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HEARING ON THE NATIONAL VOTER REGISTRATION ACT, SECTION 7: THE CHALLENGES THAT PUBLIC ASSISTANCE AGENCIES FACE

HEARING

BEFORE THE

SUBCOMMITTEE ON ELECTIONS

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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HEARING ON THE NATIONAL VOTER REGISTRATION ACT, SECTION 7: THE CHALLENGES THAT PUBLIC ASSISTANCE AGENCIES FACE

TUESDAY, APRIL 1, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:07 p.m., in Room 311, Cannon House Office Building, Hon. Zoe Lofgren (chairwoman of the subcommittee) presiding.

Present: Representatives Lofgren, Davis of California, Davis of Alabama, Ehlers and McCarthy.

Staff Present: Liz Birnbaum, Staff Director; Thomas Hicks, Senior Election Counsel; Janelle Hu, Election Counsel; Jennifer Daehn, Election Counsel; Matt Pinkus, Professional Staff/Parliamentarian; Kyle Anderson, Press Director; Kristin McCowan, Chief Legislative Clerk; Daniel Favarulo, Legislative Assistant, Elections; Gregory Abbott, Staff Assistant; Gineen Beach, Minority Election Counsel; Ashley Stow, Minority Election Counsel; and Bryan T. Dorsey, Minority Professional Staff.

Ms. LOFGREN. Good afternoon and welcome to the Elections Subcommittee hearing on the National Voter Registration Act, Section 7: The Challenges Public Assistance Agencies Face.

In 1993, Congress passed the National Voter Registration Act, otherwise known as the NVRA, to "increase the number of eligible citizens who register to vote in elections for Federal office." Section 7 of the NVRA requires States to provide voter registration services at public assistance agencies or State funding programs that provide assistance to people with disabilities.

The purpose of section 7 is to supplement the motor-voter provisions by reaching out to individuals who are not as likely to benefit from State motor-voter provisions, oftentimes minorities and low-income individuals.

The U.S. Department of Justice has, unfortunately, largely ignored enforcement of section 7 violations. Since 1995, many States have failed to fully implement voter registration in public assistance agencies. This failure has resulted in voter registration generated from public agencies to decline 79 percent since 1995 according to a recent report by Project Vote and Demos. At its most basic, noncompliance with section 7 means the disenfranchisement of mil-

lions of low-income citizens and a widening of the gap between the registration rates of high- and low-income individuals.

In September 2005, now-Chairman John Conyers sent a letter to then-Attorney General Gonzales, asking for an investigation into section 7 compliance. It wasn't until August of 2007 that the Voting Section sent letters of inquiry to 18 States regarding their section 7 compliance. In the past 6 years, the Department of Justice has filed suit against four States, forcing them to conduct massive purges of voter registration lists while initiating only one section 7 enforcement action.

Disregarding evidence of State noncompliance with section 7 and focusing instead on section 8, purging voter rolls seems consistent with the Department of Justice's apparently partisan bent. Although we don't have the Department of Justice here today, it is my intent to send an inquiry on their progress with this requirement.

There are some States that have voluntarily adopted reforms to improve compliance with NVRA section 7, and I am pleased to see they are represented on the panel of witnesses. North Carolina's public assistance agencies have experienced a five-fold increase in the average number of voters registering in agencies each month from 484 to 2,529. Success stories like this are proof that section 7 can be properly implemented and successful.

Witnesses before the subcommittee today will provide us information on compliance with section 7 successes and failures. Voting is a fundamental right and the purpose of this hearing is to ensure access to that right for all eligible voters.

I would now invite our ranking member, Mr. McCarthy, to make any opening statements he may wish.

Mr. MCCARTHY. Madam Chair, no I just appreciate having the hearing. I look forward to the discussion.

Ms. LOFGREN. Thank you very much. I would like then to introduce our first panel.

We have two witnesses. Johnnie McLean is the Chief Deputy Director for the North Carolina Board of Elections. She has worked for the State board of elections for over 12 years, where she has served in many capacities, including her work on two election-centered task forces for election reform, as well as North Carolina Representative on the EAC Standards Board.

We also have Catherine Truss with us. Ms. Truss is a Departmental Specialist for the Michigan Department of Human Services where she also serves as a coordinator for the Civic Engagement Program, a voter registration effort. Ms. Truss has worked for the Department of Human Services for 9 years, and in 2006 was awarded Michigan Department of Human Services 2006 Star Award.

Prior to her work as a Departmental Specialist, Ms. Truss was a Children's Foster Care Specialist, Performance Management Specialist and a Children's Protective Services Specialist. She received her Bachelor's in psychology from the University of Montana and her Master's in social work from the University of Michigan.

We are delighted to have you both here. Your entire written statements will be made part of the record of this hearing. We ask that you give your oral testimony in about 5 minutes. There is a

little box there, and when the orange light goes on, it means you have just got 1 minute left; and when the red light goes on, it means that you have actually been speaking for 5 minutes. It always strikes you as it has only been a minute. We don't have a heavy gavel, but we would ask that if the red light goes on, you try to summarize and conclude.

STATEMENTS OF JOHNNIE McLEAN, CHIEF DEPUTY DIRECTOR, NORTH CAROLINA STATE BOARD OF ELECTIONS, AND CATHERINE TRUSS, DEPARTMENTAL SPECIALIST, MICHIGAN DEPARTMENT OF HUMAN SERVICES

Ms. LOFGREN. So we will begin with you, Ms. McLean. If you would please give us your testimony.

STATEMENT OF JOHNNIE McLEAN

Ms. MCLEAN. Thank you so much.

Ms. LOFGREN. The microphone also needs to be turned on—there we go—and maybe even moved a little bit closer.

Ms. MCLEAN. How is this?

Ms. LOFGREN. Much better. Thank you.

Ms. MCLEAN. Thank you so much, Madam Chairwoman, and distinguished members of the committee. We appreciate the opportunity to be here this afternoon.

The NVRA was implemented in North Carolina in 1995 and for several years was considered to be a model for agency-based registration. It is unfortunate that, as time passed, the emphasis was not placed on the agency-based registrations as it should have been. Some of this was due to personnel changes in the agencies, as well as personnel changes at the State board of elections.

The State board of elections has always taken very seriously the Federal legislation and has worked hard to implement that. The NVRA implementation project that began a nationwide effort in 2004 to enhance and improve voter registration procedures in the public assistance agencies conducted some surveys, and as part of that, the results of those surveys, in early 2006 identified North Carolina as one of many States that was not doing the kind of job that it should be doing in the public assistance area for voter registration.

Initially, we believed that these were isolated incidents of noncompliance. However, when we were presented with the real, hard evidence, we learned that there had been something like a 74 percent drop-off in the number of registrations that were being accepted at these agencies. We were shocked to learn that in some of these agencies voter registration was not even being offered to a single client.

Gary Bartlett, the Executive Director of the State Board of Elections, met with some of the advocates and wanted to work with them in order to make the system work the way it should. A 14-point compliance plan was drafted and adopted, and the elements of that plan included communication and coordination with public assistance agencies, advising the agencies of their specific duties in this area, providing updated materials and training for agency personnel; and most importantly, I believe, was tracking the weekly agency compliance of the voter registration applications received.

The updated implementation plan was put into place within a couple of months, and some of the steps involved were that we directly communicated with each of the agency heads that had NVRA responsibilities. It also was—that effort was assisted by our governor's office that sent written communication to these agency heads, reminding them of their NVRA duty.

There were monthly telephone conference calls with the advocates. This helped us to stay focused on the tasks that we were attempting, and to keep the joint efforts headed in the right direction. We prepared, modified, provided and updated agency voter registration manuals, conducted group training at the NVRA agencies, made PowerPoints available to the advocates and to the agencies.

We began monitoring weekly transmissions of the reports and comparing them with those reports of applications for Medicare, which would alert us to any possible problems. We conducted unannounced, random, in-person checks on some of these NVRA agencies.

We are appreciative of the advocates' willingness to work with us rather than to file litigation against us. We certainly were surprised when they presented evidence to us, but we worked with them in order to make this work for those citizens that the NVRA was designed to address.

Ms. LOFGREN. Thank you very much.

[The statement of Ms. McLean follows:]

Testimony of

JOHNNIE McLEAN
Deputy Director
NORTH CAROLINA STATE BOARD OF ELECTIONS

on

National Voter Registration Act, section 7: The Challenges that Public Assistance Agencies Face

before the
Subcommittee on Elections
of the
Committee on House Administration
of the
U.S. House of Representatives

April 1, 2008

Madame Chairwoman Lofgren and distinguished Members of the Subcommittee, thank you for your invitation to testify on Section 7 of the National Voter Registration Act ("NVRA") dealing with agency voter registration.

I submit this written testimony as Deputy Director of the North Carolina State Board of Elections (SBE) office. Elections in North Carolina are under the jurisdiction of an independent five member bi-partisan board appointed for four years by the Governor upon the recommendation of the Democratic and Republican parties. The North Carolina State Board of Elections is an independent regulatory and quasi-judicial agency. The opinions expressed herein reflect my personal opinion based upon my experience with Section 7 of the NVRA, and do not reflect the opinion or position of the North Carolina State Board of Elections.

Section 7 of the NVRA

Each state must arrange for voter registration in person at certain designated sites that provide services for the public. (NVRA Section 7, 42 USC § 1973gg-2(a) (3)) Such sites include any office in a state that provides public assistance or state-funded programs primarily engaged in providing services to persons with disabilities, or Armed Forces recruitment offices. At these sites, voter registration applications, as well as assistance and acceptance of applications, must be made available to persons applying for benefits, renewing benefits, recertifying benefits, or making a change of address. Also if a client at these agencies is offered registration and the person chooses not to register, the person must sign a declination or preference form. The agency must forward all declination forms to the local entity that administers voter registration. Registering to vote at these designated state offices is known as "agency-based registration." North Carolina's provision for this is contained in N.C. Gen. Stat. § 163-82.20 (*see* Attachment A).

The North Carolina Experience

The National Voter Registration Act was implemented in North Carolina in 1995 and for several years was considered a model for agency based registrations. However, through personnel changes in the public assistance agencies and the State Board of Elections, emphasis was not maintained as it should have been on the federal mandate for offering voter registration to clients at the public assistance agencies.

The NVRA Implementation Project (a collaboration between Demos, Project Vote and ACORN) began a nationwide effort in 2004 to enhance and improve voter registration procedures in public assistance agencies. Based on findings of surveys conducted as part of this project, in early 2006, North Carolina was identified and contacted by the advocates as one of many states that were not meeting the federal mandates for agency based registrations. Once confronted with evidence of voter registration inactivity and a dramatic drop (74%) in the number of voters registering at agencies, we asked the advocates to work with the SBE to allow us to improve Section 7 NVRA compliance and results.

Gary Bartlett, Executive Director, developed with assistance from the advocates a 14-point compliance plan for public assistance agencies. (*See* Attachment B). The elements included communication and coordination with public assistance agencies, advising the agencies of their specific duties, providing updated materials and training sessions for agency personnel, and tracking agency compliance on a weekly email report.

The updated implementation plan was put into place within a couple of months of development. Some of the steps toward full implementation of Section 7 included:

- Communication with all agency heads in state government that had voter registration responsibilities about reorganizing compliance. The Governor's Office reminded them of the need to work with the SBE on NVRA compliance. Formal cooperative agreements with these agencies were executed. (*See* Attachment C).

- Monthly telephone conference calls with the interested advocacy groups on agency voter registration issues has assisted in the joint efforts to improve voter registration administration under Section 7.

- Publicly advocating in the media the need to improve NVRA compliance and concerns with the failures of agency registrations has increased popular support for the voter registration efforts.

- Preparation, modification and updating of agency voter registration manuals, group training, and PowerPoint presentations (*see* Attachments D and E). These training items are available on the SBE website for easy access.

- Periodic voter registration training to "Train the Trainer" and workshops at agency meetings.

- Dedication of the SBE's Elections Liaison, whose primary duty is voter registration matters, to aide the voter registration efforts of agencies.

- Identification of county site coordinators responsible for communication with all the county agencies on NVRA matters.

- Monitoring of the weekly transmission of preference/declination forms and VR application forms per agency and comparing the reported NVRA activity with the numbers of persons applying for Medicaid at the agencies comparison enables us to determine where compliance problems may exist.

- Unannounced random in-person checks of NVRA agencies. These have been very effective in getting a "true picture" of an agency's NVRA compliance.

- Establishing an e-mail system to connect all voter registration agency site coordinators for quick communication and information directly to persons that need it.

- Posting of voter information posters in both English and Spanish at NVRA agencies (*see* Attachment F).

- Working with the North Carolina General Assembly and other organizations to improve laws to allow better implementation of voter registration duties under the NVRA.

Currently, we are also working to respond to concerns of our NVRA agencies concerning their responsibilities under the Act, specifically the questions of the North Carolina Association of County Departments of Social Service (NCACDSS), as enumerated in their letter to Mr. Bartlett of January 22, 2008 (*see* Attachment G).

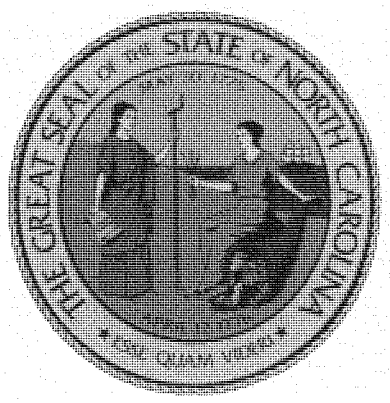
It has been North Carolina's experience that working with the voter advocacy groups has been a healthy, engaging and productive relationship. In fact, the SBE is appreciative of the advocates' willingness to contact us prior to entering into any sort of litigation. In no small way, the initial contact with these voter advocacy groups was commenced due to Mr. Bartlett's long history with working with Joann Chasnow, Project Vote, and through her efforts, the SBE was able to work in partnership to fully ascertain North Carolina's voter registration agencies' compliance with the NVRA. What was initially thought to be isolated incidents of non-compliance was found to be a shocking decline in the services being provided to the clients of these NVRA agencies. Indeed, the advocates' faith and trust in the SBE allowed us to work together and set up a model that is compliant and useful for other states to emulate. The non-adversarial relationship between the SBE and the voter advocacy groups is one focused on improving the NVRA agency system for North Carolina's potentially underserved citizens. By staying in contact with these advocacy groups, the SBE and the NVRA agencies are able to stay on task and are able to provide a realistic assessment of the agency voter registration system in our state.

Conclusion

As a result of these efforts, 25,000 more persons registered to vote in 2007 at Section 7 NVRA agencies than in 2006, counties regularly report their NVRA activity, and public assistance agencies staffs are well-trained. We are learning that it is necessary to maintain the oversight set out above in order to ensure that improved NVRA compliance continues. We are grateful for all those who were part of our "re-implementation plan." As Mr. Bartlett has stated "The single greatest right, and responsibility, of any U.S. citizen is the ability to vote. The NVRA charges all election officials with the responsibility to protect that privilege by ensuring that the opportunity to register to vote is readily available to all eligible citizens. It is our sincere desire to continuously improve our current efforts and to become a resource for any state working to improve their own compliance with Section 7 of NVRA."

ATTACHMENT D
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

NORTH CAROLINA
STATE BOARD OF ELECTIONS



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STATE BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

Mailing Address:
P.O. BOX 27255
RALEIGH, NC 27611-7255
(919) 733-7173
FAX (919) 715-0135

February 28th, 2007

To All Agency Voter Registration Employees:

Welcome to the North Carolina voter registration program! The agency voter registration program seeks to help North Carolina registration officials reach unregistered eligible voters in the State. Your participation is critical in our efforts to reach 100% registration in North Carolina. We sincerely appreciate your hard work and dedication.

Since the implementation of the agency voter registration program on January 4, 1995, agency voter registration has produced outstanding results. State agencies have reached many of the underrepresented eligible voters in North Carolina.

Materials enclosed in this ***Reference Guide and Training Manual*** *should help you through the voter registration process and answer any questions you may have. If you encounter any specific problems, or have questions not answered by material in this manual, please contact the county board of elections. A county board roster is available on our website www.sboe.state.nc.us . If necessary, the State Board staff is also available to answer questions regarding voter registration laws and procedures.*

Very best regards,

Gary O. Bartlett

Gary O. Bartlett
Executive Director

NATIONAL VOTER REGISTRATION ACT (NVRA) DESIGNATED PROGRAMS AND AGENCIES

Who: All North Carolinians who apply for or receive services or benefits under one of the following programs or agencies: Employment Security Commission (ESC), Food Stamps, Division of Medical Assistance (Medicaid), Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MHDDSAS), Services for the Blind, Services for the Deaf and Hard of Hearing, Vocational Rehabilitation, WIC, Work First, Office for Veteran Services, State County Special Assistance for Adults, and Low Income Energy Assistance Program.

What: The opportunity to register to vote or update voter registration while applying for benefits, renewing benefits, or reporting a change of address at one of the above programs.

When: At original application for service and at each renewal of service or when providing a change of address or name to the agency.

Where ***At any*** agency office that administers services or benefits under one of the programs listed above.

Why: ***It's the law.*** The purpose of the law is to make the voter registration process more accessible to all eligible voters.

How: Agency staff must offer the applicant the opportunity to register to vote, and the necessary form. Staff are required to provide the same level of assistance in completion of the voter registration form as would be offered in the completion of agency forms. Completed voter registration forms must be transmitted within five business days to the county Board of Elections.

