

# EXHIBIT 10



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State of Arizona

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December 9, 2004

**VOTING RIGHTS ACT SUBMISSION**

**VIA FEDERAL EXPRESS/OVERNIGHT DELIVERY TO:**

Mr. Joseph Rich  
Chief, Voting Section  
Civil Rights Division  
Room 7254 - NWB  
U.S. Department of Justice  
1800 G Street, N.W.  
Washington, D.C. 20006

Re: Submission under Section 5 of the Voting Rights Act  
Proposition 200, Initiative Measure, Sections 3, 4, and 5.

Dear Mr. Rich:

Expedited consideration of this submission is requested under 28 C.F.R. § 51.34. At the general election on November 2, 2004, a majority of Arizona voters approved Proposition 200. The submitted law, Proposition 200, Sections 3, 4, and 5, amends Title 16 of the Arizona statutes to require applicants registering to vote to provide evidence of United States citizenship with the application and voters to present identification at the polling place to obtain a ballot. Sections 1, 2, 6 and 7 do not contain procedures affecting voting, and therefore are not submitted for preclearance.

Expedited consideration is required because local jurisdictions will be holding elections on March 8, 2005 and will need time to preclear their local procedures affecting the conduct of their elections before early voting begins on February 3, 2005.

This submission is made under Section 5 of the Voting Rights Act of 1965, as amended. For your convenience, the following information is set forth as prescribed by 28 C.F.R. § 51.27:

A. COPY OF ENACTMENT:

A copy of Proposition 200 is attached as Exhibit A.

**B. COPY OF EXISTING STATUTE:**

A copy of the existing Title 16 statutes amended by Proposition 200 is attached as Exhibit B.

**C. EXPLANATION OF CHANGES:**

The essential changes were summarized by the Arizona Legislative Council pursuant to A.R.S. § 19-124 and published in the publicity pamphlet printed by the Arizona Secretary of State pursuant to A.R.S. § 19-123. The entire portion of the publicity pamphlet pertaining to Proposition 200 is attached as Exhibit A.

The impartial analysis by the Arizona Legislative Council relating to changes to Title 16 in Proposition 200 is as follows:

**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:

- 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.
- a copy of the applicant's birth certificate.
- a United States passport, or a copy of the pertinent pages of the passport.
- United States naturalization documents or a verified certificate of naturalization number.
- a Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number.
- other documents or methods of proof that may be established by the federal government for the purpose of verifying employment eligibility.

The county recorder shall indicate this information in the person's permanent voter file for at least two years. A voter registration card from another county or state does not constitute satisfactory evidence of United States citizenship. A person who is registered to vote on the date that Proposition 200 becomes effective is not required to submit evidence of citizenship unless the person

moves to a different county. Once a person has submitted sufficient evidence of citizenship, the person is not required to resubmit the evidence when making changes to voter registration information in the county where the evidence has been submitted.

Proposition 200 requires that prior to receiving a ballot at a polling place, a voter must present either one form of identification that contains the name, address and photograph of the person or two different forms of identification that contain the name and address of the person.

**D. PERSON MAKING THE SUBMISSION:**

Terry Goddard, Arizona Attorney General  
Mary O'Grady, Solicitor General  
Jessica Funkhouser, Special Counsel  
1275 West Washington  
Phoenix, Arizona 85007  
(602) 542-7826

**E. SUBMITTING AUTHORITY:**

The State of Arizona.

**F. COUNTY AND STATE OF SUBMITTING AUTHORITY:**

Not applicable since the submission is from the State.

**G. PARTY RESPONSIBLE FOR CHANGE:**

These changes are the result of a ballot proposition approved by the majority of Arizona voters in the 2004 General Election.

**H. AUTHORITY FOR MAKING CHANGE:**

The people of Arizona are vested with the power to adopt initiative measures amending the Arizona Statutes independently of the legislature pursuant to Ariz. Const. art. IV, pt. 1, § 1(1), (2).

**I. DATE OF ADOPTION:**

Pursuant to a Court order (discussed in section I below), Governor Napolitano is permitted to declare Sections 3, 4 and 5 of Proposition 200 to be law. A copy of the Order is attached as Exhibit C. The measure will take effect when the Governor's Proclamation authorized by Judge Bury is attested to by the Secretary of State. (A copy of the letter from the Governor's General Counsel regarding the Proclamation is attached as Exhibit D.)

**J. EFFECTIVE DATE:**

Sections 3, 4 and 5 of Proposition 200 become effective upon proclamation of the Governor, pursuant to Judge Bury's Order.

