

# ATTACHMENT 2





U.S. Department of Justice

Civil Rights Division

JAN 27 2005

JDR:RPL:ANS:jdh  
DJ 166-012-3  
2004-5004

Voting Section - NWB.  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

SOLICITOR GENERAL'S OFFICE

January 24, 2005

Jessica G. Funkhouser, Esq.  
Special Counsel  
Office of Attorney General  
State of Arizona  
1275 West Washington  
Phoenix, Arizona 85007

Dear Ms. Funkhouser:

This refers to Sections 3, 4, and 5 of Proposition 200 for the State of Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 10, 2004; supplemental information was received through January 7, 2005. The State of Arizona requested expedited consideration of the submission because of local elections scheduled for March 8 and early voting scheduled to begin on February 3, 2005.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Any regulations adopted by the State to implement the provisions of this initiative require Section 5 review. 28 C.F.R. 51.15.

Sincerely,

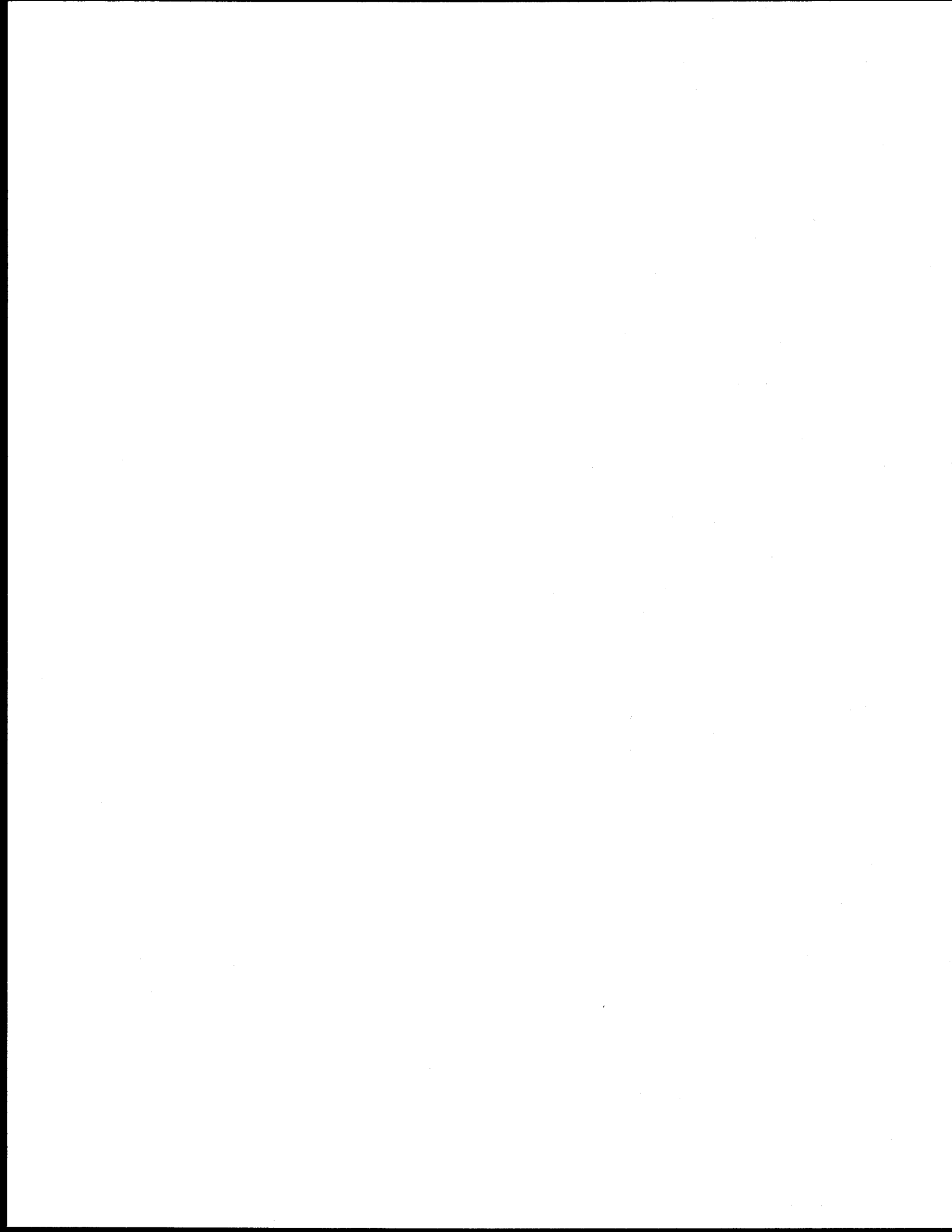
Joseph D. Rich  
Chief, Voting Section



# ATTACHMENT 3



Pursuant to Arizona Local  
Rule of Civil Procedure  
7.1(d), this exhibit is not  
attached to the original  
filed with the Clerk of  
Court.

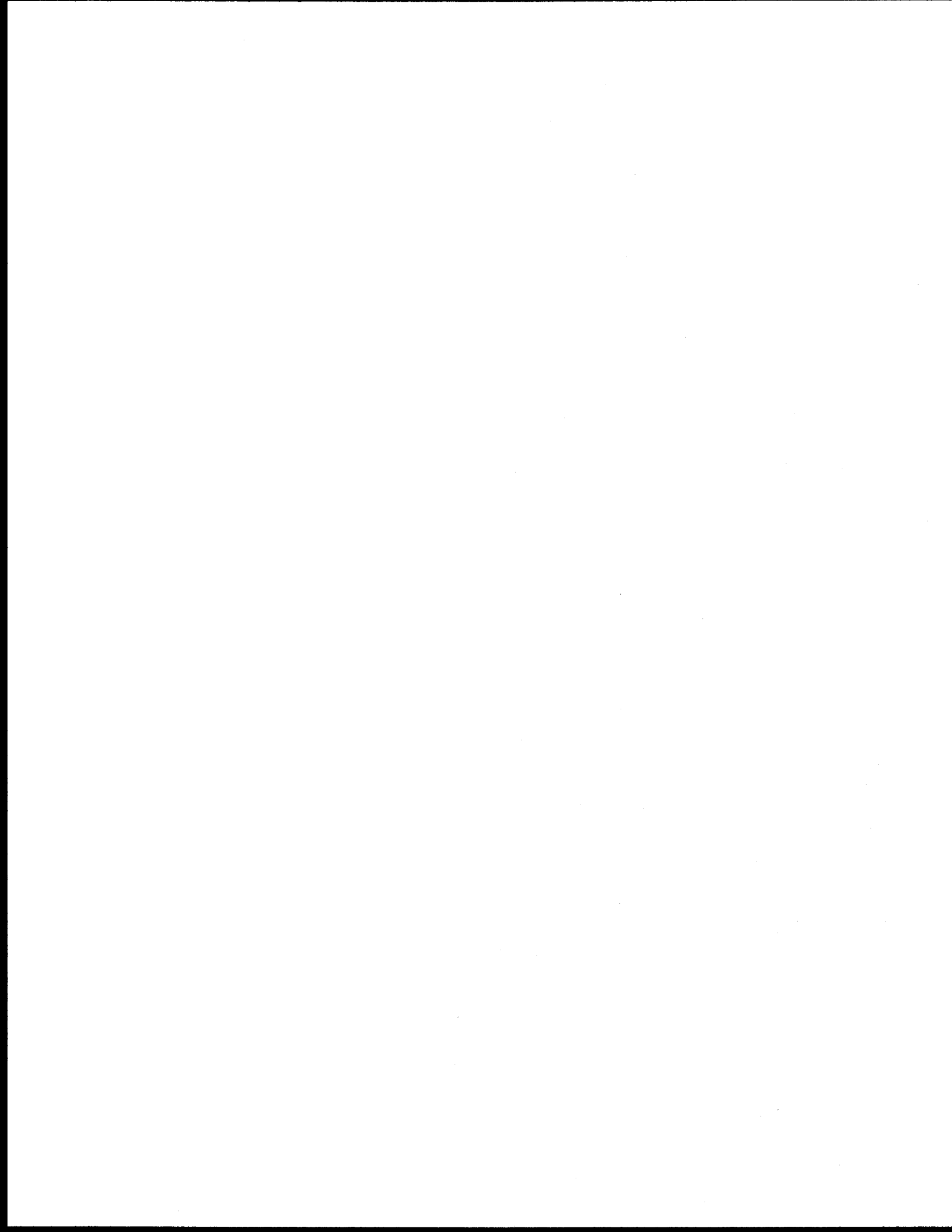


**AFFIDAVIT OF JOSEPH KANEFIELD  
STATE ELECTION DIRECTOR  
ARIZONA SECRETARY OF STATE'S OFFICE**

STATE OF ARIZONA        )  
                                  )  
COUNTY OF MARICOPA    )        ss.