PROCEDURES FOR VOTER REGISTRATION AT DESIGNATED AGENCY OFFICES

Information contained in this section outlines the procedures for administering the new agency voter registration program. Each subsection details the procedures for different situations. The term "client" in this manual means both applicants for and clients currently receiving services.

If after reading the information here you have questions, or if a situation occurs for which there are no guidelines printed here, please contact the county Director of Elections. Contact information for county boards of elections, can be found on our website www.sboe.state.nc.us. You may also call toll-free 1-866-522-4723.

A. SUGGESTED Openers

If you are not registered to voter where you live now, would you like to apply to register to vote here today?

~OR~

You may now register at this office to vote in all elections in which you may be eligible to vote after registering. Would you like to register to vote while you are here today?

The opportunity to register to vote should be offered at the beginning of the client interview so that the voter registration questions are clearly separated from the benefit eligibility process. (Staff working under the Division of Mental Health, Developmental Disabilities and Substance Abuse Services needs to review Attachment D for special instructions as to offering registration.)

It should also be made clear to the client that a decision to complete an application to register, or to decline that opportunity, will in no way affect the services or benefits provided by the agency.

B. Voter Registration Preference forms

Regardless of whether or not the client wishes to register, each client must complete a "Voter Registration Preference Form." This form records whether each client (1) wishes to register to vote or update an existing registration, (2) does not wish to register to vote, (3) is already registered to vote, or (4) wishes to register to vote but prefers to take the voter registration application home. The Voter Registration Preference form is used only for voter registration purposes, and serves to protect the client from any coercion. Agency staff should reassure clients of this fact in order to obtain a signature on the Voter Registration Preference form. Please note that the current "Voter Registration Preference forms" used to be called "declination" forms.

Procedures for Completion of the Voter Registration Preference Form

- The client should check the box next to the appropriate answer to the question of whether s/he wishes to register to vote. Declining the opportunity to register does not prohibit the client from registering to vote any time in the future.
- The client should print his/her full name and date of birth.
- The client should sign his/her name and print the transaction date (that day).

If the Client Refuses to Complete the Preference Form

Should the client decline to register but refuse to sign the Voter Registration Preference form, the agency employee processing the application should print the client's name and date of birth. Then, initial the form and print the transaction date.

Completed Voter Registration Preference forms should be transmitted to the appropriate county board of elections office in the same timely manner as Voter Registration applications; unless there has been a written agreement between the State Board office and the agency allowing the agency to keep the Voter Registration Preference forms under certain terms and conditions.

C. Client is not registered and wishes to complete an application to register

After the client fills out a Voter Registration Preference form indicating a desire to complete a voter registration application, provide the client with the voter registration application or direct the client to the voter registration application in their packet. Agency staff is required to provide the same degree of assistance as would be given for the completion of standard agency forms.

D. Client is not registered, wishes to become registered, but does not wish to complete the form at the agency office

After the client fills out a Voter Registration Preference form indicating they are not registered to vote at their current address and would like to be registered, but does not wish to complete the voter registration application at that time, offer the client the opportunity to take the application home to complete at a later time. The client should be told that the registration application can be returned in **any of three ways**:

1) **MAIL** the completed application to the board of elections office in the county where they live,
2) **HAND DELIVER** the application to the county board of elections office, or have a third party return it to the county board of elections or the agency office, or
3) **RETURN** the application to the agency office for transmittal to the county board of elections office.

There is a place on the Voter Registration Preference form for a client to mark showing s/he chose not to register at the agency at that time but wished to take a voter registration application to complete at a later date.

E. Client is registered, but needs to update a name, address and/or party affiliation

After the client fills out a Voter Registration Preference form indicating they are registered to vote, but needs to update their information, s/he may use the voter registration application to change any or all of the following: name, physical address, mailing address (if different), and party affiliation. ***If the client is updating an address or a name, Section 8 of the Voter Registration application should be completed with the old information. Completing Section 8 should be in addition to all other sections of the Voter Registration application.***

Each time a client moves and notifies the agency of a change of address, agency employees are required to offer the opportunity to complete a change of address for voter registration.

F. Client is already registered

After the client fills out a Voter Registration Preference form indicating they are already registered to vote at their current address, inform the client that their response on the Voter Registration Preference form, **will not prohibit voter registration at a later date or changes to existing registrations.** In completing the Voter Registration Preference form, make sure that the client checks the box that indicates they are already registered to vote.

G. Client is not registered and does not wish to register at this time

After the client fills out a Voter Registration Preference form indicating they are registered to vote, and declines when offered the opportunity to complete the application to register, please reassure the client that applying to register to vote or declining to register to vote will have no effect on the services or benefits provided to them by the agency. Also reassure the client that the Voter Registration Preference form is used only for voter registration purposes, and serves to protect the client from any coercion.

COMPLETING THE AGENCY VOTER REGISTRATION APPLICATION/UPDATE FORM

Sections from the most current voter registration application (approved April 2006) are set out below. It is still permissible to use voter registration applications marked as "1/04" in the upper right hand corner. These "1/04" applications are 81/2" by 14" as opposed to the newer 81/2" by 11" applications.

Agency employees should use the information below to familiarize themselves with the voter registration application. Doing so, will make it easier to assist clients who request help completing the application and shorten the time it takes to complete the voter registration transaction. Individual sections which that ask for required information are marked (**REQUIRED**)

Yes/No Questions – Voter Attestation (REQUIRED)

North Carolina Voter Registration Application/Update Form

01 **Print Information and Sign Below**

I Attest, Under Penalty of Perjury, that, Required: (Answer YES or NO to the following questions.)

YES	NO	(Check YES or NO)
☐	☐	I am a United States citizen.
☐	☐	I am 18 years old, or older, or will be by general election day.
☐	☐	I have been a resident at this address for 30 days or more. If less than 30 days, I moved here on _____(date).
☐	☐	I will not vote in any other county or state after submission of this form. If I am registered elsewhere, I am canceling that registration at this time.
☐	☐	If I have been convicted of a felony, my rights of citizenship have been restored.
	▶	If you checked "NO" in response to any of these questions, **DO NOT COMPLETE THIS FORM**

Each of these questions should be answered. If a client cannot truthfully answer in the affirmative, they should not complete the application. Specific inquires about any of the questions above should be directed to the county board of elections office. This is especially true as to questions as to citizenship and felony convictions, where a client may suffer legal consequences if those questions are not truthfully answered.

Section 1 – Full Legal Name & Date of Birth (REQUIRED)

Section 1 ▶ **Full legal name and birth date**

Last Name (Required) ☐ Jr. ☐ II ☐ IV ☐ Sr. ☐ III

First Name (Required) Middle Name (Required) Date of Birth - MM DD YYYY (Required)

Each client should provide their full legal name. Nicknames or shortened forms of their legal name should not be used. The name provided in this section will be the name used for all voter registration records and activities, including voting, whether by absentee or in person.

Section 2 – Personal Identification Number (REQUIRED)

Section 2 ▶ **Personal Identification Number** (Required)

Do you have a NC driver's license or NC identification card? .... ☐ Yes ☐ No — NC Driver License or Identification Number

Or

Do you have a U.S. issued Social Security Number? ..... ☐ Yes ☐ No — Social Security Number (Last Four Digits Are Required)

Or

Have you been assigned a NC State Voter Number (NCVID)? ... ☐ Yes ☐ No — NC State Voter Registration Number (NCVID)

If the client has no personal identification number and answers "no" to all three questions, the voter registration application should still be submitted and the Board of Elections will assign a NC State Voter Number upon receipt. At least one of the three options must be provided. With regards to using the Social

Security number, only the last four digits are required, please do not place the full social security number on the form. The *NC Voter ID Number* can be found on the client's voter registration card if they are already registered to vote.

Section 3 – Residence Address (REQUIRED)

Section 3 ▶ **Residence Address (Required)**

Street Address where you live - *No P.O. Boxes or Rural Roads* — Apt/Unit

City

County — State: N C — ZIP Code

Phone (Optional) — Have you lived here for 30 days or more? ☐ Yes ☐ No — If no, date moved _____

Map/Diagram
If you do not have a street address, draw a map of where you reside. Please include roads and landmarks.

The client's physical address should be provided in this section. In most counties, this is usually the E911 address assigned to their home. Please do not use PO Box numbers or rural route address in this section; those can be used in the mailing address section below. If the client does not have a street address, they may draw a map or diagram outlining major landmarks or roads near their home. For a homeless person, the residence address is the place where they sleep or spend the majority of their time.

Section 4 – Mailing Address (REQUIRED ONLY IF DIFFERENT FROM PHYSICAL ADDRESS)

Section 4 ▶ **Mailing Address If Different**

Address where you get your mail *(if different from your residence address)* — Apt/Unit

City — State — ZIP Code

This section should only be completed if the client's mailing address is different from the physical address. If mail is received via a PO Box, that information should be recorded here. A homeless person's mailing address may be a PO Box, a local shelter, a church, or any other location where the person receives mail. For voters to receive mail from an elections office at an address other than their listed residence address, this mailing address section must be completed.

Section 5 – Gender / Section 6 – Race/Ethnicity / Section 7 – Political Party Affiliation

Section 5 ▶ **Gender**: ☐ Female ☐ Male

Section 6 ▶ **Race/Ethnicity**: ☐ American Indian/ Alaska Native ☐ Asian ☐ Black/African American ☐ Other ☐ Hispanic/Latino ☐ White ☐ Two or More Races

Section 7 ▶ **Political Party Affiliation**: ☐ Democratic ☐ Republican ☐ Unaffiliated ☐ Other_____

The above information is not required in order to register to vote. New registrants who do not indicate a party affiliation will be registered as unaffiliated. Clients who are already registered and do not check a party affiliation will <u>not</u> have their existing affiliation changed.

Section 8 – Name & address used for your last voter registration (REQUIRED ONLY IF PREVIOUSLY REGISTERED)

Section a ▶ **Name and address used for your last voter registration if applicable**

Last Name used in Previous Registration | First Name

Previous Address | State | ZIP Code

Previous City | Previous County

If the client has changed their name or address, this section should be completed. Providing this information will prevent duplicate registrations.

Signature (REQUIRED)

Signature (Required) | Date

I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS FORM

WARNING: If you sign this card and know it to be false, you can be convicted of a Class I felony

To Mail - Moisten, fold and seal.

The signature of the voter is required for all transactions covered by this form. This includes initial registrations, as well as address, name and/or party affiliation changes.

TIPS FOR COMPLETING A VOTER REGISTRATION TRANSACTION

1. If any of the required information is left blank, the application still must be turned in within five business days. The county board of elections will contact the voter and collect any missing information.

2. The law requires that assistance in completing the forms be offered; however, it is solely the client's decision whether or not to accept that help.

3. When completing voter registration applications, it is important to print clearly. Most counties use image scanners to handle data entry. Clearly printing all information will ensure that voter information is accurately recorded.

4. Under North Carolina voter registration laws, **mental incompetence** is not a basis for exclusion of a client for purposes of voter registration. However, persons deemed to be mentally incompetent may require special consideration. For further information regarding special provisions for dealing with mentally incompetent clients, please refer to Attachment D in this manual.

5. North Carolina allows a 17 year old to register and vote in primaries if the person will be 18 years old by the general election. If you have 17-year-old clients who meet this qualification and wish to complete a voter registration application, they may do so. These forms should be sent to the county board of elections for processing.

SITE COORDINATOR-DUTIES & RESPONSIBILITIES

In order to facilitate the continued success and the future growth of the Agency Voter Registration Program, each site providing voter registration services shall designate a Site Coordinator. Subject to mutual approval of the agency and the State Board of Elections, an agency may use a district or county coordinator in lieu of a Site Coordinator.

The Site Coordinator will have the following responsibilities:

1. Maintain adequate supplies, including:
    - properly coded Agency Voter Registration applications,
    - Agency Voter Registration Preference Forms,
    - Voter Registration/Preference Transmittal forms, and
    - training materials including the *NATIONAL VOTER REGISTRATION ACT AGENCY VOTER REGISTRATION TRAINING MANUAL & GUIDE* and others that may be available in the future.
2. Train new or reassigned employees in the voter registration process. (Contact the county board of elections or the State Board of Elections at 866-522-4723 for assistance)
3. Resolve site questions and problems relating to the voter registration process. (Contact the county board of elections or State Board of Elections office 866-522-4723 for assistance.)
4. Monitor the day-to-day administration of the program.
5. Ensure the timely and accurate transmittal of completed Voter Registration applications and Voter Registration Preference forms to the county board of elections within 5 business days of completion by client.
6. Regularly communicate with local and state election officials to ensure that materials are current and to report weekly to the State Board of Elections numbers of Voter Registration applications and Voter Registration Preference forms sent to county board of elections offices.
7. Serve as the contact person on voter registration matters for state or county boards of elections and their staff.

To order supplies

Use the North Carolina Voter Registration Materials Order Form found at http://www.app.sboe.state.nc.us/pdf/orderfrm_2000.pdf. This form can also be requested by calling 1-866-522-4723. Complete in full, including Site Coordinator's name, agency name and shipping address, the quantity and item needed. Remember, if your agency uses a certain numbered type of voter registration form (such as 01 or 03) note the type of voter registration form needed. This form can be sent using any of the following methods:

- By faxing to the State Board office at 919-715-0135 or the respective county board office
- By email – elections.sboe@ncmail.net, or
- By mail – NC State Board of Elections, PO Box 27255, Raleigh, NC 27611-7255

Training

All new or reassigned employees should be provided a current manual and training opportunity on the voter registration procedures implemented at the agency location. To obtain copies of the training manual, please contact the State Board of Elections at 1-866-522-4723. Electronic copies are also available on the State Board of Elections website www.sboe.state.nc.us . Multiple copies may be downloaded free of charge.

Resolving questions and problems

Most questions can be easily handled on site, by referring to the *National Voter Registration Act Agency Voter Registration Training Manual & Guide*. If additional assistance is needed, please

contact the county board of elections office. You may also contact the State Board of Elections at 1-866-522-4723.

Monitor administration
The Site Coordinator is responsible for supervising the daily voter registration activities at the location. The Site Coordinator should actively participate in the program, communicating clearly with all employees conducting voter registration activities.

Transmittal
All Voter Registration applications and Voter Registration Preference forms must be submitted to the county board of elections of a client's residence, within five business days. This also includes any applications used to update an existing registration. Use the transmittal form provided (Attachment B) to send counts of clients that have registered or filled out a Voter Registration Preference form along with the actual Voter Registration applications and Voter Registration preference forms to the county board of elections of the county where the clients reside. If an agency services clients from multiple counties, transmittal reports with the required attached applications and/or forms must be sent to each county board of elections where the clients served voter registration services by the agency reside.

Communication
On a weekly basis, transmit electronically to the State Board of Elections, by way of an email report or a web based report, (a link has been provided to all voter registration agencies) the number of Voter Registration applications and Voter Registration Preference forms executed by clients and sent to the county board of elections. Also communicate or respond as needed to county or state election officials.

TRACKING & TRANSMITTING VOTER REGISTRATION MATERIALS

One of the most important parts of the agency voter registration program is the timely delivery of voter registration materials to the appropriate county board office. Timely delivery will ensure that all individuals are properly registered for all elections and insuring that the integrity of elections are protected.

Transmitting Materials

All completed Voter Registration applications and Voter Registration Preference forms should be transmitted within 5 business days to the respective county board of elections office. Please adhere to the following procedure when transmitting materials:

- All materials should be placed in a sealed envelope. While most voter information is public, information such as date of birth and social security numbers are not and should be kept from public view. Please use an envelope that will allow materials to be transmitted without folding or bending.
- In addition to voter registration materials, please enclose or attach the Voter Registration Materials Transmittal Form and note the number clients served, the total number of Voter Registration applications, and the total number of Voter Registration Preference forms. A sample of the Transmittal Form is included in the attachments.
- For each election in NC, voter registration books close 25 days prior to the election. When transmitting materials near this deadline, all eligible applications should be transmitted as soon as possible as most county board offices are inundated with voter registration applications at this time. Applications completed in your office on the 25th day prior to the election are considered timely and should be delivered promptly.

Tracking Voter Registration Applications & Preference forms

In order to track the progress of the agency voter registration program, the number of clients appearing in person along with the number of completed Voter Registration applications and Voter Registration Preference forms. The agency, pursuant to direction from the State Board of Elections, should electronically report this information weekly to a designated State Board of Elections contact.

This information can be tracked manually or electronically depending on the resources and best fit for the individual agency; however, all agencies are required to report the requested data and store it in such a manner as to promptly produce such information upon request.

At a minimum, the following should be reported weekly to the NC State Board of Elections:

- The total number of clients applying, recertifying, renewing or changing their addresses with respect to benefits under a covered program who are served in person by the agency for a given time period;
- The total number of completed Voter Registration applications;
- The total number of completed Voter Registration Preference Forms. (If completed properly, this number should equal the number of clients applying, recertifying, renewing or changing their addresses with respect to benefits under a covered program who are served in person by the agency for the given time period.)

If assistance in setting up a tracking procedure is needed, please contact the NC State Board of Elections at 1-866-522-4723.

FREQUENTLY ASKED QUESTIONS

1. ***Do the county boards of elections cancel the previous registration if an applicant was registered in another county or state?***

   Yes. The law requires that the county board of elections, upon approval of an application to register, cancel any previous registration of that applicant.

2. ***Where are Voter Registration Preference forms filed and for how long?***

   Voter Registration Preference forms are kept on file at the county board of elections for a period covering two list maintenance periods, approximately 24 months. There are limited situations where Voter Registration Preference forms may be kept by an agency where such arrangement is mutually approved by the agency and the State Board of Elections.

