanent provisions of the Photo-ID Requirement, the transitional provisions are severable from the permanent provisions and could go into effect despite the invalidity of the permanent provisions.

While there is a presumption that "[t]he provisions of every statute are severable," *Sec. 1.140, RSMo 2000*, if any provision of a statute is found unconstitutional, the remaining provisions cannot stand if they are "so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one." *Id.* In other words, "[t]he test of the right to uphold a law, some portions of which may be invalid, is whether or not in so doing, after separating that which is invalid, a law in all respects complete and susceptible of constitutional enforcement is left, *which the Legislature would have enacted if it had known that the excinded portions were invalid.*" *State ex rel. Audrain County v. Hackmann, 205 S.W. 12, 14 (Mo. banc 1918)* (emphasis added); *accord City of Springfield v. Sprint Spectrum, L.P., --- S.W.3d ---, (Mo. banc 2006), 2006 WL 2257073, *8.*

The transitional provision of SB 1014's Photo-ID Requirement is just that: transitional. After November 2008, Missouri voters who lack the requisite photo ID will no longer be able to vote, by provisional ballot or otherwise unless they fall within the limited class of voters allowed to cast a provisional ballot under section 115.427.3's exception to the Photo-ID Requirement discussed in Section I above. Nothing in SB 1014 suggests that the legislature would have enacted the transitional provisions without the permanent provisions. The transitional provisions are enacted as part of the same section, 115.427, as the permanent provisions and provide only a temporary exception to the otherwise valid and currently enforceable Photo-ID Requirement. Nothing in this section suggests that the legislature would have enacted *only* this transitional provision if it believed the law would simply revert to the previous statute after the transition ended in November 2008. A transition is inherently a step towards an end, not an end in itself.

Since the transitional provisions are "so essentially and inseparably connected with, and so dependent upon" the permanent provisions, *Sec. 1.140, RSMo 2000*, these transitional provisions cannot be severed. While the legislature may remedy the constitutional problems that assail SB 1014's Photo-ID Requirement, the Court cannot speculate as to the terms of some new statute as yet not enacted.

Partly in response to Appellants' contention that the interim provisions of section 115.427 are severable from the remainder of that section, Plaintiffs make the additional argument that SB 1014 allows provisional voting (both the type allowed under the transitional provisions and the type allowed under section 115.427.3's exception to the Photo-ID Requirement discussed above) *only* at federal elections and in primaries. If this is the case, it would present an additional and serious constitutional problem.

When provisional balloting was first instituted in Missouri in 2002, it was permitted only for primary and general elections in which candidates for federal or statewide offices were nominated or elected and for any election in which statewide issues were submitted to the voters. *See sec. 115.430.1, RSMo Supp. 2005.* The procedures for counting such ballots were set out in section 115.430. *Id.*

The provisional voting permissible under SB 1014's Photo-ID Requirement states that such provisional ballots "shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast." *Sec. 115.427.13; accord Sec. 115.427.3.* The only statutory method of determining eligibility of those who cast such provisional ballots is pursuant to section 115.430. But, whether intentionally or through oversight, the legislature chose not to amend or delete subsection 115.430.1, which still provides that determining eligibility and counting provisional ballots may be made under that section only in primaries and statewide or federal

elections.

The result is that either there is no provisional voting in local elections when the two provisions are read *in pari materia* or else there is provisional balloting in such elections, but the statutes provide no means of determining the eligibility of those provisional voters and no safeguards for collecting and counting those votes, which would itself present serious constitutional problems. The dissent suggests a third approach: that the "internal inconsistency" in section 115.430 should be harmonized by reading the reference to section 115.427 in 115.430.2 to expand the scope of 115.430 to encompass "any election." This interpretation would read section 115.430.1 out of the statute completely, which this Court is not permitted to do. *Kearney Special Road Dist. v. County of Clay*, 863 S.W.2d 841, 842 (Mo. banc 1993) ("Where language of a statute is clear, courts must give effect to the language as written. Courts are without authority to read into a statute a legislative intent contrary to the intent made evident by the plain language.") (citations omitted). In any event, since section 115.427 is stricken on other grounds, this Court need not conclusively resolve the issue regarding how to interpret these incongruous provisions and leaves it to the legislature to clarify them.

Thus, without deciding the issue of whether the interim provisional ballots (or those provisional ballots available under section 115.427.3's exception to the Photo-ID Requirement) are available only for federal or statewide elections and primaries, the Court holds that the transitional provisions of section 115.427.13 must be struck down together with the permanent provisions of SB 1014's Photo-ID Requirement because the former is not severable from the latter.

IV. RIPENESS

The dissent characterizes this Court's holding that the statute's Photo-ID Requirement, which currently governs all elections in Missouri, is unconstitutional as "a straightforward violation of the ripeness doctrine." Not so. First, the dissent's analysis depends upon the severability of the transitional provisions. As this Court determines that the transitional provisions are not severable from the permanent provisions, it need not (and does not) reach the question of the constitutionality of the transitional provisions.