JOSEPH KANEFIELD, upon his oath, states the following to be true:

1. I am currently employed by Secretary of State Janice K. Brewer as the State Election Director, and have served in this position since January 26, 2004.
2. The State of Arizona has used and accepted the Federal Mail Voter Registration Form (Federal Form) since the inception of the National Voter Registration Act on January 1, 1995, and continues to use and accept this form. This policy did not change after the passage of Proposition 200 at the General Election in 2004.
3. In order to process any voter registration application, the form must contain information required by state law. The required information as set forth in A.R.S. §§ 16-121.01 and -166(F), includes the applicant's name, residence address or location, date of birth, signature, a checkmark or other appropriate indicator that the person answered "yes" to the question regarding citizenship, and satisfactory evidence of citizenship.
4. The Secretary of State's Office makes the Federal Form available to anyone who requests it. To my knowledge, no individuals or groups have requested copies of the Federal Form from our office since I became State Election Director. The form is also available on the Election Assistance Commission's website, [www.eac.gov](http://www.eac.gov), and can be easily printed or downloaded.



5. Military and overseas voters are instructed by the Election Assistance Commission not to register to vote using the Federal Form. Instead, the Election Assistance Commission instructs military and overseas voters in its general instructions for the Federal Form to use the Federal Postcard Application available to these citizens from military bases, American embassies, or consular offices.
6. The United States Department of Defense through its Federal Voting Assistance Program instructs Arizona military and overseas voters using the Federal Postcard Application to provide satisfactory evidence of citizenship with the form as required by A.R.S. § 16-166(F).
7. The Secretary of State's Office supplies governmental and private entities copies of the Arizona voter registration form upon request.
8. The county recorders are responsible for registering voters. The county recorders have authorized the Secretary of State's Office to receive completed registration forms from voters. Those forms are forwarded to the county recorders after they are received for processing.
9. The Secretary of State is the chief election officer responsible for coordinating the state responsibilities under the NVRA. These responsibilities initially focused on securing state legislation to implement the provisions of the NVRA.
10. The office's current responsibilities under the NVRA include prescribing the state voter registration form [A.R.S. § 16-152(C)], making available for distribution the federal voter registration form [A.R.S. § 16-151(B)], serving as the recipient of notices from the United States attorney regarding felony convictions in federal



courts of any persons who claim residence in Arizona and notifying the county recorders of the convictions [42 U.S.C. 1973gg-6(g)], and submitting post-election reports to the Election Assistance Commission [A.R.S. § 16-151(B)].

11. Other responsibilities of the Secretary of State relating to the NVRA and the Help America Vote Act (HAVA) include receiving notifications from superior court and district court when a person is declared incapacitated or convicted of a felony, and from the Arizona Department of Health Services when an Arizona resident over the age of sixteen has died. [A.R.S. § 16-165(C) and (D)]. This information is also passed on to the county recorders. The Secretary of State also coordinates with the Motor Vehicle Division (MVD) to match information from the statewide voter registration database with MVD's database as required by HAVA. [42 U.S.C. § 15483(a)(5)(B)(i)].
12. The Secretary of State's office also works with the Motor Vehicle Division and the Arizona Department of Economic Security to educate and coordinate those agencies' obligations to register voters under the NVRA.
13. On January 25, 2005, the day after the U.S. Department of Justice precleared the portions of Proposition 200 that affect voting, I sent an email to all county recorders and election directors with the following recommendations:

For those registrations received after January 24, 2005, that do not contain satisfactory evidence of citizenship, it is our recommendation that a letter be sent to the registrants [by the county recorder] informing them of the steps that need to be taken to establish citizenship. This should be done in accordance with the procedures currently in place under A.R.S. § 16-134(B), which requires the county recorders to notify registrants within 10 business days that the registration is incomplete and the registration cannot be completed until the information is supplied. The letter should list the documents set forth in A.R.S. § 16-166(F)(1) - (6).