3. ***Can the State Board of Elections provide the agency voter registration offices with a list of all county board of elections offices?***

   A current roster of county board offices, including the Director's name, mailing address, phone number and fax number can be found on the State Board of Elections website (www.sboe.state.nc.us).

4. ***If the county board of elections needs additional information before processing an a voter registration application, will the elections officials contact the client or the agency?***

   In most cases, the contact will be with the client. There may be some individual situations that would necessitate the board of elections staff contacting the agency; however, this type of contact will be kept at an absolute minimum.

5. ***Why does North Carolina now have so many different registration applications; and, with a code number identifying the location from which the form came? How can we ensure agency clients their privacy will be protected?***

   North Carolina now uses nine different registration applications: Three separate agency registration applications, Military recruitment office applications, a Drivers' License registration application, a Mail-In application, an In-Person/Voter Registration Drive application, Libraries and High School applications and a Spanish language application. Each application serves a different purpose. The coding on the various registration applications is used by elections officials to comply with reporting requirements set by the NVRA. This code in no way directly links the applicant to a specific agency or office, but is a means of reporting aggregated voter registration applications received from or generated by different agencies.

6. ***Will clients who complete voter registration applications be contacted regarding their applications; and, will these new voters know where to vote?***

   The county board of elections that receives the application will send a verification notice to the client, informing them of their assigned precinct and voting place. Clients can

always contact the county board office if they have any questions or to correct information.

7. ***If an agency accepts applications for service and changes of addresses by other methods, other than in-person, how do we process that client for purposes of voter registration?***

Because the law requires that we have a signed application or statement by the voter before we proceed with a voter registration or changes of information, the agency client will need to make application or change for voter registration whenever the client is physically present. Whoever handles applications for service and changes of address other than in-person, should send a voter registration packet in the mail to the client. A client may not register to vote or change a voter registration name or address unless they personally sign the voter registration application. If changes are made by mail and if a voter packet is sent along with documents for updating, for example, an address, the voter registration application and a Voter Registration Preference form should be sent in the voter packet.

POLITICAL ACTIVITY:

1. ***Will the political activity of agency voter registration personnel be limited?***

Political activity conducted outside of the agency office will not be limited; however, the law specifically prohibits agency voter registration personnel from seeking to influence a client's selection of political party affiliation. This includes the display of any political preference or party allegiance. In other words, agency voter registration personnel should refrain from displaying campaign bumper stickers, wearing campaign or party buttons or pins, etc., during office hours or while serving as an agency voter registration employee. These legal prohibitions are outlined in NCGS §163-82.20(e) (1) & (2) and are included in the Attachment G.

2. ***What is the penalty associated with violation of the prohibition against influencing a party choice?***

There is no direct penalty provided by North Carolina law; however, the NVRA does make it a criminal offense to intimidate or attempt to intimidate a person who is completing a voter registration transaction. Should the State Board office receive information that a violation of this sort may be occurring, we will investigate. If the investigation produces results that affirm the alleged violation, evidence will be turned over to the appropriate authorities.

3. ***What can be said to a client who wishes to know what the different parties stand for?***

The best response in this case would be to refer the client to the political parties for information. Let the client know if they would like to register at the present time to vote as an unaffiliated or with a party, that party affiliation can be changed at a later date. Never indicate a preference or make any assumptions.

4. ***If an agency registration employee reads the application to an illiterate client, and assists that client in completing the application, should the employee also complete the party affiliation portion? If yes, what would be the procedure if the client refuses to give a party affiliation?***

The agency employee should inform the client of the opportunity to choose a party affiliation. If the client refuses to choose a party affiliation, the employee should inform the client that leaving the space blank will cause the county board of elections to record the party affiliation as "unaffiliated" on the applicant's official voter registration record. Again, remind the client they are free to change party affiliation after registering with you.

5. ***Do political parties allow unaffiliated voters to vote in party primaries?***

By law, a recognized political party may allow unaffiliated voters to vote in that party's primaries. Because a party's choice in this matter is subject to change, it is best to call the board of elections if an applicant has a question about a specific party. As of 2006, all recognized parties in NC allow unaffiliated voters to participate in party primaries, a position that has been consistent by all recognized political parties since the 1990's.

DETERMINING VOTER ELIGIBILITY:

1. **Who is responsible for determining the eligibility of a person to register to vote?**

It is the responsibility of the county boards of elections, and not agency personnel, to determine the eligibility of clients to register and vote in North Carolina. If agency registration staff questions the eligibility of a particular client, the best procedure would be to allow the client to complete the Voter Registration application and then transmit the application to the proper county board of elections. The county board of elections will utilize all available resources to verify the information on the application and to correctly determine eligibility.

2. ***If a client is unsure about registration qualifications or eligibility to register, should a voter registration application be completed?***

This situation may arise when a client is unsure about their citizenship status or restoration of citizenship rights. It is a felony to register to vote if you are not an American citizen or an active felon whose citizenship has not been restored. In such a situation, the client will need to proceed with caution. Agency personnel should not assist the client to complete the application inaccurately, if agency personnel are aware the information is untrue. If there is no way to ascertain the missing information, the client should not complete the voter registration application because the client attests to the accuracy of the information under penalty of perjury. Instead, the client should decline to complete the voter registration application until they are certain about the requested information. Although the client should not register at the agency, the client may be given the application to complete at home if they so desire.

3. ***Once a person is registered to vote, is there a need to re-register at any time?***

A voter's registration is permanent unless the voter, as determined by a county board of elections:

1. requests in writing to be removed from the active registration list,
2. fails to respond to confirmation procedures as outlined in NCGS §163-82.14(d)(2),
3. dies, or
4. is convicted of a felony.

If a person moves into a new county, they must cancel any previous registration and submit an application to register in the new county. A client may accomplish both by completing the relevant information on the voter registration application. If a person

moves to another address in the same county they must update the residential address, but do not have to re-register.

4. ***Can migrant workers register to vote in their current county of employment?***

Any person meeting the qualifications to register and vote as outlined in NCGS §163-55 and §163-57 can register to vote. (See Attachment G) Remember that the county board of elections will determine whether an applicant meets those qualifications. However, agency personnel should not assist the client to complete the application inaccurately, if agency personnel are aware the information is untrue. So, if the migrant worker has told the agency employee they are not a citizen, the agency should not aid in preparing and submitting the voter registration application.

5. ***Are agency registration employees required to offer the voter registration opportunity to clients under the age of 18?***

Yes. The county board of elections is the office responsible for determining the eligibility and qualifications of voter registration applicants. For clients under the age of 18, the county board of elections will either deny the registration or hold it, if the client is seventeen, until such time as the person would be qualified by age to register and vote in the State. Individuals, who will be 18 by the next general election, are eligible to vote in that election's primary at the age of 17.

6. ***Can homeless persons register to vote?***

Yes. For homeless persons the residence address would be defined as the place where they sleep or spend the majority of their time. In addition, an elections office must have a mailing address to which they can send mail to the person. This can be a Post Office box, a local shelter, church, etc., or any place else where the person receives mail. Therefore, the homeless client may need to fill out the mailing address section of the voter registration application.

7. **There has been a lot of attention in the press regarding illegal aliens and access to government services. What prevents non-citizens from registering to vote? Can agencies be held liable if a non-citizen falsely registers at our office?**

Only individuals who are citizens of the United States are eligible to register to vote. Legal residents holding "green cards" or persons holding visas allowing them to reside in the United States are not citizens and may not register to vote. The voter registration application requires that each person registering to vote affirms citizenship once by checking a box and another time by attestation. Falsely answering the citizenship question is a felony, can be grounds for immediate deportation, and will forever bar the client from ever becoming an American citizen. If it is determined that a non-citizen has registered to vote and subsequently is not eligible to vote, the registration will be cancelled and the individual reported to the U.S. or District Attorney. Agency staff, unless knowingly aiding the non-citizen in providing false information on the voter registration application, cannot be held liable for any person who falsely completes a voter registration application. Agency staff should notify the county elections office if they believe a person has deliberately completed a registration application with false information.

8. ***Should the voter registration service be offered to inmates of the county jail brought to mental health offices for review?***

If an inmate is considered a client of the mental health office, s/he should be offered the opportunity to register to vote. If s/he has been convicted of a felony and has not had citizenship rights restored, which would deprive the inmate of the right to vote, that fact will be revealed when s/he answers Question 1 on the voter registration application and the inmate should not complete the application. As stated earlier, however, **agency personnel should not make eligibility determinations.**

DISABLED VOTERS:

1. ***Are voting places and voting machines accessible to voters with disabilities?***

   Under federal law both voting places and voting machine systems must be accessible for the disabled. Clients who have concerns should contact the county board of elections as to voting accessibility issues.

2. ***Please advise agency personnel how to register a visually impaired person.***

   The law requires that agency staff provide the same degree of assistance during the voter registration process as would be provided during the completion of standard agency forms and applications. In the case of visually impaired clients, we recommend that the agency employee complete the application for the client (writing the answers provided by the client) and assist the client in making a mark in the signature block. The agency employee should sign or initial the application in the vicinity of the mark, and enter that day's date. Rulers or other items with a defined straight edge can be used to identify the signature area of the application for clients with limited vision and thus allow them to sign or mark the application.

3. ***Should agency employees offer voter registration to clients regardless of mental or intellectual capacity?***

   Yes. North Carolina law does not make mental competency or intellectual capacity a qualification for citizens to register to vote.

4. ***If an agency client is unable to sign the application, what procedure is necessary?***

   In North Carolina, an applicant's mark is considered as good as a signature. We recommend that if a client is unable to sign the document, the client should make some mark in the signature block (an "X" is sufficient). The agency employee should then initial or sign in the vicinity of the mark, and date the application. If the client cannot make a mark, the employee may sign for the client provided that the client has given verbal permission and the client touches the pen as his or her name is written. The agency employee should document that this method was used.

5. ***What address is required for agency clients that live in group homes or hospitals?***

   Registration officials need a residence address to process a voter registration application. They also need a mailing address if it is different than the residence address. In cases where giving the residence address may violate a client's right to privacy, we suggest using a street address with no identifier (for example, leave off the hospital or group home name). If this solution is not satisfactory to the client or the agency, contact the county board of elections to discuss other options. See Attachment D as to further information as to clients served by DMNDDSBS.

6. ***Is assistance provided at the voting place for disabled voters?***

Yes. Even though there are accessible voting machines for voters with disabilities located at every North Carolina voting location, the disabled voter has the option of requesting assistance. A voter needing assistance must make a request for assistance to the chief judge at the voting place. Qualified voters are entitled to assistance getting to and from the voting booth and marking a ballot. A voter may receive assistance from a near relative or other person of the voter's choice (other than the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union). Another option for disabled or elderly voters is curbside voting. NCGS §163-166.9 allows qualified voters who are able to travel to the voting place, but because of age or physical disability cannot enter the voting enclosure, to mark a ballot from the vehicle.

AGENCY REQUIREMENTS:

1. ***Will agency voter registration offices be periodically audited or monitored for correct conduct of the voter registration program?***

   Election offices will conduct random unannounced checks to ensure the integrity of the agency registration program. We generally rely upon information received from the public to determine if possible misconduct exists. Failure to offer the voter registration service to all clients is a violation of NVRA and state law. If we have reason to believe that registration officials are engaged in practices that violate voter registration laws, the State Board of Elections will investigate. Agencies should refer to attachment C at the end of this manual for a list of prohibitions regarding the administration of the voter registration program.

2. ***Do agency registration personnel need to take an oath before performing voter registration functions?***

   No.

3. ***Does the agency voter registration program intend to include the parents and caretakers of clients, or only to adult participants?***

   It depends on the clients served. For example, in the case of the WIC program, the mother of the infant child receiving the benefits, should be offered the voter registration service provided the individual meets all qualifications, including a Voter Registration Preference form and a voter registration application. Also, any legal guardian accompanying the client should be offered the services. If the client receiving the benefits requests that other members of the family be registered also, additional voter registration applications may be given to take home to those family members. If the client receiving the benefits is represented by another person (guardian, power of attorney, etc.), this should be noted on the Voter Registration Preference form and the representative should be given a voter registration application to take to the client. The representative or legal guardian cannot register for the client. The agency employee is not required to provide the voter registration service to the representative, but the representative may be given a voter registration application to fill out at home. The representative may also referred to the local county board of elections.

4. ***Must agencies offer the voter registration service at times other than application, and recertification, renewal, or notice of change of address?***

No. The law requires contained in NCGS §163-82.20(b)(1) states that agency registration personnel to will offer the voter registration services opportunity only during original applications for service or benefits, and with each recertification, renewal or change of address.

5. ***Beyond the Voter Registration Preference form required from all clients, what documentation is required of those clients who take voter registration applications home?***

If a client chooses to take an application out of the agency office, it is no longer the responsibility of the agency office to transmit that application, unless the client brings the completed application back to the agency at the next visit. As with all clients, a Voter Registration Preference form should be completed at the agency office.

6. ***If an agency client wishes to take the voter registration application home, who pays the postage to have it mailed back to the county board of elections?***

If the client mails the application to the county board of elections, the client must pay the postage. Clients may also hand-deliver the application to the county board office or return it to the agency office for transmittal to the county board office.

7. ***Do agency offices serving more than one county register voters for each of those counties?***

Yes. The completed voter registration applications and Voter Registration Preference forms would then be transmitted to the appropriate county board of elections.

8. ***How do agency employees proceed if the client does not know his/her voter registration status?***

In this situation, agency employees have three options:
1) Call the county board of elections to determine if the client is already registered, or
2) If the agency has access to the Internet, check the statewide voter registration database located on the State Board of Elections website (www.sboe.state.nc.us), or
3) Complete a voter registration application and send to the county board of elections office, where the county board staff will process it according to correct procedures.

9. ***How do agency offices comply with the five-day transmittal deadline if the client takes the voter registration application home and brings it back at a later date?***

The five-day deadline is counted from the date the completed application is received by the agency office.

10. ***If a client informs agency personnel that they will be moving to another county in the State but the client has not yet moved, is the agency office responsible for any paperwork associated with this move?***

No. When the actual move occurs, an agency office in the county where the client is moving would complete the registration transaction (cancellation of the old registration and a new application to register in the new county) if the clients seeks services in the new county. The client is also free to handle the registration transaction themselves if they wish.

11. Are agency voter registration employees required to give an oath to clients who complete an application to register to vote?

No.

12. Some agency clients may refuse to complete the Voter Registration Preference form. How should the agency employee handle this situation?

When the visit with the client is completed, simply enter the client's name and date of birth, then sign and date the form. Transmit the form to the county board of elections along with other completed Voter Registration Preference forms and applications. If the client complains about being asked to fill out a Voter Registration Preference form, you are free to tell them it is required by the NVRA, but that law will not force them to sign the Voter Registration Preference form. You will sign it on their behalf.

13. If the agency employee prints the client's name and date of birth, initials the form and transmits it to the county board of elections, would this action not violate the client's right to privacy?

No. The Federal law requires that we maintain signed Voter Registration Preference forms for every agency client choosing not to register to vote. The Voter Registration Preference form serves two purposes: (1) It ensures elections officials that agency clients are not being coerced or influenced to register to voter, and (2) it allows elections officials to trace registration actions should the client appear on Election Day and seek to vote. The forms also allow the State Board of Elections to ensure that agencies are in compliance with the law. The Voter Registration Preference form, once received by the county board of elections, is confidential, and cannot be traced to a particular agency or office. Furthermore, an individual who refuses to sign the Voter Registration Preference form is considered to have declined to register to vote. See statement four on the Voter Registration Preference form which reads: "If I do not sign this form or complete a voter registration application, I will be considered to have decided not to register to vote at this time".

14. What is the procedure for clients who are unable to complete a voter registration transaction at the time of initial application for services or admission?

In rare cases such as this, the agency staff must use some discretion in determining if the client is able to complete a voter registration transaction (this includes mental deficiency, intoxication, for example etc.). The voter registration service may be postponed until a later date. Agency staff should fill out a Voter Registration Preference form noting the name and DOB of the client and write a short explanation on the Voter Registration Preference form.

15. Who should agency personnel contact if it is believed an applicant is providing false information?

The county board of elections where the agency is located.

16. Is identification required before registering at the agency office?

No. Current voter registration laws do not require any type of identification at the time of "in-person" registration at an agency or at the county or State Board of Elections; however, the Help America Vote Act of 2002 (HAVA) does requires of all voter

registration applicants to provide either a drivers license number, at least the last four digits of their social security number, or an applicant's state assigned voter ID number. If the client has no driver's license or social security number, and has not been assigned a North Carolina Voter ID number, the completed voter registration application should be transmitted as is. Upon receipt, the client will be assigned a Voter ID number and will be registered. If any further information is required to complete the registration, the county board of elections office will contact the voter if further ID is needed.

17. If a client has declined to register once, are agency employees required to offer the opportunity to register to vote at subsequent visits?

Yes. Regardless of past refusals to register, agency personnel must provide voter registration services to clients at each application for service or benefits, and with each recertification, renewal or change of address with respect to such benefits. If the client declines such services, it must be noted on a Voter Registration Preference form. Each time the voter registration service is offered, if the client declines, a signed declination is required.

18. What information is absolutely required on the voter registration application before it can be processed?

For original voter registrations the essential information fields are:

- citizenship status,
- name,
- residence address (If the client's mailing address if different from their residence address, it should be included also),
- date of birth,
- if the applicant has a drivers license number, or the a last four digits of the social security number, or North Carolina Voter ID number, such information must be provided; however, if the applicant has none of the three, the applicant must indicate that fact on the application form, and
- signature.