Second, even were the transitional provisions severable, an evaluation of the constitutionality of the permanent provisions would be ripe. To be ripe for judicial determination, a controversy must be "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Missouri Health Care Ass'n v. Attorney General of the State of Mo.*, 953 S.W.2d 617, 620 (Mo. banc 1997). "[C]onstitutional challenges to laws [are] ripe when the facts necessary to adjudicate the underlying claims were fully developed and the laws at issue were affecting the plaintiffs in a manner that gave rise to an immediate, concrete dispute." *Id.* The Photo-ID Requirement unmistakably meets this standard.

If the Photo-ID Requirement is valid and enforceable, Missouri voters must take action and incur costs now, or at least before the transitional period ends in November 2008, in order to secure their ability to vote in the future. The transitional provisions central to the dissent merely provide a temporary alternative to the costly and burdensome procedure required under the permanent provisions to obtain an approved photo ID. Consequently, the dispute regarding the constitutionality of the Photo-ID Requirement is immediate and concrete.

Furthermore, the types of photo ID one must obtain, the procedures one must follow to obtain them, and the cost of any required supporting documentation were proved with sufficient certainty to the trial court. The only "fact" that the dissent posits is not fully developed is whether the legislature will take any future action that could possibly bring the statute into compliance with Missouri's constitutional commands. This is no fact at all, and certainly no barrier to this Court's determination of the constitutionality of this statute, which is presently in effect. While this Court shares the hope that the legislature will be able to rectify the problems identified here and pass a constitutional law that is less burdensome on the right to vote, the version of section 115.427 now in effect is the only one ripe for judicial consideration.

V. CONCLUSION

The Missouri Constitution provides a specific provision that enshrines the right to vote among certain enumerated constitutional rights of its citizens. *Mo. Const. art. I, sec. 25*. SB 1014's Photo-ID Requirement creates a heavy burden on the right to vote and is not narrowly tailored to meet a compelling state interest, so it falls afoul of the Missouri Constitution's equal protection clause, *Mo. Const. art. I, sec. 2*, and of Missourians' specific constitutional protection of the right to vote. *Mo. Const. art. I, sec. 25*. For these reasons, the trial court judgment is affirmed.

Footnotes:

FN1. Plaintiffs filed a petition against the State of Missouri and Secretary of State Robin Carnahan (who appears on appeal as a Respondent) seeking a declaratory judgment that SB 1014 was unconstitutional. Dale Morris and Senator Delbert Scott were granted permission to intervene. The Court compliments all counsel and the trial court for their excellent analyses of the complex legal issues here presented in the short time available to them.

FN2. Unless otherwise noted, references to section 115.427 are to 2006 Mo. Laws 728-32.

FN3. Codified at *sec. 115.427, RSMo Supp. 2005*.

FN4. Section 115.427 was amended in 2002 to add a requirement that "voters shall identify themselves by presenting a form of personal identification" from the list enumerated in the statute. *Sec. 115.427.1, RSMo Supp. 2005*. Prior to this amendment, state law did not generally require Missouri voters to present any identification in order to vote. The 2002 amendment brought Missouri into compliance with the Help America Vote Act ("HAVA"), passed by Congress in 2002. The list of

acceptable forms of identification included in Missouri's pre-2006 statutes are drawn directly from HAVA. See *Help America Vote Act, Pub. L. No. 107-252, 116 Stat. 1666*.

FN5. SB 1014 also contains transitional provisions that would allow voters who lack the requisite photo ID to cast provisional ballots through November 1, 2008. *Sec. 115.427.13*. The transitional provisions, discussed in the dissent, will be addressed in section III below.

FN6. Under SB 1014, armed forces photo IDs, other United States-issued photo IDs, and other unspecified Missouri-issued photo IDs would also suffice to permit the voter to obtain a ballot. *Sec. 115.427.1(3) & (4)*. As those types of IDs are neither generally available to the voting public nor specifically available to the individual plaintiffs in this case, the Court's analysis will be limited to the three types of photo IDs that are generally available to all.

FN7. Simply being disabled, having a sincerely held religious belief, or being born before 1941 also is *not* enough to enable a qualified voter lacking appropriate photo ID to cast a provisional ballot. *Sec. 115.427.4*. Plaintiff Weinschenk testified below that for these reasons she could not honestly swear that *because of* one of these circumstances, she is *unable* to obtain the requisite photo ID, although to get one would be a serious burden. Swearing falsely that disability, religion or age is the reason for the lack of ID is a criminal offense. *Sec. 115.427.4* ("knowingly providing false information is a violation of law and subjects [voters] to possible criminal prosecution").