**K. ENFORCEMENT OF CHANGE:**

As far as the State is aware, the changes contained in Sections 3, 4, and 5 of Proposition 200 have not yet been enforced or administered.

**L. SCOPE OF CHANGE:**

The changes contained in Proposition 200 affect the entire jurisdiction.

**M. REASONS FOR THE CHANGE:**

The reasons for the change are described in Proposition 200 and the arguments in support of the measure included in the publicity pamphlet distributed to voters, which is attached as **Exhibit A**.

**N. ANTICIPATED EFFECT ON MEMBERS OF RACIAL OR LANGUAGE MINORITY GROUPS:**

According to the Chair of the Protect Arizona Now Committee, which circulated the initiative petitions and supported the passage of Proposition 200, the changes contained in Proposition 200 were made without discriminatory intent and will have no discriminatory effect on members of racial or language minority groups. Information provided by the Chair to include with this submission is attached as **Exhibit E**.

To assist the Civil Rights Division in assessing whether Proposition 200 was made with discriminatory intent or whether the measure has a discriminatory effect on members of racial or language minority groups, and because this was a controversial measure, this submission includes the following supplemental information suggested by 28 C.F.R. § 51.28(f):

1. The breakdown of votes cast in each county in favor of or against Proposition 200, **Exhibit F**;
2. Information from exit polls regarding the vote on Proposition 200, **Exhibit G**;
3. The list of Town Hall meetings held by the Arizona Secretary of State to discuss the pros and cons of all of the ballot measures prior to the election, **Exhibit H**; and
4. Articles, press releases and other public information published about the proposition before and after the election, **Exhibit I**.

**O. PAST OR PENDING LITIGATION:**

1. Two unsuccessful challenges attempting to remove Proposition 200 from the ballot were brought before the election:

*Service Employees International Union, AFL-CIO et al. v. Janice K. Brewer, et al.*, Maricopa County Superior Court Cause No. CV2004-015592 (challenge to the accuracy and completeness of the initiative description on petition sheets). See Minute Entry dated August 30, 2004 attached as **Exhibit J**.

*No On 200, Arizonans For Real Immigration Reform, an Unincorporated Association, Gretchen Hankins, Julie Pace, v. Jan Brewer, et al.*, Maricopa County Superior Court Cause No. CV2004-020468 (action filed after early voting commenced alleging inaccurate versions of the text of the measure had been attached to a majority of the petitions was filed too late). See Minute Entry dated October 28, 2004 attached as **Exhibit K**.

2. A suit seeking a declaration relating to the definition of "state and local public benefits" contained in Section 6 of the Proposition, which is not submitted for preclearance, was filed on November 18, 2004:

*Yes on Proposition 200 et al. v. Hon. Janet Napolitano, et al.*, Maricopa County Superior Court Cause No. CV2004-092999.

3. A suit challenging both the public benefits and voting-related provisions of Proposition 200 was filed in the Federal District Court for the District of Arizona on November 30, 2004. The suit alleges that voting-related provisions of Proposition 200 are inconsistent with the NVRA, violate the Twenty-Fourth Amendment, deny Equal Protection, and violate Section 2 of the Voting Rights Act:

*Friendly House, et al., v. Janet Napolitano, et al.*, Federal District Court Cause No. CV 04-649 TUC DCB. The Complaint is included in **Exhibit L**.

The Court entered a temporary restraining order on November 30, 2004, temporarily enjoining the state from implementing Proposition 200. A hearing on the preliminary injunction is scheduled for December 22, 2004. See **Exhibit L**. After the Defendants filed a Motion to Modify/Clarify Temporary Restraining Order, Judge Bury issued an Order on December 7, 2004 regarding the proclamation of Sections 3, 4 and 5 of Proposition 200 into law. See **Exhibit C**.

4. The Arizona Secretary of State has also requested an Attorney General Opinion relating to acceptable forms of identification for voting. See **Exhibit M**.