19. What is the procedure if completed voter registratiom materials are mistakenly lost or discarded?

Without an application, the county board of elections will have no way to process a voter registration transaction. If it is known by an agency that a voter registration application was lost, discarded, or destroyed, the client should be contacted and the agency should aid them in filling out a new voter registration application and promptly transmitting it to the county board of elections.

When the status of a lost or discarded application is not known to either the client or agency, and a client, claiming to have registered at the agency, does not appear on the voter registration rolls at the time of an election, they will be allowed to complete an affidavit stating they had registered at the agency, and vote a provisional ballot. The county board staff will then determine whether to count the provisional ballot based upon research of documentation, including Voter Registration Preference forms sent to it by the agency, as to whether they register at the agency as alleged.

20. Are agency employees required to check voter registration materials for completeness?

If an agency employee assists the client in completing any of the voter registration materials, then yes, the employee should attempt to ensure completion of all required items. If the client completes the materials independently, the county board of elections staff will contact the applicant to request any missing information.

21. ***Must voter registration agencies transmit completed applications no later than the 25th day before an election in order for the application to be accepted by the board of elections?***

No. If the agency office receives the application by the 25-day deadline, it is considered valid for the election. We do request that as the deadlines for voter registration approach, agency offices be very sensitive to timely transmittal of the completed applications. County boards of elections generally receive several times the usual number of applications during the final days of registration.

22. ***Is the five-day transmittal deadline five calendar days or five business days?***

Five business days.

23. ***Do North Carolina voter registration laws apply to persons living on the Cherokee Reservation?***

Yes.

ATTACHMENT A: AGENCY DECLINATION FORM

STATE OF NORTH CAROLINA
Voter Registration Preference Form

To Register to Vote You Must:

1. Be a citizen of the United States of America
2. Be a resident of North Carolina for 30 days before the next election in which you intend to vote
3. Be 18 years old by the time of the next election in which you intend to vote
4. If you have been convicted of a felony, your rights of citizenship must have been restored. In NC your rights are restored automatically after you are discharged from a felony.
5. You must not be registered to vote in any other county or state after submission of a voter registration form. If you register to vote today, any voter registration you have elsewhere will be canceled.

Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.

I, _____, have been offered the opportunity to register to vote by this agency. (Please Print Clearly)

If you are not registered to vote where you live now, would you like to apply to register to vote here today?

Please select ONE of the options below:

- ☐ YES, I would like to apply to register to vote in the here today.
- ☐ YES, I would like to apply to register to vote, but I will take a voter registration application home to complete at a later time.
- ☐ NO, I am declining the opportunity to register to vote today.
- ☐ I am ALREADY REGISTERED to vote at my current address.
- ☐ I would like to update my residential or mailing address.

If you do not check a box, you will be considered to have decided not to register to vote at this time.

I understand that I will be offered the opportunity to register to vote at initial application for service or assistance and with each recertification, renewal or change of address relating to such service or assistance.

I understand that I may request and receive assistance from this agency in completing the voter registration form. The decision to seek or accept help is mine. I may fill out the application in private.

If I choose to register to vote, the location where I completed the voter registration application form will be used only for voter registration purposes. If I decline to register to vote, the fact that I declined will be used only for voter registration purposes.

_____ Signature

_____ DOB __/__/_____

_____ Agency Name

_____ Interviewer Initials and Date

If you believe that someone has interfered with any of your rights listed below, you may file a complaint with Gary Bartlett, North Carolina State Board of Elections, PO Box 27255, Raleigh, NC 27611-7255, or you may call the toll free number 1-866-522-4723.

- your right to register or to decline to register to vote
- your right to privacy in deciding whether to register
- your right to choose your own political party or other political preference

ATTACHMENT B: NVRA AGENCY TRANSMITTAL FORM

NVRA Agency Voter Registration Program
VR Materials Transmittal Form

Please complete the fields below and enclose this form with the materials to be transmitted to the County Board of Elections. Retain a copy for your records.

Today's Date:	
Forms for Week Ending Date:	
Agency Name	
Agency Representative:	
County:	
Notes:	

CBE County:	
# of Voter Registration Applications Enclosed:	
# of Preference Forms Enclosed:	
Method of Delivery:	☐ In Person ☐ By Mail ☐ Courier ☐ County Mail

ATTACHMENT C: PROHIBITIONS

The law directly prohibits certain actions and behaviors in the administration of voter registration in designated agency offices.

1) Agency employees must not attempt to influence a client's decision regarding party affiliation. Agency employees may explain that political parties may require a person to be registered with that political party in order to participate in that party's primary, but a person may register as unaffiliated if he does not wish to be registered with a particular party. Agency employees must not seek to persuade a client to register with a particular party.

2) Agency employees serving as voter registration officials must not display any political preference or party affiliation. This includes displaying bumper stickers, pins, posters, etc. endorsing a particular party or candidate.

3) Agency employees must not attempt to dissuade a client from completing a voter registration transaction. This includes any statements or actions that would discourage the client from registering to vote or updating their voter registration records.

4) Agency employees must not say or do anything that would lead a client to believe that a decision to register or to decline to register will in any way affect the services or benefits provided by the agency.

ATTACHMENT D: SPECIAL INSTRUCTIONS FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES OFFICES

The Executive Director of the State Board of Elections has determined that staff falling under the direction of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and working at **designated** State Operated Facilities ***should make the agency voter registration program available to clients, but are not required to actively offer the voter registration service to every client.*** These designated facilities and centers are:

1. Broughton Hospital, Morganton, NC;
2. Cherry Hospital, Goldsboro, NC;
3. Dorothea Dix Hospital, Raleigh, NC;
4. John Umstead Hospital, Butner, NC;
5. Black Mountain Center, Black Mountain, NC;
6. Caswell Center, Kinston, NC;
7. Murdoch Center, Butner, NC;
8. O'Berry Center, Goldsboro, NC;
9. J. Iverson Riddle Developmental Center, Morganton, NC;
10. Julian F. Keith ADATC , Black Mountain, NC;
11. R.J. Blackley ADATC, Butner, NC;
12. Walter B. Jones ADATC--Greenville, NC; and,
13. North Carolina Special Care Center, Wilson, NC.
14. The Central Regional Hospital, Butner, N.C.

We suggest that these State Operated Facilities make the voter registration applications available to interested clients, and possibly post a notice informing clients that voter registration transactions may be completed in this location.

ATTACHMENT E: CONTACT US

Name of county election directors, addresses, e-mails, phone and fax numbers for all 100 county boards of elections may be obtained through the State Board of Elections website: www.sboe.state.nc.us

Questions or inquiries for the State Board of Elections can be sent through the following:

By phone:	(919) 733-7173 (866) 522-4723
By fax:	(919) 715-0135
By mail:	PO Box 27255 Raleigh, NC 27611-7255
By email:	elections.sboe@ncmail.net

Our office is located at 506 N. Harrington Street, Raleigh, NC 27603

ATTACHMENT F:
ORDER FORM FOR VOTER REGISTRATION SUPPLIES

North Carolina Voter Registration Supplies Order Form

NC State Board of Elections,
PO Box 27255, Raleigh, NC 27611-7255, (866)522-4723, Fax (919) 715-0135

To ensure that your order is filled correctly please complete all fields. Forms come in boxes of 1000, so please round off your request to the nearest 1000. To order fewer forms, call 1-866-522-4723

Date:	
Contact Name:	**Phone:**
	Phone (Alternate):
Agency:	**Fax:**
	Email:

Description of Form	Quantity
01– Division of Social Services	
02– Disabilities Services Agencies	
03– Employment Security Commission	
06– Mail-in	
07– In-Person/Voter Registration Drives*	
08– Libraries, High Schools, Institutes of Higher Learning	
09– Español/Spanish	
	Total:

Shipping (Physical) Address:	Mailing Address: ☐Same as shipping

**Under North Carolina law, it is the obligation of any individual who receives a completed voter registration application from an applicant who entrusts that individual to submit the application for him or her, to submit it to the appropriate board of elections office by the 25th day before an election. Failure of that individual to do so may result in a Class 2 Misdemeanor.*

For Office Use Only	
Order Number:	
Date Order R'cvd:	
Ship Date:	

Signature of person ordering: _____

Date _____

ATTACHMENT G: NORTH CAROLINA GENERAL STATUTES

§ 163-82.20. Voter registration at other public agencies.

(a) Voter Registration Agencies. – Every office in this State which accepts:

(1) Applications for a program of public assistance under Article 2 of Chapter 108A of the General Statutes or under Article 13 of Chapter 130A of the General Statutes;

(2) Applications for State-funded State or local government programs primarily engaged in providing services to persons with disabilities, with such office designated by the State Board of Elections; or

(3) Claims for benefits under Chapter 96 of the General Statutes, the Employment Security Law,

is designated as a voter registration agency for purposes of this section.

(b) Duties of Voter Registration Agencies. – A voter registration agency described in subsection (a) of this section shall, unless the applicant declines, in writing, to register to vote:

(1) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address relating to such service or assistance:

a. The voter registration application form described in G.S. 163-82.3(a) or (b); or

b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163-82.3(a) or (b) and has been approved by the State Board of Elections, provided that the agency's own form may be a detachable part of the agency's paper application or may be a paperless computer process, as long as the applicant is required to sign an attestation as part of the application to register.

(2) Provide a form that contains the elements required by section 7(a) (6) (B) of the National Voter Registration Act; and

(3) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application as is provided by the office with regard to the completion of its own forms.

(c) Provided that voter registration agencies designated under subdivision (a)(3) of this section shall only be required to provide the services set out in this subsection to applicants for new claims, reopened claims, and changes of address under Chapter 96 of the General Statutes, the Employment Security Law.

(d) Home Registration for Disabled. – If a voter registration agency provides services to a person with disability at the person's home, the voter registration agency shall provide the services described in subsection (b) of this section at the person's home.

(e) Prohibitions. – Any person providing any service under subsection (b) of this section shall not:

(1) Seek to influence an applicant's political preference or party registration, except that this shall not be construed to prevent the notice provided by G.S. 163-82.4(c) to be given if the applicant refuses to declare his party affiliation;

(2) Display any such political preference or party allegiance;

(3) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(4) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

(g) Transmittal From Agency to Board of Elections. – Any voter registration application completed at a voter registration agency shall be accepted by that agency in lieu of the applicant's mailing the application. Any such application so received shall be transmitted to the appropriate board of elections not later than five business days after acceptance, according to rules which shall be promulgated by the State Board of Elections.

(h) Twenty-Five-Day Deadline for an Election. – Applications to register accepted by a voter registration agency shall entitle a registrant to vote in any primary, general, or special election unless the registrant shall have made application later than the twenty-fifth calendar day immediately preceding such primary, general, or special election, provided that nothing shall prohibit voter registration agencies from continuing to accept applications during that period.

(i) Ineligible Applications Prohibited. – No person shall make application to register to vote under this section if that person is ineligible to vote on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony. (1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 507, s. 25.10(c); 1995 (Reg. Sess., 1996), c. 608, s. 1.)

SUBCHAPTER III. QUALIFYING TO VOTE.

Article 6.

Qualifications of Voters.

§ 163-54. Registration a prerequisite to voting.

Only such persons as are legally registered shall be entitled to vote in any primary or election held under this Chapter. (1901, c. 89, s. 12; Rev., s. 4317; C. S., s. 5938; 1967, c. 775, s. 1.)

§ 163-55. Qualifications to vote; exclusion from electoral franchise.

(a) Residence Period for State Elections. – Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina and in the precinct, ward, or other election district in which the person offers to vote for 30 days next preceding an election, shall, if otherwise qualified as prescribed in this Chapter, be qualified to vote in any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which be has removed until 30 days after the person's removal.

Except as provided in G.S. 163-59, the following classes of persons shall not be allowed to vote in this State:

(1) Persons under 18 years of age.

(2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

(b) Precincts and Election Districts. – For purposes of qualification to vote in an election, a person's residence in a precinct, ward, or election district shall be determined in accordance with G.S. 163-57. When an election district encompasses more than one precinct, then for purposes of those offices to be elected from that election district a person shall also be deemed to be resident in the election district which includes the precinct in which that person resides. An election district may include a portion of a county, an entire county, a portion of the State, or the entire State. When a precinct has been divided among two or more election districts for purposes of elections to certain offices, then with respect to elections to those offices a person shall be deemed to be resident in only that election district which includes the area of the precinct in which that person resides. Qualification to vote in referenda shall be treated the same as qualification for elections to fill offices. (19th amendt. U.S. Const.; amendt. State Const., 1920; 1901, c. 89, ss. 14, 15; Rev., ss. 4315, 4316; C.S., ss. 5936, 5937; Ex. Sess. 1920, c. 18, s. 1; 1933, c. 165, s. 4; 1945, c. 758, s. 7; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1971, c. 1231, s. 1; 1973, c. 793, s. 18; 2005-2, s. 2.)

§ 163-56. Repealed by Session Laws 1973, c. 793, s. 19.

§ 163-57. Residence defined for registration and voting.

All election officials in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

(1) That place shall be considered the residence of a person in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning.

a. In the event that a person's habitation is divided by a State, county, municipal, precinct, ward, or other election district, then the location of the bedroom or usual sleeping area for that person with respect to the location of the boundary line at issue shall be controlling as the residency of that person.

b. If the person disputes the determination of residency, the person may request a hearing before the county board of elections making the determination of residency. The procedures for notice of hearing and the conduct of the hearing shall be as provided in G.S. 163-86. The presentation of an accurate and current determination of a person's residence and the boundary line at issue by map or other means available shall constitute prima facie evidence of the geographic location of the residence of that person.

c. In the event that a person's residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be controlling as to the residency of that person. Residence shall be broadly construed to provide all persons with the opportunity to register and to vote, including stating a mailing address different from residence address.

(2) A person shall not be considered to have lost that person's residence if that person leaves home and goes into another state, county, municipality, precinct, ward, or other election district of this State, for temporary purposes only, with the intention of returning.

(3) A person shall not be considered to have gained a residence in any county, municipality, precinct, ward, or other election district of this State, into which that

person comes for temporary purposes only, without the intention of making that county, municipality, precinct, ward, or other election district a permanent place of abode.

(4) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of making that state, county, municipality, precinct, ward, or other election district a permanent residence, that person shall be considered to have lost residence in the state, county, municipality, precinct, ward, or other election district from which that person has removed.

(5) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of remaining there an indefinite time and making that state, county, municipality, precinct, ward, or other election district that person's place of residence, that person shall be considered to have lost that person's place of residence in this State, county, municipality, precinct, ward, or other election district from which that person has removed, notwithstanding that person may entertain an intention to return at some future time.

(6) If a person goes into another state, county, municipality, precinct, ward, or other election district, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, that person shall be considered to have lost residence in that State, county, municipality, precinct, ward, or other election district from which that person removed.

(7) School teachers who remove to a county, municipality, precinct, ward, or other election district in this State for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live where their parents or other relatives reside in this State and who do not have the intention of becoming residents of the county, municipality, precinct, ward, or other election district to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county, municipality, precinct, ward, or other election district in which their parents or other relatives reside.

(8) If a person removes to the District of Columbia or other federal territory to engage in the government service, that person shall not be considered to have lost residence in this State during the period of such service unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.

(9) If a person removes to a county, municipality, precinct, ward, or other election district to engage in the service of the State government, that person shall not be considered to have lost residence in the county, municipality, precinct, ward, or other election district from which that person removed, unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.

(9a) The establishment of a secondary residence by an elected official outside the district of the elected official shall not constitute prima facie evidence of a change of residence.

(10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.

(11) So long as a student intends to make the student's home in the community where the student is physically present for the purpose of attending school while the student is attending school and has no intent to return to the student's former home after graduation, the student may claim the college community as the student's domicile. The student need not also intend to stay in the college community beyond graduation in order to establish domicile there. This subdivision is intended to codify the case law. (19th amendt. U.S. Const.; amendt. State Const., 1920; 1901, c. 89, s. 15; Rev., s. 4316; C.S., s. 5937; Ex. Sess. 1920, c. 18, s. 1; 1933, c. 165, s. 4; 1945, c. 758, s. 7; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1981, c. 184; 1991, c. 727, s. 5.1; 1993 (Reg. Sess., 1994), c. 762, s. 22; 2001-316, s. 1; 2005-428, s. 3(b); 2006-262, s. 2.1.)

§ 163-58: Repealed by Session Laws 1985, c. 563, s. 3.

§ 163-59. Right to participate or vote in party primary.

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

(1) Is a registered voter, and

(2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and

(3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-116 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age or residence to register and vote in the general election or regular municipal election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election or regular municipal election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. (1915, c. 101, s. 5; 1917, c. 218; C.S., s. 6027; 1959, c. 1203, s. 6; 1967, c. 775, s. 1; 1971, c. 1166, s. 4; 1973, c. 793, s. 20; 1981, c. 33, s. 1; 1983, c. 324, s. 3; 1987, c. 408, s. 4; c. 457, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 5; 1993 (Reg. Sess., 1994), c. 762, s. 23.)

Article 7A.

Registration of Voters.

§ 163-82.1. General principles of voter registration.

(a) Prerequisite to Voting. – No person shall be permitted to vote who has not been registered under the provisions of this Article or registered as previously provided by law.

(b) County Board's Duty to Register. – A county board of elections shall register, in accordance with this Article, every person qualified to vote in that county who makes an application in accordance with this Article.