FN8. Section 115.427.12, which the dissent suggests the majority misconstrues, by its terms, only regulates the signature or mark that must be made on the precinct register when the voter appears at the polling place to vote. An additional signature or mark must be made on the provisional ballot that is cast either pursuant to section 115.427.3 or section 115.427.13. In order for the provisional ballot to be counted, it is that second signature or mark that must be verified "by comparing that individual's signature to the signature on file with the election authority." *Sec. 115.427.3; sec. 115.427.13*. The opportunity to make a mark in lieu of a signature, either on the precinct register or on the provisional ballot, makes no difference to those voters like Plaintiff Weinschenk, who uses a mark in lieu of a signature "but it's never the same." Under this statute, they are never entitled to cast a regular ballot and their provisional ballots, due to the signature match requirement, can never be counted. In light of this Court's holding on the Photo-ID Requirement, it need not separately evaluate the constitutionality of the signature match requirement. This Court is confident the legislature can find the means to address the problem this requirement presents for Missouri's disabled and aged citizens.

FN9. Plaintiffs argued in the trial court that SB 1014 violates the Missouri Constitution in that the Photo-ID Requirement (1) impermissibly adds additional qualification to vote in violation of *article VIII, section 2*; (2) interferes with free exercise of the right to vote in violation of *article I, section 25*; (3) violates Missouri's due process and equal protection clauses by requiring the payment of money to vote and by imposing an undue burden on the fundamental right to vote that is not narrowly tailored to meet a compelling state interest; and (4) violates the equal protection clause by having a disparate impact on registered voters in suspect classes and by improperly discriminating between in-person voters and absentee voters.

FN10. Plaintiffs also alleged, and the trial court found, that the cost of providing provisional ballots and other costs that municipalities were required to fund under SB 1014, imposes new mandates on local governments without appropriating state funds to cover the increased costs in violation of the *Hancock Amendment, article X, section 21*. The trial court nonetheless entered judgment on this issue in favor of Defendants because it was unclear whether it could grant statewide relief on this ground. Defendant-Appellants are, thus, not aggrieved by the trial court's dicta on this issue, and Plaintiffs have not appealed it. Therefore, this Court does not further address the Hancock issue.

FN11. Moreover, it is difficult, though not impossible, to obtain a United States passport without a birth certificate, yet many Missourians, particularly those born at home, do not have birth certificates. In the absence of a birth certificate, to obtain a United States passport, voters must provide the Department of State with: (1) a "Letter of No Record" from the state of their birth indicating that the state has searched and has no record of their birth; and (2) as many public records as they can muster from the first five years of their life showing their date *and* place of birth (e.g., baptismal, hospital, school, census records); and/or (3) a notarized affidavit of birth from an older blood relative with personal knowledge of their birth.

FN12. Unlike the birth certificate and passport requirements, which would only impact those voters who do not currently have valid photo ID, the name change burdens could also affect those voters who have one of the SB 1014-approved forms of ID, but whose names have changed between the time the ID was issued and the time they register to vote. Under SB 1014, if a valid photo ID does not match a voter's registered name, the voter must obtain a new photo ID in order to vote and, therefore, undertake the additional steps necessary to provide proof of name change.

FN13. Mr. Carol Signaigo was the Assistant Director of Elections for the City of St. Louis for twelve years and, for the past seven years, has served as a consultant to the St. Louis City Election Board. Ms. Wendy Noren, now a Boone County Clerk, served for fifteen years on the legislative committee for the Association of Missouri State County Clerks and Election

Authorities. Mr. Robert Nichols has been the Democratic Director of Elections for Jackson County Board of Election Commissioners for a little over twenty years. Ms. Judy Taylor has been the Democratic Director of Elections for St. Louis County for eight years. Ms. Betsy Byers was Deputy Secretary of State for Elections for two years and for the last five years has served as Co-Director of Elections for the Secretary of State's Office.

FN14. See, e.g., *United C.O.D. v. State*, 150 S.W.3d 311, 313 (Mo. banc 2004); *Elling*, 92 S.W.3d at 774; *Blaske v. Smith & Entozeroth, Inc.*, 821 S.W.2d 822, 829 (Mo. banc 1991); *Mullenix-St. Charles Properties, L.P. v. City of St. Charles*, 983 S.W.2d 550, 559 (Mo. App. E.D. 1998) (all recognizing that right to vote is fundamental in Missouri).

FN15. The trial court found that the Photo-ID Requirement amounted to an unconstitutional additional qualification for voting in violation of article VIII, section 2 of the Missouri Constitution. Appellants argue that it is not a qualification but necessarily agree that it is an additional showing that must be made in order to vote. Because it is not necessary to determine whether this requirement constitutes an additional "qualification," this Court does not finally resolve the issue.

FN16. See also *State ex rel. Amrine v. Roper*, 102 S.W.3d 541 (Mo. banc 2003) (holding that Missouri habeas corpus rights are broader than federal habeas corpus); *State v. Whitfield*, 107 S.W.3d 253, 267 (Mo. banc 2003) (providing standard for retroactive application of constitutional decisions in Missouri that differs from federal standard); *State v. Parker*, 836 S.W.2d 930, 942 (Mo. banc 1992) (noting that the Missouri Constitution provides more specific rights to jury service than the federal constitution so the "Missouri Constitution may require greater protection of the right") (Price, J., concurring); cf. *Doe*, 194 S.W.3d at 849 (construing Missouri's constitutional proscription on retrospective laws separately where there is no federal analogue).