- 
14. The Secretary of State's Office has also made significant efforts to educate the public about the new requirements of Proposition 200. These efforts have included redesigning the state voter registration form to include clear instructions about the proof of citizenship requirement. The election officer certification training conducted by the Secretary of State's Office in 2005 in accordance with A.R.S. § 16-407 also included a component on Proposition 200 to educate the State's election officers about the new law. This office also issued press releases regarding the requirements of Proposition 200 and conducts outreach efforts around the state through our full-time voter outreach coordinator.
  15. In addition to being able to register by mail or in-person, people in Arizona can register on-line. EZ Voter Registration (EZ Voter) is an online service to provide safe, convenient, accurate and real-time voter registration. Arizona is the only state with true online electronic voter registration.
  16. The EZ Voter program began in 2002, and is now the primary method by which all Arizonans register to vote.
  17. In 2005, the EZ Voter system was further integrated with the Motor Vehicles Division ("MVD") system to enable citizens to automatically register to vote through their driver license applications. Over 2 million people who perform driver license transactions annually at MVD offices are offered the opportunity to register or revise their registrations through this process.
  18. Since January 2005, over 50% of all applications for voter registration in Arizona were processed through EZ Voter.



- 
19. People registering through EZ Voter comply with the proof of citizenship requirements of Proposition 200 by including the number of their driver licenses issued after October 1, 1996, which serves as proof of citizenship. Even prior to the passage of Proposition 200, a citizen had to have a valid driver license in order to register to vote using EZ Voter.
20. On April 7, 2005, I received an email from Laiza N. Otero at the Election Assistance Commission that requested any changes to the Arizona instructions for the federal form that may be necessary as a result of changes to mailing address, registration deadline or eligibility requirements. In addition, on December 1, 2005, Kris Waite, Assistant Election Director, received an email from Edgardo Cortes, Election Research Specialist at the Election Assistance Commission, that included proposed Arizona instructions to the Federal Form that properly reflected the new proof of citizenship requirement set forth in Proposition 200. Mr. Edgardo's email asked Ms. Waite to "[p]lease review the text of the [proposed Arizona instructions], and let me know if any changes need to be made. I appreciate your prompt response so that we are able to provide the most accurate information to individuals using the National Form."
21. On December 12, 2005, Robert Flores, our Voter Outreach Coordinator, sent Mr. Edgardo the Arizona proposed instructions to the Federal Form, which made only slight grammatical and technical changes to the instructions proposed by Mr. Edgardo in his December 1, 2005, email to Kris Waite. The next communication from the EAC came three months later from its executive director, Thomas R. Wilkey, to Secretary of State Jan Brewer dated March 6, 2006, responding to our office's December 12, 2005 email to the EAC with proposed Arizona instructions

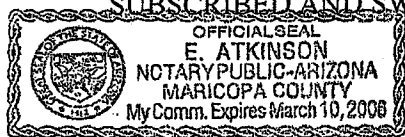


to the Federal Form, and concluding in contrast to the December 1, 2005 correspondence that Arizona may not condition acceptance of the Federal Form upon receipt of supplemental proof of citizenship.

22. The voter registration deadline for the September 12, 2006 primary election is August 14, 2006 at midnight and the voter registration deadline for the November 7, 2006 general election is October 9, 2006 at midnight.
23. The number of registered voters in Arizona as of March 1, 2006, is 2,624,559. This number is substantially higher than the comparable numbers as of March 1, 2004, which totaled 2,274,367. Based on this comparison, current registration rates as measured through EZ Voter, and a review of prior registration history, it is projected that voter registration in Arizona could top 3 million registered voters at the November 7, 2006 general election. Although registration numbers have fluctuated since the November 2, 2004 general election, this reflects continuing voter roll clean up efforts by the County Recorders. This process is done in accordance with the NVRA and state law and ensures that our voter registration data is up to date and complete.

  
\_\_\_\_\_  
JOSEPH KANEFIELD

SUBSCRIBED AND SWORN TO before me this 31st day of May, 2006.



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

10 March 2008