(c) Permanent Registration. – Every person registered to vote by a county board of elections in accordance with this Article shall remain registered until:

(1) The registrant requests in writing to the county board of elections to be removed from the list of registered voters; or

(2) The registrant becomes disqualified through death, conviction of a felony, or removal out of the county; or

(3) The county board of elections determines, through the procedure outlined in G.S. 163-82.14, that it can no longer confirm where the voter resides. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 25; 1975, c. 395; 1981, c. 39, s. 1; c. 87, s. 1; c. 308, s. 1; 1985, c. 211, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2.)

§ 163-82.2. Chief State Election Official.

The Executive Director of the State Board of Elections is the "Chief State Election Official" of North Carolina for purposes of P.L. 103-31, The National Voter Registration Act of 1993, subsequently referred to in this Article as the "National Voter Registration Act". As such the Executive Director is responsible for coordination of State responsibilities under the National Voter Registration Act. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2001-319, s. 11.)

§ 163-82.3. Voter registration application forms.

(a) Form Developed by State Board of Elections. – The State Board of Elections shall develop an application form for voter registration. Any person may use the form to apply to do any of the following:

(1) Register to vote;

(2) Change party affiliation or unaffiliated status;

(3) Report a change of address within a county;

(4) Report a change of name.

The county board of elections for the county where the applicant resides shall accept the form as application for any of those purposes if the form is submitted as set out in G.S. 163-82.3.

(b) Interstate Form. – The county board of elections where an applicant resides shall accept as application for any of the purposes set out in subsection (a) of this section the interstate registration form designed by the Federal Election Commission pursuant to section 9 of the National Voter Registration Act, if the interstate form is submitted in accordance with G.S. 163-82.6.

(c) Agency Application Form. – The county board of elections where an applicant resides shall accept as application for any of the purposes set out in subsection (a) of this section a form developed pursuant to G.S. 163-82.19 or G.S. 163-82.20. (1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2.)

§ 163-82.4. Contents of application form.

(a) Information Requested of Applicant. – The form required by G.S. 163-82.3(a) shall request the applicant's:

(1) Name,

(2) Date of birth,

(3) Residence address,

(4) County of residence,

(5) Date of application,

(6) Gender,

(7) Race,
(7a) Ethnicity,
(8) Political party affiliation, if any, in accordance with subsection (c) of this section,
(9) Telephone number (to assist the county board of elections in contacting the voter if needed in processing the application),
(10) Drivers license number or, if the applicant does not have a drivers license number, the last four digits of the applicant's social security number,

and any other information the State Board finds is necessary to enable officials of the county where the person resides to satisfactorily process the application. The form shall require the applicant to state whether currently registered to vote anywhere, and at what address, so that any prior registration can be cancelled. The portions of the form concerning race and ethnicity shall include as a choice any category shown by the most recent decennial federal census to compose at least one percent (1%) of the total population of North Carolina. The county board shall make a diligent effort to complete for the registration records any information requested on the form that the applicant does not complete, but no application shall be denied because an applicant does not state race, ethnicity, gender, or telephone number. The application shall conspicuously state that provision of the applicant's telephone number is optional. If the county board maintains voter records on computer, the free list provided under this subsection shall include telephone numbers if the county board enters the telephone number into its computer records of voters.

(a1) No Drivers License or Social Security Number Issued. – The State Board shall assign a unique identifier number to an applicant for voter registration if the applicant has not been issued either a current and valid drivers license or a social security number. That unique identifier number shall serve to identify that applicant for voter registration purposes.

(b) Notice of Requirements, Attestation, Notice of Penalty, and Notice of Confidentiality. – The form required by G.S. 163-82.3(a) shall contain, in uniform type, the following:

(1) A statement that specifies each eligibility requirement (including citizenship) and an attestation that the applicant meets each such requirement, with a requirement for the signature of the applicant, under penalty of a Class I felony under G.S. 163-275(13).
(2) A statement that, if the 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.
(3) A statement that, if the 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.

(c) Party Affiliation or Unaffiliated Status. – The application form described in G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be affiliated with one of the political parties in G.S. 163-96, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. 163-119, but may vote in any other primary or general election. The application form shall so state.

(d) Citizenship and Age Questions. – Voter registration application forms shall include all of the following:

(1) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(2) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.

(3) The statement "If you checked 'no' in response to either of these questions, do not complete this form."

(e) Correcting Registration Forms. – If the voter fails to answer the question set out in subdivision (1) of subsection (d) of this section, the voter shall be notified of the omission and given the opportunity to complete the form at any time before casting a vote in the election on election day. If the voter corrects that omission within that time, the voter may vote in the election. (1901, c. 89, s. 12; Rev., s. 4319; C.S., s. 5940; Ex. Sess. 1920, c. 93; 1933, c. 165, s. 5; 1951, c. 984, s. 1; 1953, c. 843; 1955, c. 800; c. 871, s. 2; 1957, c. 784, s. 2; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 6; 1973, c. 793, s. 27; c. 1223, s. 3; 1975, c. 234, s. 2; 1979, c. 135, s. 1; c. 539, ss. 1-3; c. 797, ss. 1, 2; 1981, c. 222; c. 308, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1999-424, s. 7(c), (d); 1999-453, s. 8(a); 2003-226, s. 9; 2004-127, s. 4; 2005-428, s. 15.)

§ 163-82.5. Distribution of application forms.

The State Board of Elections shall make the forms described in G.S. 163-82.3 available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration drives. (1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2.)

§ 163-82.6. Acceptance of application forms.

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by mail, facsimile transmission, transmission of a scanned document, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Signature. – The form shall be valid only if signed by the applicant. An electronically captured image of the signature of a voter on an electronic voter registration form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, by facsimile transmission, or by transmission of a scanned document, must be received by the county board of elections by a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section.

(c1) If the application is submitted by facsimile transmission or transmission of a scanned document, a permanent copy of the completed, signed form shall be delivered to the county board no later than 20 days before the election.

(d) Instances When Person May Register and Vote on Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before an election and election day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3 (a) or (b) to:

(1) A member of the county board of elections;

(2) The county director of elections; or

(3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:

(1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but

(2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period. (1901, c. 89, ss. 18, 21; Rev., ss. 4322, 4323; C.S., ss. 5946, 5947; 1923, c. 111, s. 3; 1933, c. 165, s. 5; 1947, c. 475; 1953, c. 843; 1955, c. 800; 1957, c. 784, ss., 3, 4; 1961, c. 382; 1963, c. 303, ss. 1, 2; 1967, c. 761, s. 3; c. 775, s. 1; 1969, c. 750, ss. 1, 2; 1977, c. 626, s. 1; 1979, c. 539, s. 5; c. 766, s., 2; 1981, c. 33, s. 2; 1981 (Reg. Sess., 1982), c. 1265, s. 6; 1983, c. 553; 1985, c. 260, s. 1; 1991, c. 363, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c.

74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 243, s. 1; 1997-456, s. 27; 1999-426, s. 1(a), (b); 2001-315, s. 1; 2001-319, s. 6(a); 2003-226, s. 4; 2004-127, s. 9(a).)

§ 163-82.7. Verification of qualifications and address of applicant; denial or approval of application.

(a) Tentative Determination of Qualification. – When a county board of elections receives an application for registration submitted pursuant to G.S. 163-82.6, the board either:

(1) Shall make a determination that the applicant is not qualified to vote at the address given, or

(2) Shall make a tentative determination that the applicant is qualified to vote at the address given, subject to the mail verification notice procedure outlined in subsection (c) of this section

within a reasonable time after receiving the application.

(b) Denial of Registration. – If the county board of elections makes a determination pursuant to subsection (a) of this section that the applicant is not qualified to vote at the address given, the board shall send, by certified mail, a notice of denial of registration. The notice of denial shall contain the date on which registration was denied, and shall be mailed within two business days after denial. The notice of denial shall inform the applicant of alternatives that the applicant may pursue to exercise the franchise. If the applicant disagrees with the denial, the applicant may appeal the decision under G.S. 163-82.18.

(c) Verification of Address by Mail. – If the county board of elections tentatively determines that the applicant is qualified to vote at the address given, then the county board shall send a notice to the applicant, by nonforwardable mail, at the address the applicant provides on the application form. The notice shall state that the county will register the applicant to vote if the Postal Service does not return the notice as undeliverable to the county board. The notice shall also inform the applicant of the precinct and voting place to which the applicant will be assigned if registered.

(d) Approval of Application. – If the Postal Service does not return the notice as undeliverable, the county board shall register the applicant to vote.

(e) Second Notice if First Notice Is Returned as Undeliverable. – If the Postal Service returns the notice as undeliverable, the county board shall send a second notice by nonforwardable mail to the same address to which the first was sent. If the second notice is not returned as undeliverable, the county board shall register the applicant to vote.

(f) Denial of Application Based on Lack of Verification of Address. – If the Postal Service returns as undeliverable the notice sent by nonforwardable mail pursuant to subsection (e) of this section, the county board shall deny the application. The county board need not try to notify the applicant further.

(g) Voting When Verification Process Is Incomplete. – In cases where an election occurs before the process of verification outlined in this section has had time to be completed, the county board of elections shall be guided by the following rules:

(1) If the county board has made a tentative determination that an applicant is qualified to vote under subsection (a) of this section, then that person shall not be denied the right to vote in person in an election unless the Postal Service has returned as undeliverable two notices to the applicant: one mailed pursuant to subsection (c) of this section and one mailed pursuant to subsection (e) of this section. This subdivision does not preclude a challenge to the voter's qualifications under Article 8 of this Chapter.

(2) If the Postal Service has returned as undeliverable a notice sent within 25 days before the election to the applicant under subsection (c) of this section, then the applicant may vote only in person in that first election and may not vote by absentee ballot except in person under G.S. 163-227.2. The county board of elections shall establish a procedure at the voting site for:

a. Obtaining the correct address of any person described in this subdivision who appears to vote in person; and

b. Assuring that the person votes in the proper place and in the proper contests.

If a notice mailed under subsection (c) or subsection (e) of this section is returned as undeliverable after a person has already voted by absentee ballot, then that person's ballot may be challenged in accordance with G.S. 163-89.

(3) If a notice sent pursuant to subsection (c) or (e) of this section is returned by the Postal Service as undeliverable after a person has already voted in an election, then the county board shall treat the person as a registered voter but shall send a confirmation mailing pursuant to G.S. 163-82.14(d)(2) and remove or retain the person on the registration records in accordance with that subdivision. (1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1999-455, s. 16.)

§ 163-82.8. Voter registration cards.

(a) Authority to Issue Card. – With the approval of the board of county commissioners, the county board of elections may issue to each voter in the county a voter registration card, or may issue cards to all voters registered after January 1, 1995.

(b) Content and Format of Card. – At a minimum, the voter registration card shall:

(1) List the voter's name, address, and voting place;

(2) Contain the address and telephone number of the county board of elections, along with blanks to report a change of address within the county, change of name, and change of party affiliation; and

(3) Be wallet size.

No voter registration card may be issued by a county board of elections unless the State Board of Elections has approved the format of the card.

(c) Ways County Board and Registrant May Use Card. – If the county board of elections issues voter registration cards, the county board may use that card as a notice of tentative approval of the voter's application pursuant to G.S. 163-82.7(c), provided that the mailing contains the statements and information required in that subsection. The county board may also satisfy the requirements of G.S. 163-82.15(b), 163-82.16(b), or 163-82.17(b) by sending the registrant a replacement of the voter registration card to verify change of address, change of name, or change of party affiliation. A registrant may use the card to report a change of address, change of name, or change of party affiliation, satisfying G.S. 163-82.15, 163-82.16, or 163-82.17.

(d) Card as Evidence of Registration. – A voter registration card shall be evidence of registration but shall not preclude a challenge as permitted by law.

(e) Display of Card May Not Be Required to Vote. – No county board of elections may require that a voter registration card be displayed in order to vote. (1901, c. 89, ss. 18, 21; Rev., ss. 4322, 4323; C.S., ss. 5946, 5947; 1923, c. 111, s. 3; 1933, c. 165, s. 5; 1947, c. 475; 1953, c. 843; 1955, c. 800; 1957, c. 784, ss. 3, 4; 1961, c. 382; 1963, c. 303, ss. 1, 2; 1967, c. 761, s. 3; c. 775, s. 1; 1969, c. 750, ss. 1, 2; 1977, c. 626, s. 1; 1979, c. 539, s. 5; c. 766, s. 2; 1981, c. 33, s. 2; 1981 (Reg.

Sess., 1982), c. 1265, s. 6; 1983, c. 553; 1985, c. 260, s. 1; 1991, c. 363, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2.)

§ 163-82.9. Cancellation of prior registration.

If an applicant indicates on an application form described in G.S. 163-82.3 a current registration to vote in any other county, municipality, or state, the county board of elections, upon registering the person to vote, shall send a notice to the appropriate officials in the other county, municipality, or state and shall ask them to cancel the person's voter registration there. If an applicant completes an application form described in G.S. 163-82.3 except that the applicant neglects to complete the portion of the form that authorizes cancellation of previous registration in another county, the State Board of Elections shall notify the county board of elections in the previous county of the new registration, and the board in the previous county shall cancel the registration. The State Board of Elections shall adopt rules to prevent disenfranchisement in the implementation of this section. Those rules shall include adequate notice to the person whose previous registration is to be cancelled. (1973, c. 793, s. 28; c. 1223, s. 4; 1977, c. 265, s. 3; 1983, c. 411, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 509, s. 115; 2005-428, s. 9.)

§ 163-82.10. Official record of voter registration.

(a) Official Record. – The State voter registration system is the official voter registration list for the conduct of all elections in the State. A completed and signed registration application form, if available, described in G.S. 163-82.3, once approved by the county board of elections, becomes backup to the official registration record of the voter. Electronically captured images of the signatures of voters, full or partial social security numbers, dates of birth, and drivers license numbers that may be generated in the voter registration process, by either the State Board of Elections or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Disclosure of drivers license numbers or dates of birth in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of drivers license numbers or dates of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The county board of elections shall maintain custody of any paper hard copy registration records of voters in the county and shall keep them in a place where they are secure.

(a1) Paperless, Instant Electronic Transfer. – The application described in G.S. 163-82.3 may be either a paper hard copy or an electronic document.

(b) Access to Registration Records. – Upon request by that person, the county board of elections shall provide to any person a list of the registered voters of the county or of any precinct or precincts in the county. The county board may furnish selective lists according to party affiliation, gender, race, date of registration, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts, or any other reasonable category. No list produced under this section shall contain a voter's date of birth. However, lists may be produced according to voters' ages. Both the following shall apply to all counties:

(1) The county board of elections shall make the voter registration information available to the public on electronic or magnetic medium. For purposes of this section, "electronic or magnetic medium" means any of the media in use by the State Board of Elections at the time of the request.

(2) Information requested on electronic or magnetic medium shall contain the following: voter name, county voter identification number, residential address, mailing address, sex, race, age but not date of birth, party affiliation, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and any other district information available, and voter history including primary, general, and special districts, or any other reasonable category.

The county board shall require each person to whom a list is furnished to reimburse the board for the actual cost incurred in preparing it, except as provided in subsection (c) of this section. Actual cost for the purpose of this section shall not include the cost of any equipment or any imputed overhead expenses. When furnishing information under this subsection to a purchaser on a magnetic medium provided by the county board or the purchaser, the county board may impose a service charge of up to twenty-five dollars ($25.00).

(c) Free Lists. – A county board shall provide, upon written request, one free list of all the registered voters in the county to the State chair of each political party and to the county chair of each political party once in every odd-numbered year, once during the first six calendar months of every even-numbered year, and once during the latter six calendar months of every even-numbered year. Each free list shall include the name, address, gender, age but not date of birth, race, political affiliation, voting history, precinct, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts of each registered voter. All free lists shall be provided as soon as practicable on one of any electronic or magnetic media, but no later than 30 days after written request. Each State party chair shall provide the information on the media received from the county boards or a copy of the media containing the data itself to candidates of that party who request the data in writing. As used in this section, "political party" means a political party as defined in G.S. 163-96.

(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a copy of a protective order without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with a registered voter or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. That voter's name, precinct, and the other data contained in that voter's registration record shall remain a public record. That voter's signed statement submitted under this subsection is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. It is the responsibility of the voter to provide the county board with a copy of the valid protective order in effect or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes. The voter's actual address shall be used for any election-related purpose by any board of elections. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of

the address by that person is directed by that court order. It shall not be a violation of this section if the address of a voter who is participating in the Address Confidentiality Program is discovered by a member of the public in public records disclosed by a county board of elections prior to December 1, 2001. Addresses required to be kept confidential by this section shall not be made available to the jury commission under the provisions of G.S. 9-2. (1901, c. 89, s. 83; Rev., s. 4382; C.S., s. 6016; 1931, c. 80; 1939, c. 263, s. 31/2; 1949, c. 916, ss. 6, 7; 1953, c. 843; 1955, c. 800; 1959, c. 883; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 22, 25; 1975, c. 12; c. 395; 1979, 2nd Sess., c. 1242; 1981, c. 39, s. 1; c. 87, s.1; c. 308, s. 1; c. 656; 1983, c. 218, ss. 1, 2; 1985, c. 211, ss. 1, 2; c. 472, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995 (Reg. Sess., 1996), c. 688, s. 2; 2001-396, s. 1; 2002-171, s. 8; 2003-226, ss. 2, 3; 2003-278, s. 6; 2004-127, s. 17(c); 2005-428, s. 10(a), (b).)

§ 163-82.10A. Permanent voter registration numbers.

The statewide voter registration system shall assign to each voter a unique registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections. (2001-319, s. 8.1(a); 2003-226, s. 10.)

§ 163-82.10B. Confidentiality of date of birth.