FN17. Of these ballots, only 3,000 were counted.

FN18. The outcome of innumerable past races could have been affected by the votes of 3 or 4 percent of Missourians.

FN19. In the Indiana case upon which the State relies, the statute allowed indigent citizens who could not obtain free proof of identity to vote. See *Ind. Democratic Party v. Rokita*, No. 05-CV-0634-SEB-VSS, 2006 WL 1005037, at *5 (S.D. Ind. Apr. 14, 2006); see also *Ind. Code Sect. 3-11.7-5-1*. The Missouri statute offers no such indigency exception.

FN20. See *Ind. Democratic Party*, 2006 WL 1005037, at *38 (plaintiffs "provided no evidence to demonstrate that anyone will actually be required to incur this cost to vote"); *Common Cause-Georgia v. Billups*, 439 F. Supp. 2d 1294, 1355 (N.D. Ga. 2006) (plaintiffs "failed to show that any particular voter would actually be required to incur that cost in order to vote").

FN21. Indeed, one of the motivating purposes of the Twenty-fourth Amendment to the United States Constitution (which prohibits poll taxes in federal elections) was that payment of poll taxes was often required far in advance of an election, so the lengthy advance planning resulted in an undue burden on the franchise. *Harman v. Forssenius*, 380 U.S. 528, 539-40 (1965).

FN22. *Lane v. Wilson* interprets the Fifteenth Amendment to the United States Constitution, which specifically protects the right to vote from abridgement on the basis of "race, color or previous condition of servitude." Article I, section 25 of the Missouri Constitution affords greater protection to the right to vote in Missouri than the Fifteenth Amendment, so the Missouri Constitution must offer at least as much protection to our citizens as does the Fifteenth Amendment.

FN23. See, e.g., *United C.O.D.*, 150 S.W.3d at 313; *Elling*, 92 S.W.3d at 774; *Blaske*, 821 S.W.2d at 829; *Mullenix-St. Charles Properties, L.P.*, 983 S.W.2d at 559. While none of these cases involves violations of the fundamental right to vote, each notes that voting is a fundamental right, restrictions on which must survive strict scrutiny.

FN24. See *State ex rel. McClellan v. Kirkpatrick*, 504 S.W.2d 83 (Mo. banc 1974); *Totton v. Murdock*, 482 S.W.2d 65 (Mo. banc 1972); *State ex rel. Dunn v. Coburn*, 168 S.W. 956 (Mo. 1914); *State ex rel. Kirkpatrick v. Bd. of Election Comm'n*, 686 S.W.2d 888 (Mo. App. W.D. 1985); *State ex rel. Bushmeyer v. Cahill*, 575 S.W.2d 229 (Mo. App. E.D. 1978).

FN25. See also *Greidinger v. Davis*, 988 F.2d 1344, 1354 (4th Cir. 1993) (applying strict scrutiny to Virginia's voter registration scheme because conditioning a voter's right to vote on the public disclosure of the voter's social security number is a severe burden); *Common Cause-Georgia*, 439 F. Supp. 2d at 1345-51 (applying strict scrutiny to Georgia's photo-ID requirements because the unlikelihood that many Georgia voters could obtain the appropriate ID in the short time before the next election imposed a severe burden on their right to vote); *Morgan v. City of Florissant*, 147 F.3d 772, 774 (8th Cir. 1998) (whereas laws providing for the drawing of state political subdivisions warrant "review for a rational basis," laws "involving the choice of legislative representatives or imposing restrictions on voters . . . affect[] more significant rights and constitutional concerns, meriting strict-scrutiny review").

Similar to the Missouri cases, federal courts have applied rational basis review to election-law cases that do not directly burden the right to vote. See *Burdick*, 504 U.S. at 434-39 (right to candidate ballot access); *ACORN v. Bysiewicz*, 413 F. Supp. 2d 119, 143-49 (D. Conn. 2003) (constitutionality of pre-election registration requirements); *Wexler v. Anderson*, 452 F.3d 1226, 1232 (11th Cir. 2006) (constitutionality of voting machine technology); *Weber v. Shelley*, 347 F.3d 1101, 1106-07 (9th Cir. 2003) (same). These cases are distinguishable because they do not involve direct and heavy burdens on the right to vote.

FN26. While the legislature need not address all evils at one time, *Adams Ford Belton, Inc. v. Missouri Motor Vehicle Comm'n*, 946 S.W.2d 199, 202 (Mo. banc 1997), whether a law is in fact narrowly tailored to address fraud in voting necessarily requires this Court to look at what kinds of fraud in voting have been shown to exist and what kinds of fraud in voting the Photo-ID Requirement will ameliorate.