**P. PRECLEARANCE OF PRIOR PRACTICE:**

**Prior Preclearance of A.R.S. § 16-152**

Chapter 209, § 3, Laws 1979	11/09/1979
Chapter 214, § 3, Laws 1984	02/28/1986
Chapter 321, § 1, Laws 1990	12/21/1990
Chapter 310, § 13, Laws 1991	05/01/1992

Chapter 4, 3 <sup>rd</sup> Spec. Sess., § 1, Laws 1991	07/14/1992
Chapter 378, § 10, Laws 1994	04/04/1995
Chapter 95, § 1, Laws 1995	08/28/1995
Chapter 260, § 5, Laws 2003	08/21/2003

**Prior Preclearance of A.R.S. § 16-166**

Chapter 378, § 16, Laws 1994	04/04/1995
Chapter 249, § 11, Laws 2000	09/26/2000
Chapter 169, § 1, Laws 2001	08/31/2001

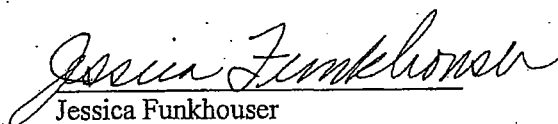
**Prior Preclearance of A.R.S. § 16-579**

Chapter 209, § 3, Laws 1979	11/09/1979
Chapter 320, § 25, Laws 1986	09/12/1986
Chapter 98, § 53, Laws 1993	09/13/1993
Chapter 32, § 9, Laws 1999	08/24/1999
Chapter 260, § 18, Laws 2003	08/21/2003

If you have any questions regarding this submission or if you require any additional information, please contact me as soon as possible.

Very truly yours,

Terry Goddard  
Arizona Attorney General  
Mary O'Grady  
Solicitor General



Jessica Funkhouser  
Special Counsel  
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Attachments  
#432960, v.2

# **EXHIBIT A**

## 2004 Ballot Propositions

### 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 ~~42-4810~~ 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:

- 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.
- a copy of the applicant's birth certificate.
- a United States passport, or a copy of the pertinent pages of the passport.
- United States naturalization documents or a verified certificate of naturalization number.
- a Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number.
- other documents or methods of proof that may be established by the federal government for the purpose of verifying employment eligibility.

The county recorder shall indicate this information in the person's permanent voter file for at least two years. A voter registration card from another county or state does not constitute satisfactory evidence of United States citizenship. A person who is registered to vote on the date that Proposition 200 becomes effective is not required to submit evidence of citizenship unless the person moves to a different county. Once a person has submitted sufficient evidence of citizenship, the person is not required to resubmit the evidence when making changes to voter registration information in the county where the evidence has been submitted.

Proposition 200 requires that prior to receiving a ballot at a polling place, a voter must present either one form of identification that contains the name, address and photograph of the person or two different forms of identification that contain the name and address of the person.

Proposition 200 requires that a state or local governmental entity that is responsible for administering "state and local public benefits that are not federally mandated" must:

- verify the identity and eligibility for each applicant for the public benefits.
- provide other state and local government employees with information to verify immigration status of applicants applying for public benefits and must also assist other state and local government employees in obtaining immigration status information from federal immigration authorities.
- refuse to accept any state or local government identification card, including a driver license, to establish identity or eligibility for public benefits unless the governmental entity that issued the card has verified the immigration status of the applicant.
- require all state and local government employees to make a written report to federal immigration authorities upon discovering a violation of federal immigration laws by an applicant for public benefits. An employee or supervisor who fails to make the required report is guilty of a class 2 misdemeanor, potentially punishable by a jail sentence of up to 4 months and a fine of up to \$750, plus applicable surcharges.

Any resident of this state would have standing to bring a court action against the state, a local governmental entity or an agent of a state or local governmental entity to remedy a violation of the public benefits verification law including bringing an action to compel a government official to comply with the law.

Proposition 200 does not define the term "state and local public benefits that are not federally mandated".

**FISCAL IMPACT STATEMENT**

State law requires the Joint Legislative Budget Committee (JLBC) Staff to prepare a summary of the fiscal impact of certain ballot measures. Proposition 200 does not define the term "state and local public benefits that are not federally mandated." Proposition 200's provision requiring verification of an applicant's eligibility for receipt of state and local benefits may affect the number of persons receiving benefits. The proposition's verification requirements may affect the workload of state and local government agencies. The JLBC Staff is unable to quantify the fiscal impact of these provisions.

**ARGUMENTS "FOR" PROPOSITION 200**

**PAN's Ballot Measure Argument**

The Arizona Taxpayer & Citizen Protection Act requires only (1) proof of citizenship to register to vote, (2) photo I.D. when voting, and (3) proof of eligibility to collect welfare in Arizona.

(1) and (2): Arizona now allows people to declare themselves citizens without documentation to be qualified to vote. The Act utilizes forms of I.D. citizens already have. There is evidence of hundreds of thousands of unverified names on our voter rolls (and that's with nobody even checking citizenship verification). We have to provide adequate I.D. to cash checks, enroll children in little league, get a Blockbuster card, go to the Phoenix city dump, etc. Isn't voting as important as renting a video or going to the city dump?