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

(1) When a voter has filed notice of candidacy for elective office under G.S. 163-106, 163-122, 163-123, or 163-294.2, or 163-323, has been nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has otherwise formally become a candidate for elective office. The exception of this subdivision does not extend to an individual who meets the definition of "candidate" only by beginning a tentative candidacy by receiving funds or making payments or giving consent to someone else to receive funds or transfer something of value for the purpose of exploring a candidacy.

(2) When a voter is serving in an elective office.

(3) When a voter has been challenged pursuant to Article 8 of this Chapter.

(4) When a voter-registration applicant or registered voter expressly authorizes in writing the disclosure of that individual's date of birth.

The disclosure of an individual's age does not constitute disclosure of date of birth in violation of this section.

The county board of elections shall give precinct officials access to a voter's date of birth where necessary for election administration, consistent with the duty to keep dates of birth confidential.

Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of a date of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. (2004-127, s. 17(a).)

§ 163-82.11. Establishment of statewide computerized voter registration.

(a) Statewide System as Official List. – The State Board of Elections shall develop and implement a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system shall serve as the single system for storing and managing the official list of registered voters in the State. The system shall serve as the official voter registration list for the conduct of all elections in

the State. The system shall encompass both software development and purchasing of the necessary hardware for the central and distributed-network systems.

(b) Uses of Statewide System. – The State Board of Elections shall develop and implement the system so that each county board of elections can do all the following:

(1) Verify that an applicant to register in its county is not also registered in another county.

(2) Be notified automatically that a registered voter in its county has registered to vote in another county.

(3) Receive automatically data about a person who has applied to vote at a drivers license office or at another public agency that is authorized to accept voter registration applications.

(c) Compliance With Federal Law. – The State Board of Elections shall update the statewide computerized voter registration list and database to meet the requirements of section 303(a) of the Help America Vote Act of 2002 and to reflect changes when citizenship rights are restored under G.S. 13-1.

(d) Role of County and State Boards of Elections. – Each county board of elections shall be responsible for registering voters within its county according to law. Each county board of elections shall maintain its records by using the statewide computerized voter registration system in accordance with rules promulgated by the State Board of Elections. Each county board of elections shall enter through the computer system all additions, deletions, and changes in its list of registered voters promptly to the statewide computer system.

(e) Cooperation on List for Jury Commission. – The State Board of Elections shall assist the Division of Motor Vehicles in providing to the county jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2003-226, s. 6.)

§ 163-82.12. Promulgation of guidelines relating to computerized voter registration.

The State Board of Elections shall make all guidelines necessary to administer the statewide voter registration system established by this Article. All county boards of elections shall follow these guidelines and cooperate with the State Board of Elections in implementing guidelines. These guidelines shall include provisions for all of the following:

(1) Establishing, developing, and maintaining a computerized central voter registration file.

(2) Linking the central file through a network with computerized voter registration files in each of the counties.

(3) Interacting with the computerized drivers license records of the Division of Motor Vehicles and with the computerized records of other public agencies authorized to accept voter registration applications.

(4) Protecting and securing the data.

(5) Converting current voter registration records in the counties in computer files that can be used on the statewide computerized registration system.

(6) Enabling the statewide system to determine whether the voter identification information provided by an individual is valid.

(7) Enabling the statewide system to interact electronically with the Division of Motor Vehicles system to validate identification information.

(8) Enabling the Division of Motor Vehicles to provide real-time interface for the validation of the drivers license number and last four digits of the social security number.

(9) Enabling the statewide system to assign a unique identifier to each legally registered voter in the State.

(10) Enabling the State Board of Elections to assist the Division of Motor Vehicles in providing to the jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records.

These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the guidelines and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those guidelines shall be made available to the public upon request or otherwise by the State Board. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2003-226, s. 7(a).)

§ 163-82.14. List maintenance.

(a) Uniform Program. – The State Board of Elections shall adopt a uniform program that makes a reasonable effort:

(1) To remove the names of ineligible voters from the official lists of eligible voters, and

(2) To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.

That program shall be nondiscriminatory and shall comply with the provisions of the Voting Rights Act of 1965, as amended, and with the provisions of the National Voter Registration Act. The State Board of Elections, in addition to the methods set forth in this section, may use other methods toward the ends set forth in subdivisions (1) and (2) of this subsection, including address-updating services provided by the Postal Service. Each county board of elections shall conduct systematic efforts to remove names from its list of registered voters in accordance with this section and with the program adopted by the State Board.

(b) Death. – The Department of Health and Human Services shall furnish free of charge to the State Board of Elections every month, in a format prescribed by the State Board of Elections, the names of deceased persons who were residents of the State. The State Board of Elections shall distribute every month to each county board of elections the names on that list of deceased persons who were residents of that county. The Department of Health and Human Services shall base each list upon information supplied by death certifications it received during the preceding month. Upon the receipt of those names, each county board of elections shall remove from its voter registration records any person the list shows to be dead. The county board need not send any notice to the address of the person so removed.

(c) Conviction of a Felony. –

(1) Report of Conviction Within the State. – The clerk of superior court, on or before the fifteenth day of every month, shall report to the county board of elections of that county the name, county of residence, and residence address if available, of each individual against whom a final judgment of conviction of a felony has been entered in that county in the preceding calendar month. Any county board of elections receiving such a report about an individual who is a resident of another

county in this State shall forward a copy of that report to the board of elections of that county as soon as possible.

(2) Report of Federal Conviction. – The Executive Director of the State Board of Elections, upon receipt of a notice of conviction sent by a United States Attorney pursuant to section 8(g) of the National Voter Registration Act, shall notify the appropriate county boards of elections of the conviction.

(3) County Board's Duty Upon Receiving Report of Conviction. – When a county board of elections receives a notice pursuant to subdivision (1) or (2) of this subsection relating to a resident of that county and that person is registered to vote in that county, the board shall, after giving 30 days' written notice to the voter at his registration address, and if the voter makes no objection, remove the person's name from its registration records. If the voter notifies the county board of elections of his objection to the removal within 30 days of the notice, the chairman of the board of elections shall enter a challenge under G.S. 163-85(c)(5), and the notice the county board received pursuant to this subsection shall be prima facie evidence for the preliminary hearing that the registrant was convicted of a felony.

(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision to every registrant after every congressional election if the county board has not confirmed the registrant's address by another means.

(3) Any registrant who is removed from the list of registered voters pursuant to this subsection shall be reinstated if the voter appears to vote and gives oral or written

affirmation that the voter has not moved out of the county but has maintained residence continuously within the county. That person shall be allowed to vote as provided in G.S. 163-82.15(f). (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 25, 28; c. 1223, s. 4; 1975, c. 395; 1977, c. 265, s. 3; 1981, c. 39, s. 1; c. 87, s. 1; c. 308, s. 1; 1983, c. 411, ss. 1, 2; 1985, c. 211, ss. 1, 2; 1987, c. 691, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1997-443, s. 11A.117; 1999-453, s. 7(a), (b); 2001-319, ss. 8(a), 11; 2005-428, s. 14.)

§ 163-82.15. Change of address within the county.

(a) Registrant's Duty to Report. – No registered voter shall be required to re-register upon moving from one precinct to another within the same county. Instead, a registrant shall notify the county board of the change of address by the close of registration for an election as set out in G.S. 163-82.6(c). In addition to any other method allowed by G.S. 163-82.6, the form may be submitted by electronic facsimile, under the same deadlines as if it had been submitted in person. The registrant shall make the notification by means of a voter registration form as described in G.S. 163-82.3, or by another written notice, signed by the registrant, that includes the registrant's full name, former residence address, new residence address, and the registrant's attestation that the registrant moved at least 30 days before the next primary or election from the old to the new address.

(b) Verification of New Address by Mail. – When a county board of elections receives a notice that a registrant in that county has changed residence within the same county, the county board shall send a notice, by nonforwardable mail, to the registrant at the new address. The notice shall inform the registrant of any new precinct and voting place that will result from the change of address, and it shall state whether the registrant shall vote at the new voting place during the upcoming election or at a later election. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall either:

(1) Send a second notice by nonforwardable mail to the new address and, if it is returned as undeliverable, send to the registrant's old address a confirmation notice as described in G.S. 163-82.14(d)(2); or

(2) Send to the registrant's old address a confirmation notice as described in G.S. 163-82.14(d)(2) without first sending a second nonforwardable notice to the new address.

In either case, if the registrant does not respond to the confirmation notice as described in G.S. 163-82.14(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163-82.14(d).

(c) Board's Duty to Make Change. – If the county board confirms the registrant's new address in accordance with subsection (b) of this section, the county board shall as soon as practical change the record to reflect the new address.

(d) Unreported Move Within the Same Precinct. – A registrant who has moved from one address to another within the same precinct shall, notwithstanding failure to notify the county board of the change of address before an election, be permitted to vote at the voting place of that precinct upon oral or written affirmation by the registrant of the change of address before a precinct official at that voting place.

(e) Unreported Move to Another Precinct Within the County. – If a registrant has moved from an address in one precinct to an address in another precinct within the same county more than 30 days before an election and has failed to notify the county board of the change of address before the close of registration for that election, the county board shall permit that person to vote in that

election. The county board shall permit the registrant described in this subsection to vote at the registrant's new precinct, upon the registrant's written affirmation of the new address, or, if the registrant prefers, at a central location in the county to be chosen by the county board. If the registrant appears at the old precinct, the precinct officials there shall send the registrant to the new precinct or, if the registrant prefers, to the central location, according to rules which shall be prescribed by the State Board of Elections. At the new precinct, the registrant shall be processed by a precinct transfer assistant, according to rules which shall be prescribed by the State Board of Elections. Any voter subject to this subsection may instead vote a provisional ballot according to the provisions of G.S. 163-166.11.

(f) When Registrant Disputes Registration Records. – If the registration records indicate that the registrant has moved outside the precinct, but the registrant denies having moved from the address within the precinct previously shown on the records, the registrant shall be permitted to vote at the voting place for the precinct where the registrant claims to reside, if the registrant gives oral or written affirmation before a precinct official at that voting place.

(g) Precinct Transfer Assistants. – The county board of elections shall either designate a board employee or appoint other persons to serve as precinct transfer assistants to receive the election-day transfers of the voters described in subsection (e) of this section. In addition, board members and employees may perform the duties of precinct transfer assistants. The State Board of Elections shall promulgate uniform rules to carry out the provisions of this section, and shall define in those rules the duties of the precinct transfer assistant. (1979, c. 135, s. 2; 1983, c. 392, s. 2; 1984, Ex. Sess., c. 3, ss. 1, 2; 1987, c. 549, s. 1; 1989, c. 427; 1991, c. 12, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2001-314, s. 1; 2005-2, s. 3; 2006-262, s. 2.)

§ 163-82.16. Change of name.

(a) Registrant's Duty to Report. – If the name of a registrant is changed in accordance with G.S. 48-1-104, G.S. 50-12, or Chapter 101 of the General Statutes, or if a married registrant assumes the last name of the registrant's spouse, the registrant shall not be required to re-register, but shall report the change of name to the county board not later than the last day for applying to register to vote for an election in G.S. 163-82.6. The registrant shall report the change on a form described in G.S. 163-82.3 or on a voter registration card described in G.S. 163-82.8 or in another written statement that is signed, contains the registrant's full names, old and new, and the registrant's current residence address.

(b) Verification of New Name by Mail. – When a county board of elections receives a notice of name change from a registrant in that county, the county board shall send a notice, by nonforwardable mail, to the registrant's residence address. The notice shall state that the registrant's records will be changed to reflect the new name if the registrant does not respond that the name change is incorrect. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall send to the registrant's residence address a confirmation notice as described in G.S. 163-82.14(d)(2).

If the registrant does not respond to the confirmation notice as described in G.S. 163-82.14(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163-82.14(d).

(c) Board's Duty to Make Change. – If the county board confirms the registrant's address in accordance with subsection (b) of this section and the registrant does not deny making the application for the name change, the county board shall as soon as practical change the record of the registrant's name to conform to that stated in the application.

(d) Unreported Name Change. – A registrant who has not reported a name change in accordance with subsection (a) of this section shall be permitted to vote if the registrant reports the name change to the chief judge at the voting place, or to the county board along with the voter's application for an absentee ballot. (1979, c. 480; 1981, c. 33, s. 3; 1989 (Reg. Sess., 1990), c. 991, s. 3; 1991 (Reg. Sess., 1992), c. 1032, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 457, s. 9.)

§ 163-82.17. Change of party affiliation.

(a) Registrant's Duty to Report. – Any registrant who desires to have the record of his party affiliation or unaffiliated status changed on the registration list shall, no later than the last day for making application to register under G.S. 163-82.6 before the election, indicate the change on an application form as described in G.S. 163-82.3 or on a voter registration card described in G.S. 163-82.8. No registrant shall be permitted to change party affiliation or unaffiliated status for a primary, second primary, or special or general election after the deadline for registration applications for that election as set out in G.S. 163-82.6.

(b) Verification of Affiliation Change by Mail. – When a county board of elections receives a notice of change of party affiliation or unaffiliated status from a registrant in that county, the county board shall send a notice, by nonforwardable mail, to the registrant's residence address. The notice shall state that the registrant's records will be changed to reflect the change of status if the registrant does not respond by stating that he does not desire a change in status. The notice shall also inform the registrant of the time that the change of affiliation status will occur, and shall explain the provisions of subsection (d) of this section. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall send to the registrant's residence address a confirmation notice as described in G.S. 163-82.14(d)(2). If the registrant does not respond to the confirmation notice as described in G.S. 163-82.14(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163-82.14(d).

(c) Board's Duty to Make Change. – If the county board confirms the registrant's address in accordance with subsection (b) of this section and the registrant does not deny making the application to change affiliated or unaffiliated status, the county board of elections shall as soon as practical change the record of the registrant's party affiliation, or unaffiliated status, to conform to that stated in the application. Thereafter the voter shall be considered registered and qualified to vote in accordance with the change, except as provided in subsection (d) of this section.

(d) Deadline to Change Status Before Primary. – If a registrant applies to change party affiliation or unaffiliated status later than the last day for applying to register under G.S. 163-82.6 before a primary, the registrant shall not be entitled to vote in the primary of a party in which the registrant's status on that last day did not entitle the registrant to vote.

(e) Authority of County Board or Director to Make Correction. – If at any time the chairman or director of elections of the county board of elections is satisfied that an error has been made in designating the party affiliation of any voter on the registration records, then the chairman or director of elections of the county board of elections shall make the necessary correction after receiving from the voter a sworn statement as to the error and the correct status. (1939, c. 263, s. 6; 1949, c. 916, ss. 4, 8; 1953, c. 843; 1955, c. 800; c. 871, s. 3; 1957, c. 784, s. 5; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 30, 31; c. 1223, s. 5; 1975, c. 234, s. 2; 1977, c. 130, s. 1; c. 626, s. 1; 1981, c. 33, s. 4; c. 219, s. 4; 1983, c. 576, s. 4; 1987, c. 408, ss. 1, 6; 1989, c. 635, s. 2; 1991 (Reg. Sess., 1992), c. 1032, s. 4; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 243, s. 1.)

§ 163-82.18. Appeal from denial of registration.

(a) Right to Appeal. – Any applicant who receives notice of denial of registration pursuant to G.S. 163-82.7 may appeal the denial within five days after receipt of the notice of denial. The county board of elections shall promptly set a date for a public hearing. The notice of appeal shall be in writing and shall be signed by the appealing party, shall include the appealing party's name, date of birth, address, and reasons for the appeal.

(b) Hearing Before County Board of Elections. – The county board of elections shall set a date and time for a public hearing and shall notify the appealing party. Every person appealing to the county board of elections from denial of registration shall be entitled to a prompt and fair hearing on the question of the denied applicant's right and qualifications to register as a voter. All cases on appeal to a county board of elections shall be heard de novo.

Two members of the county board of elections shall constitute a quorum for the purpose of hearing appeals on questions of registration. The decision of a majority of the members of the board shall be the decision of the board. The board shall be authorized to subpoena witnesses and to compel their attendance and testimony under oath, and it is further authorized to subpoena papers and documents relevant to any matters pending before the board.

If at the hearing the board shall find that the person appealing from a denial of registration meets all requirements of law for registration as a voter in the county, the board shall enter an order directing that the appellant be registered and assign the appellant to the appropriate precinct. Not later than five days after an appeal is heard before the county board of elections, the board shall give written notice of its decision to the appealing party.

(c) Appeal to Superior Court. – Any person aggrieved by a final decision of a county board of elections denying registration may at any time within 10 days from the date on which he receives notice of the decision appeal to the superior court of the county in which the board is located. Upon such an appeal, the appealing party shall be the plaintiff and the county board of elections shall be the defendant, and the matter shall be heard de novo in the superior court in the manner in which other civil actions are tried and disposed of in that court.

If the decision of the court is that the order of the county board of elections shall be set aside, then the court shall enter its order so providing and adjudging that the plaintiff is entitled to be registered as a qualified voter in the precinct in which he originally made application to register, and in such case the plaintiff's name shall be entered in the registration book of that precinct. The court shall not order the registration of any person in a precinct in which he did not apply to register prior to the proceeding in court.

From the judgment of the superior court an appeal may be taken to the appellate division in the same manner as other appeals are taken from judgments of that court in civil actions. (1957, c. 287, dd. 2-4; 1967, c. 775, s. 1; 1969, c. 44, s. 82; 1981, c. 542, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2.)

§ 163-82.19. Voter registration at drivers license offices; coordination on data interface.

(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to

register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate board of elections.