FN27. The Court shares the dissent's concern with the persistence of fraud in voter registration and absentee balloting in Missouri. Unfortunately, the Photo-ID Requirement does nothing to ameliorate those frauds. As the dissent notes, the Baker-Carter Commission report supports the general concept of a Photo-ID Requirement and the appropriate use of signature match. This Court also does not intend to suggest that no form of signature match can be constitutional or appropriate, but rather that the form utilized here presents problems that provide further support for its determination that section 115.427 is invalid. The Court notes that, although former President Carter, co-author of the commission report, did not specifically criticize SB 1014's signature match requirement, he did state that SB 1014 does not meet commission standards.

FN28. Appellants cite to First Amendment cases addressing campaign finance restrictions to support their contention that the perception of fraud or corruption should be entitled to greater weight. See, e.g., *McCormell v. Federal Election Comm'n*, 540 U.S. 93, 143 (2003) ("the prevention of corruption or its appearance constitutes a sufficiently important interest"). In the context of campaign finance reform, the appearance of corruption arises directly from the extensive financial contributions made to political candidates by those with a stake in legislative decisions. The statutes under review in campaign finance cases are all narrowly tailored to address and limit those contributions. Even though the United States Supreme Court has recognized the importance of combating the appearance of corruption, it has nonetheless invalidated many of these statutes precisely because they impose a severe and undue burden on fundamental rights under the First Amendment. See, e.g., *Randall v. Sorrell*, --- U.S. ---, 126 S. Ct. 2479, 2486 (2006) (holding that campaign finance restrictions are unconstitutional because "they impose burdens upon First Amendment interests that . . . are disproportionately severe"). Unlike the campaign finance laws, the Photo-ID Requirement does not address any perception of voter fraud with precision, nor is it necessary to solve the existing voter fraud problems. On these facts, perceptions alone are insufficient to justify substantial burdens on fundamental rights.

FN29. The permanent provisions of SB 1014's Photo-ID Requirement have been in full effect since the enactment of SB 1014. The transitional provision merely provides an alternative method of voting (by provisional ballot instead of regular ballot) for persons who lack the appropriate photo-ID during the transitional period.

Separate Opinion:

Dissenting opinion by Stephen N. Limbaugh, Jr., Judge:

I respectfully dissent.

Whatever the deficiencies in the Missouri Voter Protection Act (MVPA), whether real or imagined, the allowance for provisional voting cures all, at least during the two-year transition period before the general election in 2008. Until that time, every person who is properly registered to vote will be allowed to do so, even without a valid photographic identification (photo ID), and indeed, every person who would have been allowed to vote before the enactment of the MVPA will be allowed to do so just as before. Those persons who have no photo ID can cast a provisional ballot using the same, simple means of identification that have been required since 2002, and all provisional ballots properly cast will be counted. In addition, a determination of the constitutionality of the photo ID provisions of the Act as it applies after the two-year transition period is not yet ripe for adjudication, because it may well be that the General Assembly, in the interim, will act to alleviate the perceived deficiencies.

I.

As the majority notes, provisional balloting statutes were first enacted by the General Assembly in 2002 in response to the mandate of the federal "Help America Vote Act," (HAVA), 42 U.S.C. sec. 15482. HAVA requires that states provide a "fail-safe" procedure for voting so that a person whose registration or identity is challenged can cast a provisional vote that will be counted if it is later determined that the person was indeed entitled to vote. In pertinent part, HAVA states:

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is:

(A) a registered voter in the jurisdiction in which the individual desires to vote; and
(B) eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained

in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.

Missouri's provisional voting statutes are in full accord with HAVA. In particular, section 115.427.13, RSMo Supp. 2006, the provisional voting statute that applies to persons who do not present a valid photo ID when voting in elections during the two-year transition period, states:

13. For any election held on or before November 1, 2008, an individual who appears at a polling place without identification in the form described in subsection 1 of this section, and who is otherwise qualified to vote at that polling place, may cast a provisional ballot after:

(1) Executing an affidavit which is also signed by two supervising election judges, one from each major political party, who attest that they have personal knowledge of the identity of the voter, provided that the two supervising election judges who sign an affidavit under this subdivision shall not be involved or participate in the verification of the voter's eligibility by the election authority after the provisional ballot is cast; or

(2) (a) Executing an affidavit affirming his or her identity; and

(b) Presenting a form of identification from the following list:

a. Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

b. Identification issued by the United States government or agency thereof;

c. Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

d. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that contains the name and address of the voter; or

e. Driver's license or state identification card issued by another state.