(3): A.R.S. Title 46 covers only welfare, not public safety services such as police and fire. This Act amends only A.R.S. 46-140 to remove the welfare department's current practice of granting immunity from prosecution to illegal aliens. The current law already requires state employees (and their supervisors if applicable), to report fraud-even if committed "by mistake"-to the state department under penalty of a misdemeanor. Yet, AHCCCS's (Arizona Medicaid) application clearly states twice in bold letters that "AHCCCS will not report any information to . . . (BCIS, formerly INS)." The AHCCCS further states that everyone applying for AHCCCS must furnish their Social Security number, but "immigrants who are not legally able to obtain a [SSN] are not required to provide one." The welfare system in Arizona is obviously set up for fraud. It's no wonder AHCCCS costs increased from \$200 million in FY 2001 to a staggering \$1.2 billion in FY 2003 - a whopping 600% increase in just 3 years.

The Act does not change eligibility requirements to vote or collect welfare, and applies to everyone equally. What could be fairer?

*Kathy McKee, Chairman, Protect Arizona NOW, Phoenix*

**Paid for by "Protect Arizona Now"**

Citizens of Arizona,

The Arizona Taxpayer and Citizen Protection Act ("Initiative") simply protects the rights that are guaranteed by our constitution to all citizens. As stated in section 12 of the Arizona Constitution:

"There shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elective franchise."

The Initiative will prevent non-citizens from being able to register to vote in Arizona. Currently, no proof of citizenship is required. A person can register to vote by mail or over the Internet and have a ballot mailed to them. The Initiative will require all citizens to show proof of citizenship the first time they register to vote. The Initiative will require registered voters to provide proof of identity when obtaining a ballot whether in person or by mail.

The initiative also requires proof of eligibility for an applicant to receive non-federally mandated public benefits. Arizona statutes already require proof of eligibility when an applicant applies for state or local benefits. The initiative simply requires everyone to provide a specified and approved form of identification when applying for state and local benefits. It further requires government employees to provide a written report to federal immigration authorities for any violation of federal immigration laws by any applicant that is discovered by the employee.

I urge you to vote yes on the Arizona Taxpayer and Citizen Protection Act. It treats all Arizona citizens equally and fairly under the law.

*Randy Pullen, Chairman, Yes on Proposition 200, Phoenix*

**Paid for by "Yes on Proposition 200"**

The Arizona Taxpayer and Citizen Protection Act is a reasonable measure designed to help state agencies enforce current law. This measure simply revises two sections of Arizona Revised Statutes, Title 16 Elections and Title 46 Welfare.

Article 7, Section 12 of the Arizona Constitution states: "There shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elective franchise." To meet this constitutional requirement, Arizona law requires that to vote in Arizona you

must be a U.S. Citizen. At present, you do not have to provide proof of citizenship when you register to vote, nor do you need to show identification when you vote. Proposition 200 corrects this concern.

Arizona Revised Statutes, Title 46 Welfare, identifies entitlement programs and their eligibility requirements. It clearly states that you must be a citizen of the United States or a legal resident to be eligible for state welfare benefits. The present system allows state agencies to rely on the "honor" system to determine if this requirement is met. Would you feel comfortable that tax dollars for welfare benefits are being well managed using little more than the "honor" system in determining other eligibility requirements such as income levels?

Do not be fooled by the opposition's emotional response to this measure. Proposition 200 will not deny any eligible U.S. Citizen their right to vote. Public safety issues such as police and fire protection are not welfare benefits and will not be denied by Proposition 200. Access to library cards and other similar services will not be affected by this measure. If you believe our laws mean something, then support Proposition 200 and vote YES on November 2nd.

*Randy Graf, State Representative, Green Valley*

The citizens of Arizona have spoken: they have had enough.

While the politicians in Washington D.C. were ignoring illegal immigration, nearly 200,000 Arizona residents signed their name on petitions to allow this initiative to be placed on the ballot. Its passage is vital to the security of this state and the sovereignty of our country.

This initiative will not deny benefits to those who are eligible to receive them. Rather, it prevents those who are not eligible from continuing to illegally defraud the taxpayers of Arizona.