(b) Coordination on Data Interface. – The Department of Transportation jointly with the State Board of Elections shall develop and operate a computerized interface to match information in the database of the statewide voter registration system with the drivers license information in the Division of Motor Vehicles to the extent required to enable the State Board of Elections and the Department of Transportation to verify the accuracy of the information provided on applications for voter registration, whether the applications were received at drivers license offices or elsewhere. The Department of Transportation and the State Board shall implement the provisions of this subsection so as to comply with section 303 of the Help America Vote Act of 2002. The Department of Transportation shall enter into an agreement with the Commissioner of Social Security so as to comply with section 303 of the Help America Vote Act of 2002. (1983, c. 854, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 19(a); 1993, c. 74, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1998-149, s. 11.1; 2001-319, s. 7(a); 2003-226, s. 7(b).)

§ 163-82.20. Voter registration at other public agencies.

(a) Voter Registration Agencies. – Every office in this State which accepts:

(1) Applications for a program of public assistance under Article 2 of Chapter 108A of the General Statutes or under Article 13 of Chapter 130A of the General Statutes;

(2) Applications for State-funded State or local government programs primarily engaged in providing services to persons with disabilities, with such office designated by the State Board of Elections; or

(3) Claims for benefits under Chapter 96 of the General Statutes, the Employment Security Law,

is designated as a voter registration agency for purposes of this section.

(b) Duties of Voter Registration Agencies. – A voter registration agency described in subsection (a) of this section shall, unless the applicant declines, in writing, to register to vote:

(1) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address relating to such service or assistance:

a. The voter registration application form described in G.S. 163-82.3(a) or (b); or

b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163-82.3(a) or (b) and has been approved by the State Board of Elections, provided that the agency's own form may be a detachable part of the agency's paper application or may be a paperless computer process, as long as the applicant is required to sign an attestation as part of the application to register.

(2) Provide a form that contains the elements required by section 7(a)(6)(B) of the National Voter Registration Act; and

(3) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application as is provided by the office with regard to the completion of its own forms.

(c) Provided that voter registration agencies designated under subdivision (a)(3) of this section shall only be required to provide the services set out in this subsection to applicants for new claims, reopened claims, and changes of address under Chapter 96 of the General Statutes, the Employment Security Law.

(d) Home Registration for Disabled. – If a voter registration agency provides services to a person with disability at the person's home, the voter registration agency shall provide the services described in subsection (b) of this section at the person's home.

(e) Prohibitions. – Any person providing any service under subsection (b) of this section shall not:

(1) Seek to influence an applicant's political preference or party registration, except that this shall not be construed to prevent the notice provided by G.S. 163-82.4(c) to be given if the applicant refuses to declare his party affiliation;

(2) Display any such political preference or party allegiance;

(3) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(4) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

(g) Transmittal From Agency to Board of Elections. – Any voter registration application completed at a voter registration agency shall be accepted by that agency in lieu of the applicant's mailing the application. Any such application so received shall be transmitted to the appropriate board of elections not later than five business days after acceptance, according to rules which shall be promulgated by the State Board of Elections.

(h) Twenty-Five-Day Deadline for an Election. – Applications to register accepted by a voter registration agency shall entitle a registrant to vote in any primary, general, or special election unless the registrant shall have made application later than the twenty-fifth calendar day immediately preceding such primary, general, or special election, provided that nothing shall prohibit voter registration agencies from continuing to accept applications during that period.

(i) Ineligible Applications Prohibited. – No person shall make application to register to vote under this section if that person is ineligible to vote on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony. (1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 507, s. 25.10(c); 1995 (Reg. Sess., 1996), c. 608, s. 1.)

ATTACHMENT H: NVRA AGENCY REGISTRATION

(i) Sec. 1973gg-5 Voter registration agencies

(a) Designation

(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies -

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include -

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph

(2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not -

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall -

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance -

(i) the mail voter registration application form described in section 1973gg-7(a)(2) of this title, including a statement that -

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

(ii) the office's own form if it is equivalent to the form described in section 1973gg-7(a)(2) of this title, unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes -

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with _ _ _ _ _.", the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) Federal Government and private sector cooperation

All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a) of this section, and all nongovernmental entities are encouraged to do so.

(c) Armed Forces recruitment offices

(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registration agency designated under subsection (a)(2) of this section for all purposes of this subchapter.

(d) Transmittal deadline

(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.(Pub. L. 103-31, Sec. 7, May 20, 1993, 107 Stat. 80.)

1) EX. ORD. NO. 12926. IMPLEMENTATION OF NATIONAL VOTER REGISTRATION ACT OF 1993

Ex. Ord. No. 12926, Sept. 12, 1994, 59 F.R. 47227, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to ensure, as required by section 7(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) (42 U.S.C. 1973gg-5(b)) ("the Act"), that departments, agencies, and other entities of the executive branch of the Federal Government cooperate with the States in carrying out the Act's requirements, it is hereby ordered as follows:

Section 1. Assistance to States. To the greatest extent practicable, departments, agencies, and other entities of the executive branch of the Federal Government that provide, in whole or in part, funding, grants, or assistance for, or with respect to the administration of, any program of public assistance or services to persons with disabilities within the meaning of section 7(a) of the Act shall:

(a) provide, to State agencies administering any such program, guidance for the implementation of the requirements of section 7 of the Act, including guidance for use and distribution of voter registration forms in connection with applications for service;

(b) assist each such State agency administering any such program with the costs of implementation of the Act (42 U.S.C. 1973gg et seq.), consistent with legal authority and the availability of funds, and promptly indicate to each State agency the extent to which such assistance will he made available; and

(c) designate an office or staff to be available to provide technical assistance to such State agencies.

Sec. 2. Armed Forces Recruitment Offices.

The Secretary of Defense is directed to work with the appropriate State elections authorities in each State to develop procedures for persons to apply to register to vote at Armed Forces recruitment offices as required by section 7(c) of the Act.

Sec. 3. Acceptance of Designation. To the greatest extent practicable, departments, agencies, or other entities of the executive branch of the Federal Government, if requested to be designated as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the Act, shall: (a) agree to such a designation if agreement is consistent with the department's, agency's, or entity's legal authority and availability of funds; and (b) ensure that all of its offices that are located in a particular State will have available to the public at least one of the national voter registration forms that are required under the Act to be available in that State.

William J. Clinton.

ATTACHMENT A
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

North Carolina General Statute § 163-82.20

§ 163-82.20. Voter registration at other public agencies.

(a) Voter Registration Agencies. – Every office in this State which accepts:
(1) Applications for a program of public assistance under Article 2 of Chapter 108A of the General Statutes or under Article 13 of Chapter 130A of the General Statutes;
(2) Applications for State-funded State or local government programs primarily engaged in providing services to persons with disabilities, with such office designated by the State Board of Elections; or
(3) Claims for benefits under Chapter 96 of the General Statutes, the Employment Security Law, is designated as a voter registration agency for purposes of this section.

(b) Duties of Voter Registration Agencies. – A voter registration agency described in subsection (a) of this section shall, unless the applicant declines, in writing, to register to vote:
(1) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address relating to such service or assistance:
a. The voter registration application form described in G.S. 163-82.3(a) or (b); or
b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163-82.3(a) or (b) and has been approved by the State Board of Elections, provided that the agency's own form may be a detachable part of the agency's paper application or may be a paperless computer process, as long as the applicant is required to sign an attestation as part of the application to register.
(2) Provide a form that contains the elements required by section 7(a)(6)(B) of the National Voter Registration Act; and
(3) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application as is provided by the office with regard to the completion of its own forms.

(c) Provided that voter registration agencies designated under subdivision (a)(3) of this section shall only be required to provide the services set out in this subsection to applicants for new claims, reopened claims, and changes of address under Chapter 96 of the General Statutes, the Employment Security Law.

(d) Home Registration for Disabled. – If a voter registration agency provides services to a person with disability at the person's home, the voter registration agency shall provide the services described in subsection (b) of this section at the person's home.

(e) Prohibitions. – Any person providing any service under subsection (b) of this section shall not:
(1) Seek to influence an applicant's political preference or party registration, except that this shall not be construed to prevent the notice provided by G.S. 163-82.4(c) to be given if the applicant refuses to declare his party affiliation;
(2) Display any such political preference or party allegiance;
(3) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
(4) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

(g) Transmittal From Agency to Board of Elections. – Any voter registration application completed at a voter registration agency shall be accepted by that agency in lieu of the applicant's mailing the application. Any such application so received shall be transmitted to the appropriate board of elections not later than five business days after acceptance, according to rules which shall be promulgated by the State Board of Elections.

(h) Twenty-Five-Day Deadline for an Election. – Applications to register accepted by a voter registration agency shall entitle a registrant to vote in any primary, general, or special election unless the registrant shall have made application later than the twenty-fifth calendar day immediately preceding such primary, general, or special election, provided that nothing shall prohibit voter registration agencies from continuing to accept applications during that period.

(i) Ineligible Applications Prohibited. – No person shall make application to register to vote under this section if that person is ineligible to vote on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony. (1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 507, s. 25.10(c); 1995 (Reg. Sess., 1996), c. 608, s. 1.)

ATTACHMENT B
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

State Board's Compliance Plan for Public Assistance Agencies:

1. Communicate with all public agency heads in state and local government about voter registration responsibilities. The North Carolina Governor's Office sent letters to these agencies reminding them of the need to work with the State Board on NVRA compliance.

2. The Executive Director publicly advocate the need to improve NVRA compliance.

3. Communicate with all county Departments of Social Services on their legal responsibilities and duties with respect to offering voter registration to their clients. These county departments are county agencies and not under the direct control of the state.

4. Review, modify, and update agency voter registration manuals and group training materials. Place the information on the State Board website for easy access to those agencies that need the information.

5. Offer periodic voter registration training for supervisory agency staff who in turn will train their agency staff, i.e., "training the trainer."

6. Dedicate an Election Liaison whose primary duty is NVRA matters with responsibility to aid the voter registration efforts of agencies.

7. Address agency groups as needed on NVRA matters.

8. Help site coordinators assigned by every agency with NVRA responsibilities in implementing NVRA duties, maintaining voter registration supplies, and answering NVRA questions.

9. Monitor the transmission of preference/declination forms and VR application forms per agency to determine where compliance falls short.

10. Perform spot checks on agencies that have NVRA duties.

11. Discuss legal implications of failure to comply with both state and federal voter registration mandates.

12. Work with agencies to develop an electronic NVRA for easier compliance.

13. Establish an e-mail system that connects all agency site coordinators to allow quick communication and offer information directly to persons that will use it.

14. Provide information posters in both English and Spanish to be posted at agencies that offer voter registration.

ATTACHMENT C
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

COOPERATIVE AGREEMENT

BETWEEN

WOMEN, INFANTS, CHILDREN (WIC)

AND

THE NORTH CAROLINA STATE BOARD OF ELECTIONS

The WIC program and the State Board of Elections, in order to coordinate and to effectively ensure the implementation and the ongoing function of the National Voter Registration Act of 1993, do hereby agree to the following responsibilities. The WIC program and the Board of Elections further agree to fully comply with any changes in federal or state law and regulations. This agreement may be modified with the mutual written consent of both parties. This agreement shall be valid for a period of two years following the effective date. This agreement may be extended with the mutual written consent of both parties.

WIC through the local county offices of WIC agrees to:

- Offer voter registration and the opportunity to change voter registration information to every client receiving WIC services.
- Provide the same level of assistance in completing voter registration forms as in completing any other agency forms.
- Explain to clients that applying or declining to register to vote will not affect the amount of assistance that they may get.
- Inform customers that the county boards of elections process applications to register to vote and questions concerning voter registration must be directed to the county board of elections.
- Notify the client that the location where they apply to register to vote or decline to register to vote will be kept confidential.
- Assure the client that they will not be influenced or coerced at any time during the voter registration process.
- Transmit the completed forms to the county board of elections within five workdays.
- Send an updated voter registration form to the county board of elections when a customer reports that he/she is not registered at his/her current address, or he/she would like to change his/her name or party.

The **STATE BOARD OF ELECTIONS** agrees to:

- Provide WIC area program offices with voter registration applications upon request.
- Answer questions and resolve issues pertaining to voter registration that can not be answered on a county level.
- Advise the State WIC of any changes in federal or state regulations or laws pertaining to voter registration.
- Provide the WIC area programs a training manual and the opportunity to purchase a video tape about voter registration.

JOINT INITIATIVES

- Implement information sharing strategies that encourage participation by customers in voter registration.
- Encourage cooperation and coordination between county boards of elections and county WIC offices.
- Share lists of appropriate local, regional, and state staff who will provide specific program information and initiate problem solving activities.
- As opportunities arise, share information concerning programs in workshops, interagency training, and joint educational endeavors between the county boards of elections and the county WIC offices.
- Publish a joint statement from each department head that encourages and support these activities.

This the 24th day of April, 1995.

Ann F. Wolfe 4/25/95
Ann F. Wolfe, MD, MPH, Director
Division of Maternal and Child Health

Stacy Hahn Flannery 4/20/95
Stacy Hahn Flannery, Director
Voter Registration

ATTACHMENT E
Johnnie McLean Holloway (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

Success Of DSS
• Over 24,000 newly registered voters so far this year through DSS
• Twice as many registered voters than in the previous 2 years combined

Coordination
• 94 County DSS offices have coordinated with the State Board of Elections to meet NVRA regulations by submitting weekly reports
• Reporting directly to the State Board of Elections allows us to follow voter registration trends and assist counties having difficulty with their NVRA activities.

The responsible Site Coordinator
• It is very important that each site
designate a coordinator.
• The responsibilities are few but
ESSENTIAL to daily voter registration
activities.

Tasks of the Site Coordinator
Maintaining adequate supplies, including:
Properly copy Voter Registration forms;
Agency Voter Registration Declination Transmittal forms;
Voter Registration Declination Transmittal forms;
and current training materials;
Ensuring of passing out employee application
pre-exit;
Resolve questions and problems relating to the voter
registration service;
Monitor the day to day administration of the program;
Ensure the timely and accurate transmittal of all voter
registration materials, including declination/waiver forms to the
days of completion;
Communicate with local and state election officials to ensure
that materials are current;

UPDATE: Preference Forms
• Declination forms are now called "preference forms."
• ALL clients must fill one out upon new service, renewal of service, recertification, and change of address.
• The preference form is required by both Federal (42 USC 1973gg-5) and State (GS 163-82.20) law.

Instructions and Requirements for
Preparing Preference Forms
• Continued submission of voter registration forms
and new transmittal forms to the proper county
board of elections within 5 days
• Consistent weekly reporting of voter registration
and preference form numbers to the State Board
of Elections
• Contact the State Board of Elections to set up
the arrangements with the County Board of
Elections
• Meet the conditions of Preference Form
storage ...

Storage Requirements
1. They must be stored as required by NC records retention regulation, which is based upon list maintenance which is required by April 15th of every odd-numbered year, set out below:
• On April 15, 2009, list maintenance activities would have started between November, one year prior to the April 15th, 2007 list maintenance deadline.
• After April 15, 2011, declinations are required prior to April 15, 2013 could be destroyed since they would have come through two list maintenance time periods.
After April 15, 2011, declinations are required prior to April 15, 2011 could be destroyed since they would have come through two list maintenance time periods.

Rules of Retention/ Availability
• Forms must be available to a county board of election to allow the research of provisional voters claiming registration at a county DSS office.
• Forms must be available to State Board of Election officials to confirm the required NVRA activities are being performed.

New Emphasis
• Offering VR services during phone contacts
where the client is giving the county DSS new
information as to their address or phone
name, perhaps as a result of marriage
• In phone contacts where there are information
changes the client wants to make, send them a
VR form with a prepared instruction sheet. The
sheet will be prepared by the State Board of
Elections for your suggested use.

Change of Address
• Where a voter lives determines a client's voting districts – having a voter's current address and name is essential.
• Use the Voter Registration form as a change of information form.

Requirements for Voter
Registration
Anyone can apply to register to vote or change their
voting address or party affiliation when they are
conducting business with your agency, including
application for services, recertification or renewal.
They must meet the following requirements:
• Must be a United States citizen.
• Must be a resident of North Carolina.
• Must be 18 years old by the time of the next election.
• If previously convicted of a felony, the registrant must be
discharged from his/her felony conviction. Note that
citizenship is automatically restored upon completion of
sentence, including probation & parole per N.C. law.

Citizenship Concerns
* Only United States Citizens may register to vote.
* Proof of citizenship is not necessary
* Do not assume that a person with an accent is not a citizen.
* **UNDER NO CIRCUMSTANCES** allow a client that *you know* not to be a U.S. citizen to register, even if they insist. It is a crime both for the person registering and those allowing it with the knowledge that the person is not a citizen. If you have difficulty with such persons, you can call the State Board of Elections and we will be happy to deal with them.

Assistance to Clients
• You are required to offer the same level of assistance to clients filling out voter registration forms as you would offer for your own agency forms.
• If the person refuses assistance, he/she should be offered a private place to fill out the voter registration form, or he/she can take the form home for completion.

Consumer Registration Form — Spring Program

The client may take the form to complete at a later time and should be told that the registration form can be returned in any of three ways:

1. HAND-DELIVER the form to the county/tribal child care office in person.
2. Give or leave a sealed envelope addressed to the agency office for transmittal to the county where it is to be filed, or
3. RETURN the form to the agency office by transmittal to the county.

A Preference Form showing that we have completed a consumer registration form can be returned in any of three ways: the client is the client has declined to use the voucher registration service as it is offered.

Confidentiality
• If a client registers in your office, the office
name and location where the client
registered is confidential and will be used
only for voter registration purposes. This is
mandated both by Federal and State law.
• In order to report the number of registered
DSS clients to the federal government
under the NVRA, the "01" Voter
Registration form must be used.