Such provisional ballot shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

Under the voting laws in effect before the enactment of the MVPA, all regular voters were required to present one of several approved forms of identification, which included certain non-photo IDs. Sec. 115.427.1, RSMo Supp. 2002.(FN1) Now, under the transitional provisional voting sections of the MVPA, individuals may still vote by presenting the same forms of non-photo ID that were permitted before the enactment of MVPA – even "a copy of a current utility bill, bank statement, government check" Sec. 115.427.13. The only difference is that voters who present a form of identification other than an approved photo ID must also sign a simple two-sentence form affidavit available at the polling place swearing to the fact that they are who they say they are. Sec. 115.427.14, RSMo Supp. 2006. Then, once the affidavit signature is verified "by comparing that individual's signature to the current signature on file with the election authority," the provisional ballot "shall be counted." This provisional voting procedure of "written affirmation" and "prompt verification" of that affirmation – mandated by HAVA – is no real burden on an individual's right to vote.

A.

Although the majority makes clear that it is not holding the provisional voting sections unconstitutional, it suggests, nonetheless, that the provisional voting procedures may present a constitutional issue. The stated concern is that "no exception to the signature match requirement is made for Missourians who are unable, because of disability or age, to make a signature or whose signature has changed due to age or the passage of time since they made their original signature when they initially registered to vote."

Tellingly, the majority cites no authority whatsoever that a signature match requirement is a constitutionally impermissible means to verify a voter's identity. After all, the signature match requirement was taken directly from the report of the Commission of Federal Election Reform co-chaired by former President Jimmy Carter and former Secretary of State James A. Baker, Jr. In particular, section 2.5.3 of that report states:

We recommend that until January 1, 2010, states allow voters without a valid photo ID card (Real or EAC-template ID) to vote, using a provisional ballot by signing an affidavit under penalty of perjury. The signature would then be matched with the digital image of the voter's signature on file in the voter registration database, and if the match is positive, the provisional ballot should be counted. ...

Except for providing a digital image of the voter's signature from the voter registration database, the MVPA signature match provisions are exactly the same.

The majority appears particularly troubled by allegations that voters who cannot make a signature will be disenfranchised. However, section 115.427.12, which the majority disavows, adequately addresses that concern. That section provides:

If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate place on the precinct register, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

Section 115.427.12 allows voters to sign by mark on the voter's identification certificate in section 115.427.9, which is the sworn oath confirming the voter's identity and registration that all voters must sign before receiving a regular ballot. The "mark" provision of section 115.427.12 necessarily applies as well to the provisional voter affidavit because that affidavit is used in lieu of the voter's identification certificate for those voters casting a provisional ballot under section 115.427.13. (FN2) There are at least three rules of statutory construction that compel this conclusion. First, because these sections relate to the same subject matter, they must be read *in pari materia*, that is, they must be interpreted harmoniously and consistently with each other. *Baldwin v. Director of Revenue*, 38 S.W.3d 401, 403 (Mo. banc 2001). Second, these sections must be construed liberally in support of the fundamental right to vote. *State ex rel. School Dist. of City of Jefferson, Cole County v. Holman*, 349 S.W.2d 945, 947 (Mo. banc 1961). And third, these sections must be construed "in light of a strong presumption of a statute's validity," and this Court will "make every reasonable intendment" to that end. *Reproductive Health Services v. Nixon*, 185 S.W.3d 685, 688 (Mo. banc 2006). When sections 115.427.12 and 115.427.13 are construed in these ways, all voters who cannot make a signature, whether regular or provisional, may make their mark with the assistance of an election judge.

Regardless, the majority still complains that the provisional ballots of voters who sign their ballot affidavits by mark will not be counted because there can be no signature match of a mark. Again, the majority seems unwilling to read these interconnected voting statutes *in pari materia* and to construe them liberally in support of the fundamental right to vote and in view of the presumption of constitutionality. In my mind, just as signing by mark is an exception to the signature requirement to prove one's identity for registering (sec. 115.161) and for voting (sec. 115.427.12), so too it is implicitly an exception to the signature match requirement to prove one's identity for provisional voting. Having allowed voters who cannot make a signature to sign by mark, the General Assembly surely cannot have intended that those persons are nonetheless subject to a signature match. Indeed, to submit voters who sign by mark to a signature match would be an absurd construction of the statute and would lead to the absurd conclusion that their provisional ballots would not be counted. That result, however, would not obtain under the above rules of construction, not to mention the corollary rule of construction that it is presumed "that the legislature did not intend to enact an absurd law." *Care and Treatment of Schottel v. State*, 159 S.W.3d 836, 842 (Mo. banc 2005). In these instances I would hold that the identity of a voter who cannot sign by signature is established simply by the mark, the witness thereto, and the presentation of an otherwise approved non-photo ID.

B.