The Protect Arizona Now initiative protects the integrity of our election and welfare systems by requiring:

Proof of citizenship to register to vote: The U.S. Constitution established more than 200 years ago only allows citizens to vote. The initiative requires everyone "equally" to prove eligibility. The Arizona Constitution reads as follows *Article 7, Sec. 12*, "There shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elected franchise."

Photo I.D. when voting: Photo I.D. is currently required to cash a check, sign a lease, or get a card at a video store. Governor Napolitano vetoed the bill requiring photo I.D. when voting, stating it was illegal. Yet 11 states already have laws requiring I.D. when voting. Some laws have been on the books for decades.

Proof of eligibility to receive non-federal mandated public benefits: Requires everyone to provide proof of eligibility. A study by The Urban Institute, and the University of Arizona estimate fraud costs in the tens of millions of dollars.

As former Chief Deputy of Maricopa County Sheriff's Office, Judge, and Director of the State Motor Vehicle Division I know the impact of fraud and illegal immigration on families, taxpayers and citizens.

*Russell K. Pearce, State Representative, Mesa*

Arizona voters should vote yes on Proposition 200 because it is a common sense, moderate measure that merely enforces the law, ensuring that illegal aliens who are not entitled to vote or obtain certain benefits cannot subvert the law to access them. Federal immigration law prohibits illegal aliens from using non-essential taxpayer-funded programs, but unfortunately the law has been poorly enforced, to the detriment of Arizona taxpayers. Proposition 200 is not radical, it does not stop illegal aliens from entering the state, or "guard the border" which is considered the job of the federal government, and it does not create any new restrictions on illegal aliens; it is merely an enforcement mechanism of existing law.

Opponents of Proposition 200 claim that it will be struck down by the courts as unconstitutional, as California's Proposition 187 was, but Proposition 200 has been drafted carefully to avoid the pitfalls of Proposition 187. Proposition 187 was ruled unconstitutional by a California U.S. District Court judge because it denied federally mandated benefits to illegal aliens. Proposition 200 gets around this by specifically stating that federally mandated benefits are exempt, which include emergency medical services, fire department services, and public schooling. It provides that Arizona state and local governments must require that applicants for non-federally mandated benefits (non-emergency services such as welfare) produce identification of their U.S. citizenship to demonstrate eligibility for those benefits. A recent study by the Center of Immigration Studies found that the total amount of welfare provided by Arizona taxpayers to illegal immigrants is \$380 million dollars.

There is also a severability clause at the end of Proposition 200, which provides that if any of its provisions are ruled invalid by a court, the rest of the Act shall stand. Please vote yes on Proposition 200 to enforce existing law.

*Rachel Alexander, Phoenix Attorney and Editor, IntellectualConservative.com, Phoenix*

Along with fellow elected officials, small businessmen and women, community activists and tens of thousands of concerned citizens, we would like to voice our support for the Protect Arizona NOW Initiative.

For too long, our porous borders have allowed millions of immigrants to illegally enter the United States, circumventing our generous immigration laws and undermining our sovereignty. While the majority journey here to work and pursue the American dream, an increasing number have enrolled themselves in taxpayer-subsidized health and welfare programs, draining state resources at an alarming rate.

While no one wants to bar hard-working individuals from services to which they are entitled, it is not fair or lawful for non-citizens to reap the benefits of citizenship at the expense of law-abiding taxpayers.

This modest measure simply requires state agencies to verifiably abide by regulations already in statute, and prevents our welfare system from being abused by those who voluntarily chose to disregard the law.

The PAN initiative also strengthens the integrity of our election system by requiring proof of identification to vote.

PAN does not deny state services to anyone who is legally entitled to them. Only those who are currently circumventing the law will be affected.

By ensuring that our current statutes are enforced, this initiative encourages legal immigration and preserves the rule of law that makes this country so attractive to those yearning to be free.

We hope that, by enforcing our laws and preserving our resources, the people of this state will join us and Protect Arizona Now.

*Russell Pearce, Representative, Mesa*

*Karen Johnson, Representative, Mesa*

*Eddie Farnsworth, Representative, Gilbert*

Andy Biggs, Representative, Gilbert  
 Chuck Gray, Representative, Mesa  
 Mark Anderson, Senator, Mesa  
 Thayer Verschoor, Senator, Gilbert  
 Paid for by "Russell Pearce 2004"

Arizona now spends more than \$1 billion annually to provide services and benefits to more than half a million illegal aliens. These costs continue to rapidly increase. The added tax burden amounts to \$700 a year on every Arizona household.