The majority also suggests that provisional voting requirements will not apply in municipal and local elections (as opposed to primary and general elections) because "[t]he only method of determining eligibility of those who cast such provisional ballots is pursuant to section 115.430," which by its terms, "shall apply to primary and general elections. . . ." However, section 115.427.13 expressly states that an individual appearing without a photo ID may cast a provisional ballot in "any election held on or before November 1, 2008 . . ." (emphasis added). That said, section 115.430 is internally inconsistent. On one hand, it states that its provisions "shall apply to primary and general elections," and, on the other hand, it states that "a voter . . . shall be entitled to vote a provisional ballot . . . upon executing an affidavit under section 115.427," which, as noted, allows provisional voting in *any* election. However, reading these sections *in pari materia*, the discrepancy may properly be resolved and the statutes harmonized by reference to the fact that section 115.430 was later amended, as part of the MVPA, to relate back to section 115.427, thus expanding the scope of section 115.430 to encompass "any election." Alternatively, the doctrine of repeal by implication controls. This Court has consistently held that when two statutory provisions are repugnant, "the later act . . . operates to the extent of the repugnancy to repeal the first." *Morrow v. City of Kansas City*, 788 S.W.2d 278, 281 (Mo. banc 1990). The doctrine has classic application to this case: Because section 115.430 was amended to incorporate section 115.427 and that section's application to "any election," the amendment to section 115.430 served to repeal by implication section 115.430's limitation to primary and general elections.

C.

Ultimately, the majority disallows the two-year transition provisions not because of the signature match issue or the local and municipal election issue, but instead because the two-year transition provisions are not severable from the permanent provisions that become effective for the November 2008 elections. The controlling authority, section 1.140, RSMo, states as follows:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

As interpreted by this Court, section 1.140 means that all "statutes are presumptively severable." *General Motors Corp. v. Director of Revenue*, 981 S.W.2d 561, 568 (Mo. banc 1998).

The majority holds that because the permanent photo ID sections in SB 1014 fail, the two-year transitional provisions must fail as well, as those provisions are "so essentially and inseparably connected with and so dependent upon" the permanent

sections. There is no claim, however, that "the valid provisions [the two-year transitional sections] standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent," and clearly those sections can in fact stand alone and are in fact complete and capable of being executed in accordance with the legislative intent. Instead, the majority claims that "[n]othing in SB 1014 suggests that the legislature would have enacted the transitional provisions without the permanent provisions."

To the contrary, had the General Assembly truly intended the transitional provisions set out in section 115.427.13 to be nonseverable, it would have said so expressly, just as it did in section 115.427.11, a companion section enacted as part of the very same bill, SB 1014. Section 115.427.11, which pertains to the secretary of state's authority to promulgate administrative rules "to effectuate the provisions of this section [115.427.10]" states:

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo [the Administrative Procedure Act as it relates to the procedures for promulgating administrative rules], and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are NONSEVERABLE. . . ." (emphasis added).

The clear implication of the General Assembly's express nonseverability declaration is that the other sections, including section 115.427.13, none of which contain such a declaration, remain severable in accordance with the statutory presumption in section 1.140.

Even without that clear implication, there is ample good reason to abide by the statutory presumption. In all likelihood, the General Assembly would have intended for the transitional provisions to be in effect for only two years despite the invalidity of the permanent provisions, because at least the voting public would have had the benefit of the photo ID requirement during that time, albeit in a more restricted format. In addition, the transitional provisions, with their allowance for extensive provisional voting, have the apparent purpose to "buy time" for the General Assembly to correct any constitutional infirmities in the permanent provisions of the statute that the courts might discover during the two-year interim period. That contingency, of course, has been borne out in this very case. The majority's reasoning in this regard, however – that "The transitional provision[s] . . . are] just that: transitional" – is altogether empty, as it would assign no purpose at all to the transitional provisions. And if the majority is thus unable to identify a purpose to the transitional provisions that would justify overcoming the presumption of severability, then how can it be fairly said that the presumption has been overcome?

In the final analysis, perhaps the best recitation of the notion of severability, and the most accurate capsulization of the words of section 1.140, is found in the jurisprudence of the United States Supreme Court, stated most recently in *Ayotte v. Planned Parenthood of Northern New England*, _ U.S._, 126 S. Ct. 961, 968 (2006): "After finding an application or portion of a statute unconstitutional, we must next ask: Would the legislature have preferred what is left of its statute to no statute at all?" In this case, I have no doubt that the legislature's answer would be a resounding yes.

D.

In sum, I would hold that provisional voting during the transitional two-year period is not constitutionally infirm, that the allowance for provisional voting during that period precludes any legitimate claim of voter disenfranchisement, and that the transitional provisions are severable.

II.