Proposition 200 (Protect Arizona Now) will protect Arizona taxpayers from the ever-escalating costs of providing benefits to illegal aliens. It will do so in a way that is consistent with federal law, but will not withhold those essential services that protect the public health and safety of all, including emergency medical assistance, and public K-12 education for children. Immunization programs and programs that test for communicable diseases would continue to operate without regard to immigration status.

Under federal law, Arizona state and local governments may not provide non-essential public benefits to illegal aliens. Proposition 200 will require public agencies in Arizona to verify that persons who receive non-emergency benefits are not illegal aliens. The verification procedure has been used since 1996 to check eligibility for federal benefits. Proposition 200 would require that the same clear and consistent policy apply to all taxpayer-funded benefits in Arizona.

A state or local benefit, as defined by federal law, includes welfare, disability, retirement payments, public housing assistance, or taxpayer subsidized postsecondary education. In addition, persons unlawfully in the U.S. are barred from receiving Arizona state contracts, professional licenses, driver's licenses or state identity documents.

Such benefits are an incentive for illegal aliens to settle in Arizona and hide from federal authorities.

It is common sense logic that our state and federal government agencies cooperate to prevent fraud and abuse by illegal aliens. Proposition 200 will protect Arizona citizens and our legal immigrant neighbors against the rising costs of illegal immigration, while respecting the rights, health and safety of the entire community.

Linda Bentley, Carefree

### **ARGUMENTS "AGAINST" PROPOSITION 200**

The League of Women Voters of Arizona believes this initiative is not just bad public policy but the politics of discrimination.

Voter fraud is the least of our problems. There have been as few as 10 cases in all of Maricopa County in the last ten years and none in Pima County. The provision that requires IDs at polling places will slow down the voting process, creating longer lines and reducing voter turnout as work of lengthy waits spreads. It will mean more provisional ballots, driving up the cost of elections and delaying the counting process, holding up election results. We should not make it more difficult for two million honest citizens to vote just because a very few may be abusing this right.

The initiative does nothing to change immigration policy. What it does is turn local and state government employees into immigration agents. To be applied fairly, everyone seeking a government benefit, including firefighting assistance, a library book, and police protection must prove citizenship. This means all residents all the time and demands even enforcement.

This invitation to discriminate should be rejected. We urge a "No" vote.

Gini McGirr, President, League of Women Voters of Arizona, Tucson  
 Bonnie Saunders, 1st Vice President, League of Women Voters of Arizona, Sun City  
 Paid for by "League of Women Voters of Arizona"

I urge you to vote no on the Arizona Taxpayer and Citizens Protection Act because this legislation is mean-spirited and unnecessary.

This legislation requires that every Arizonan must present evidence of United States citizenship to register initially and every time you vote. This requirement implies that persons who are not United States citizens are registering and voting today in Arizona elections. This legislation addresses a problem that does not exist and it creates a financial and bureaucratic burden on all Arizona taxpayers. Existing state and federal laws impose harsh jail sentences and severe fines for voter fraud and false claim to United States citizenship. This legislation is clearly unnecessary.

This legislation requires that local governments verify citizenship before public services are provided. Again, this requirement implies that undocumented people are now receiving public benefits in Arizona. Undocumented people do not qualify for benefits such as public assistance and food stamps. Existing state and federal laws impose harsh jail sentences and severe fines for welfare fraud and false claim to U.S. citizenship. This legislation is so broad as to require proof of citizenship before local fire personnel can put out a house fire, save occupants or provide life-saving intervention at the scene of an accident. My mother is an 80-year-old citizen who does not speak English and I do not want someone withholding life saving aid from her while attempting to determine her citizenship. This is not the Arizona I want to live in. This is not who we are as a people. Arizonans care about each other; blind hate is not an Arizona value.

This legislation is mean-spirited and unnecessary. Vote no.

Raúl M. Grijalva, Member of Congress, Tucson

The Green Party of Arizona refers to this ballot measure as the "Let's make it hard for Americans to vote Initiative." Under the guise of affecting public assistance to undocumented migrants, where its impact is negligible, it sneaks in requirements that will make it harder for citizens to exercise our right to vote. We Greens push to make it easier for Americans to vote, not harder, because we believe that the best government will come when we all participate.

Under this measure young people, eager to register and vote as they come of age, will have to send away for a copy of their birth certificate first, and maybe miss deadlines, if the document comes at bureaucratic pace. Likewise, persons registered in other states, rather than present their old registration when they want to become Arizona residents, must pay for the proof of citizenship that they'll have to present. And older