Because the permanent provisions of the MVPA do not take effect until the general election in November of 2008, any decision on the constitutionality of that part of the Act is premature. Relief granted by way of a declaratory judgment is not available "to adjudicate hypothetical or speculative situations which may never come to pass." *State ex rel. Nixon v. American Tobacco Co., Inc.*, 34 S.W.3d 122, 128 (Mo. banc 2000), citing *Farm Bureau Town & Country Ins. Co. v. Angoff*, 909 S.W.2d 348, 352 (Mo. banc 1995). Said another way, a declaratory judgment requires a justiciable controversy, which means, in part, that the controversy is ripe for judicial determination. *Missouri Health Care Ass'n v. Attorney General of the State of Mo.*, 953 S.W.2d 617, 620 (Mo. banc 1997). To be ripe, a controversy must be "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Id.* at 621. Moreover, a controversy is only ripe "if the parties' dispute is developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief of a conclusive character." *Id.*

Although the majority claims that "Missourians must take action and incur costs now," it then concedes that the real deadline is a full two years from now. And although the majority is correct that the statute is presently in effect, two years will pass before the parts of the statute the majority finds unconstitutional will be implemented. Until that time, no harm, real or imagined, will come to any voter. In the meantime, however, the evidence on which the trial court based its findings and judgment is subject to significant change. For instance, plaintiffs' primary grievance – that the cost of securing birth certificates or other forms of suitable identification in order to obtain a "free" photo ID is an undue burden on the right to vote – may well be satisfactorily addressed by the General Assembly during its upcoming sessions. If so, the trial court and this Court would be hard pressed to maintain that the statute is unconstitutional. Given the two-year transition period, there is no immediacy to the controversy, no possibility for an accurate determination of the facts, and no way to grant relief specific to the alleged harm. To declare the statute unconstitutional under these circumstances is a straightforward violation of the ripeness doctrine.

III.

Although I would not reach the merits of the claim against the permanent provisions of the MVPA due to lack of ripeness, I cannot leave unchallenged the majority's incomplete recitation of the facts pertaining to the existence of voter fraud and the

need for a photo ID system to combat that fraud. According to the majority, there has been no fraud in the polling places; thus no need to prevent it. But the evidence, in part, is this: In an investigative report issued after the 2000 presidential election by outgoing Secretary of State Rebecca McDowell Cook, and introduced in evidence in this case, "135 people who were not registered to vote were permitted to vote at a polling place without a court order and without apparent authorization from [an election] Board Official." A subsequent report from then Secretary of State Matt Blunt noted, as even the plaintiffs have acknowledged here, that 79 voters registered from vacant lots, 45 people voted twice, and 14 votes were cast by the "dead." Further, as part of a federal investigation in the aftermath of the 2000 election, the United States Department of Justice found a stunningly large number of duplicate and ineligible voter registrations throughout the state. According to that report,

[A] comparison of State voter registration data posted on the website of the Missouri Secretary of State with data from the United States Census Bureau indicates that at least 34 (nearly one-third) of the election jurisdictions in Missouri had more registered voters in November 2004 than there were persons of voting age in those jurisdictions under July 2003 Census estimates (released September 2004), and that 29 election jurisdictions in the State had more registered voters in November 2004 than there were persons of voting age in those jurisdictions under July 2004 Census estimates (released August 2005). Indeed, the State's data indicates that the local election jurisdiction with the highest ratio, Reynolds County, had 153% of its 2003 Census voting age population, and 151% of its 2004 Census voting age population, registered to vote in the November 2004 federal election. This State's data further indicates that, statewide, Missouri had voter registration totals in November 2004 amounting to 98 percent of the state's voting age population according to July 2003 Census estimates and 96 percent of the state's voting age population according to July 2004 Census estimates.

Although the majority agrees that there is some evidence of voter fraud at the voter registration stage, they discount that evidence as if it had no connection with fraud at the polling place. But why else does voter registration fraud occur if not to vote persons fraudulently registered? And if, as in the DOJ report, there are more voters registered to vote than persons eligible to vote, the requirement to present a photo ID will at least eliminate those who attempt to vote in the place of others and those who attempt to vote more than once. It must be said, too, that even if there were no substantial evidence of existing voter impersonation fraud, legislatures are permitted to respond to the potential for such fraud, and they may do so "with foresight" rather than "reactively." *Munro v. Socialist Workers Party*, 479 U.S. 189 (1986). In any event, as the Carter-Baker Commission recently concluded, "there is no doubt that [in-person voter fraud] occurs" and that such fraud "could offset the outcome of close elections."

IV.

For the foregoing reasons, I would reverse the judgment of the trial court.(FN3)

Footnotes:

FN1. In the alternative, if the voters were known to the supervising election judges, they need not have presented an ID but were required to swear out an affidavit attested to by those election judges. See. 115.427.1, RSMo Supp. 2002.

FN2. The majority's assertion in footnote 8 that the signature to be made on the provisional ballot is "an additional signature" to that which "must be made on the precinct register" appears to be incorrect. Persons who appear at a polling place and who do not have an approved identification need not sign the oath on the "Voter's Identification Certificate," but proceed directly to provisional voting by executing an affidavit affirming his or her identity stating, "I do solemnly swear (or affirm) that my name is _____; that I reside at _____; and that I am the person listed in the precinct register under this name and at this address." Sec. 115.427.13, 14.

FN3. Like the majority, I would not address plaintiff's Hancock claims at this time because, although the trial court made certain findings in favor of plaintiffs, it entered judgment in favor of defendants and plaintiffs did not file a cross-appeal.

This slip opinion is subject to revision and may not reflect the final opinion adopted by the Court.

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