Political Activity
• When assisting a person to register to vote you may not display any political signs or stickers.
You may not wear any political apparel for
buttons, shirts, etc.
• You may not give advice or information about
political parties or persons.
• You may not attempt to influence the political
party chosen by the applicant.
• Be careful that the individual makes a voluntary
attempt to register to vote. He/she should be
assured that this decision will not affect the level
of service offered at the agency.

Required Fields on VR Form
* Citizenship box and age box must be checked in order
applicant checks "no" to either, he/she should not vote
Further, the
* First and last name
* Date of Birth
* Residence address
* Driver's License Number or the last four digits of the
applicant's social security number. If the applicant has
neither a NCDL or SSN, the State Board of Elections will
provide a unique ID to the voter
* Signature and date at the bottom of the form
* Race, place of birth, and ethnicity are useful to boards of
elections but are NOT required fields.

Issues of Residence
• Register homeless persons where they sleep on the provided map section of the VR form
• Register at the physical address of Group Homes or other facilities
• Physical Residence Address can not register at a PO Box

Ordering VR Supplies
Download the North Carolina Voter Registration Materials Order Form from the SBOE website: www.ncsbe.gov/voterregistration or call 1(866) 522-4723 toll free to request a copy.
Complete all fields in the form and submit completed forms by:
Fax to the state board office at 919-715-0135 or the respective county board office
Email – dawn.blankenship@ncsbe.gov
Mail – NC State Board of Elections, PO Box 27255, Raleigh N.C., 27611

Accountability
We desire feedback from county DSS personnel
in order to make the NVRA process more
efficient and less burdensome on agencies.
Through the State Division of Social Services at
DHHS this can indirectly help county DSS
offices.
Understanding the interdependence of county DSS
offices we would invite regular contact with the
county DSS organization.

State Board of Elections Contact

- Training and other information for Voter Registration Agencies can be found on our website:
  www.sboe.state.nc.us/agency/agency.htm
- To speak to Davy Lowman directly, call (919) 715-1830 or by email:
  davy.lowman@ncmail.net
- If Mr. Lowman is not available, contact Luis Thompson at (919) 715-8213 or
  luis.thompson@ncmail.net

ATTACHMENT F
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

Register to vote Today

Are you registered to vote at your current residence?

You can register to vote at this office. Declining to register will not affect the service you receive at this agency.

YOU MUST BE:

- ☆ A United States Citizen
- ☆ 18 years old or older
- ☆ A North Carolina Resident

NC State Board of Elections
Phone: 919-733-7173
Toll free: 1-866-522-4723
Website: www.sboe.state.nc.us

ATTACHMENT F
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

Registrate Para VOTAR Hoy

¿Ya Te Registraste Para Votar en tu residencia actual?

Puedes Registrarte Para Votar en esta Oficina. El no registrarte no afectará los servicios que recibes en esta Agencia.

PARA REGISTRATE PARA VOTAR DEBES:

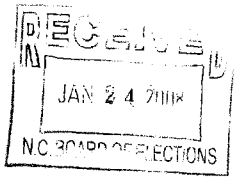
- ☆ Ser un Ciudadano de los Estados Unidos
- ☆ Tener 18 años de edad o más
- ☆ Ser un Residente de Carolina del Norte

Junta Estatal de Elecciones de Carolina del Norte
Teléfono: 919-733-7173
Numero de Teléfono Gratuito: 1-866-522-4723
Sitio de Internet: www.sboe.state.nc.us

ATTACHMENT G
Johnnie McLean Testimony (NC SBE)
U.S. House Subcommittee Hearing
April 1, 2008

ncacdss

A Future Oriented Source of Leadership



January 22, 2008

Mr. Gary Bartlett
Executive Director
State Board of Elections
PO Box 27255
Raleigh, NC 27611-7255

Dear Mr. Bartlett,

Thank you and Mr. Lowman for attending our January Board meeting, discussing our concerns and answering our questions about the SBOE's policy as it relates to county Departments of Social Services. We appreciate the open dialogue and your willingness to find alternative solutions for our concerns.

We would like to summarize our understanding of the SBOE commitments during our meeting.

1. SBOE will work with the local Boards of Elections to devise a system to collect needed statistical data of registrations and preference forms instead of having DSS separately report this to the SBOE since the data is sent to the local board by DSS on a weekly basis.

2. SBOE agreed to take information from DSS concerns and send them to:
   - US House and Senate Committees on Election Laws
   - NC General Assembly
   - Advocacy Groups
   - Election Advisory Commission

   They are:
   - **ISSUE.** The new SBOE policy requiring our clients to sign a letter of declination to register to vote at every visit for application, reapplication or change of address in lieu of the past policy of simply ending our voter services when clients state they are already registered to vote or we have registered them on a previous visit.

   - **CONCERN.** Many of our citizens are reluctant to visit a DSS for assistance and we are concerned that while the intent of requiring a letter of declination to vote may serve to document a participants refusal to participate, it also may and will be perceived to be harassment and tantamount to discouragement in some form to the federal programs we administer – we have just been cleared of the

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major federal class-action lawsuit against North Carolina via Alexander vs. Flaherty, et al., for some 27-years, at great cost to NC.

- **ISSUE.** We believe the SBOE's mandate to county agencies to send weekly reports to the SBOE of registration and declination totals is unnecessary. The registrations and declinations are sent weekly to local Board of Elections per requirement of the law.

- **CONCERN:** We feel this labor intensive work is duplicative as we are already providing this information to local boards of elections. We feel that this requirement goes beyond the scope of the law and the SBOE's has no authority to mandate this. SBOE could easily gather this information from their local boards of elections.

3. SBOE clarified the agency's policy in regards to phone contacts usually associated with mail in applications. The worker will fill out the voter registration preference while on the phone with the client and then sign the **worker's name** not the clients.

4. SBOE will provide DSS with further clarification regarding felony convictions and restoration of rights statement on the preference form.

5. SBOE will work with DSS to prevent possible harassment of clients by asking about voter registrations at every visit even if DSS registered the client at a previous visit.

We look forward to Mr. Davy Lowman's visit to discuss progress on these issues at our March 13, 2008 Board Meeting. We will be in touch with Mr. Lowman to decide on a mutually convenient time for him to talk with us.

Thank you again for your willingness to hear our concerns and work with us toward positive resolutions.

Sincerely,

Karen Hoyle
President

Ms. LOFGREN. Ms. Truss, we would love to hear from you at this point.

STATEMENT OF CATHERINE TRUSS

Ms. TRUSS. Chairman——

Ms. LOFGREN. You need to turn on the microphone. And to pull it a little bit closer to you would be great.

Ms. TRUSS. Chairwoman Lofgren, Congressman McCarthy, members of the subcommittee, thank you for inviting me today to testify on behalf of the Michigan Department of Human Services and our Director, Ismael Ahmed, on our experience implementing the National Voter Registration Act. I would like to spend just a few minutes highlighting some of the pieces that I provided in the written testimony to all of you.

I am going to start by telling you a little bit about what our department does. Each human services department in each State works a little differently, so I want to tell you a little bit about us. And then I am going to detail some of our work on implementing the National Voter Registration Act.

The mission of the Michigan Department of Human Services is to assist children, families and vulnerable adults to be safe, stable and self-supporting. To that end, we implement the Federal food stamps program, Michigan's TANF grant; and our caseworkers perform eligibility for Medicaid. We are also Michigan's public child welfare agency.

In addition, we administer many other human services programs. We provide a safety net for families who are in crisis. Many of those who come to our department for assistance, though, are ashamed of needing help. It is because of the disenfranchising effects of poverty that Director Ahmed has set forth several initiatives meant to empower and engage low-income individuals and families.

We take the National Voter Registration Act very seriously not only because it is a Federal mandate, but because it provides a key for families to act on their own behalf and become part of the public debate on issues that impact their lives.

The Michigan Department of Human Services Civic Engagement Initiative approaches voter registration activity with a larger framework of removing barriers to self-sufficiency and empowerment for our customers. Currently, Michigan has over 100 financial assistance offices and over 3,000 case specialists devoted to serving financial assistance clients.

The department has complied with the NVRA, section 7, by including access to voter registration at strategic points in the public assistance process. Voter registration forms include as part—I am sorry—offering voter registration forms are included as part of our public assistance application process. In addition, our workers are responsible for offering voter registration to our clients, concurrent with application for benefits, redetermination of benefit eligibility and whenever a change of address is completed.

Voter registration activities have been part of our official departmental policy since October of 2004. When Director Ahmed was appointed to his position in August of 2007, he brought with him a long history of human services work and working to design strate-

gies to empower low-income individuals. As part of a broader set of initiatives to move clients toward greater self-sufficiency, he made voter registration a priority for our department.

In September of 2007, we began to take a strategic and focused approach to voter registration activities at DHS. There are several goals to our initiative. The primary goal is to further the intent of Congress by providing voter registration to low-income individuals. In addition, we hope to reduce real and perceived barriers to voter registration for our clients, and we hope to empower them by assisting them in making decisions for themselves.

We have also developed an accountability mechanism through a Web-based reporting tool. Previously, local offices tracked their voter registration activities and did not report to a central repository. We have shored up that process and we are now asking them to report to central office so that we can track their progress.

In addition, public education and community partnering are two important goals of this initiative. We are a statewide department that works with local county offices, and because of this, when we created the civic engagement team to work on this initiative, we wanted to invite representatives from our local and central office to be a part of it. The team was also fortunate to benefit from the guidance of Lisa Danetz from Demos.

The charge of our team was to create a plan to enhance DHS voter registration activities. The plan has several components: policy revision, results-oriented project management, training and technical assistance, public education and community partnering.

The civic engagement team analyzed our existing policy at the time that we kicked off this initiative. We identified revisions that would help local office staff better execute their responsibilities, and we revised the policy to include aspects of the new initiative to enhance department voter registration activities.

Next, we decided we needed to focus on results-oriented project management, and that has to do with the Web-based reporting tool that I just discussed with you. The data collected will be used to identify high-performing offices, but also help us work with those offices that may be struggling. We can also partner local offices together to share best practices.

Training and technical assistance is another important component of our initiative. We developed training for our local office coordinators, and we have developed training for them to provide to all local office staff.

Public education is another important aspect of our initiative. With help from Demos, we have public education materials that we have provided to our local offices including posters that can be displayed in lobbies and shared with community partners. We have also provided DVDs that can run in local office lobbies.

We are also securing several Michigan celebrities to lend their voices and personas to the effort in the form of radio and television spots. Our Office of Communications has developed press releases related to the initiative, and we are providing all of our local office staff with tips for engaging local media.

We are also hoping to engage community partners in our effort; that is something that we are really excited about. The League of

Women Voters is extremely interested in working with our local office staff.

Ms. LOFGREN. Thank you very, very much.

[The statement of Ms. Truss follows:]

Hearing on National Voter Registration Act, Section 7:
The Challenges that Public Assistance Agencies Face
Committee on House Administration
Subcommittee on Elections
April 1, 2008

Testimony of Catherine Truss, M.S.W, Civic Engagement Project Manager,
Michigan Department of Human Services

Chairwoman Lofgren, Congressman McCarthy and members of the subcommittee, thank you for this opportunity to testify on behalf of Director Ismael Ahmed regarding the Michigan Department of Human Services' experience implementing the National Voter Registration Act.

The mission of the Michigan Department of Human Services is to assist children, families and vulnerable adults to be safe, stable and self-supporting. Among other things, we implement the federal Food Stamps Program, Michigan's TANF grant, and our caseworkers perform eligibility for Medicaid. In addition, we are Michigan's public child welfare agency. We are an engine for good yet this is a daunting task in our state because so many Michigan residents receive some service from us. More than 1.2 million residents in Michigan receive Food Stamp benefits and more than 1.5 million are receiving Medicaid benefits. Nearly two million people in Michigan live in or near poverty and almost one-third can't survive on what they earn, resulting in demand for some service from us.

We provide the basic safety net for families who are in a one-time crisis, those that need occasional help, and those who are in chronic need. Most are working families who contribute to their communities and provide for their children. However, many are not engaged in their communities nor do they participate in civic events. Many people who come to our department for assistance are ashamed of needing help, and some are frustrated because they feel they are not valued by society.

We believe that feeling as if your vote does not count or that your opinion does not matter is a significant barrier to self-sufficiency. As part our mission to assist families to be safe, stable, and self-supporting, we believe it is essential that families are empowered to act toward their own best interests and be active participants in decisions that affect their lives – with one of the most important activities being to cast a vote. All people, including our millions of clients, have the right to be heard and to be a part of public debates about what services they need and which policies would be most helpful to them.

Compliance with the National Voter Registration Act is not just another federal mandate; it is a key component for families to act on their own behalf and become part of the public debate. Not only is this an essential component of a family's movement toward self-sufficiency, it is also absolutely essential if we hope to further our democracy. We share the values expressed in the preamble to the act: that the right of citizens to vote is a fundamental right, and it is the duty of federal, state, and local governments to promote the exercise of that right.

The Michigan Department of Human Services' Civic Engagement Initiative approaches voter registration activity within a larger framework of removing barriers to self-sufficiency and empowerment for our customers. We recognize that it is the right of all eligible citizens of Michigan to vote, and that Section 7 of the National Voter Registration Act, charges the Michigan Department of Human Services with the responsibility of offering voter registration opportunities in all of our offices that provide public assistance.

Currently Michigan has 107 financial assistance offices and 3,239 case specialists devoted to serving financial assistance clients. The department has complied with NVRA, Section 7 by including access to voter registration at strategic points in the public assistance process. Voter registration forms are included as part of public assistance applications. In addition, our workers are responsible for offering voter registration to Michigan Department of Human Services clients concurrent with application for benefits, redetermination of benefit eligibility, and whenever a change of address is completed. Voter registration activities have been part of official department policy since October 2004.

When Ismael Ahmed was appointed director of the department in August 2007 he brought with him a long history of human services experience and extensive work designing strategies to empower low-income and underrepresented individuals. As part of a broader set of initiatives to move clients toward greater self-sufficiency, he made voter registration a priority.

Since September 2007, a strategic and focused effort – the Civic Engagement Initiative – has strengthened the department's approach and made better use of limited resources, including tracking results locally and statewide. The Civic Engagement Initiative is aimed at approaching voter registration on multiple fronts while at the same time minimizing the impact to local office staff.

Goals of the Civic Engagement Initiative:
The Civic Engagement Initiative has several goals:

- The primary goal is to further the intent of Congress by providing voter registration for low-income individuals.

- The reduction of perceived or real barriers to the voter registration process is another goal of this initiative.

- Empowering our clients and assisting them in making decisions for themselves is a goal and charge we take very seriously.

Offering voter registration and assisting in the process is one way we can empower our clients and assist them in becoming engaged in the decisions that impact their lives and their families.

- Another goal of the Civic Engagement Initiative has been to ensure accountability through creating mechanisms for local offices to report on voter registration activities.

Historically, this activity has been tracked locally and not reported to a central repository. By collecting local office data on voter registrations, declinations, and office traffic we will be able to determine trends and best practices that will help us identify strategies for moving forward.

- Public education and community partnering are two other very important goals of this initiative.

Through provision of "marketing" materials like posters and DVDs and creation of public service announcements, we hope to increase awareness of voter registration activities. Partnering with community organizations, local and statewide media, and other groups will also help us raise awareness of our efforts and assist in engaging and empowering low income individuals.

Civic Engagement Initiative Implementation:
The Michigan Department of Human Services is a statewide department that works with local county offices to administer programs. When we began the process of developing the Civic Engagement Initiative we recognized that we needed to create a team of individuals from both the local offices and central office. The team was fortunate to benefit from the guidance of Demos, a non-partisan public policy research and advocacy organization, throughout the process of project development and as the pieces of the initiative came together. In addition, each local office identified a voter registration coordinator and alternate contact to work with the team and ensure local oversight and support. The team was given the charge of creating a plan for addressing voter registration on several fronts:

- Policy revision.
- Results-oriented project management.
- Training and technical assistance.
- Public education.
- Community partnering.

Policy Revision
The Civic Engagement Team analyzed existing department voter registration policy and identified revisions that would help local office staff better understand their responsibilities and execute those responsibilities with complete clarity. The policy was revised to include the aspects of the new initiative and to enhance department voter registration activities as outlined in the remainder of this testimony.

Results-oriented Project Management
The team made a decision to develop a Web-based reporting tool that local office coordinators would use to report voter registration activity to the central office. The data collected will be used to identify high performing local offices, identify those offices that may be facing challenges, and provide a statewide picture of departmental voter registration activities. In addition, the data gathered will help us in reaching out to those offices that are doing well so that we can identify best practices to share with those offices that may be

struggling. Data will be shared with employees statewide. The combination of identifying local office coordinators, revising and enhancing our policy, and developing accountability and reporting systems, in concert, has also helped to elevate the initiative and to make Michigan Department of Human Services staff aware of the focused approach. This system will also be used to recognize and reward outstanding results related to the Civic Engagement Initiative.

Training and Technical Assistance
The next steps included developing training for local office coordinators and staff. The training developed for the voter registration coordinators is more than technical assistance training on reporting and policy specifics. The training is an opportunity to discuss the importance of the initiative, to discuss ideas for partnering with community organizations, learn how to use the public education materials most effectively, and get tips on working with the media. The platform for the training is a live Webinar. Like most human services organizations, the department has limited training resources making live training for this initiative cost prohibitive. The Webinar training can be accessed directly from the coordinator's work station. In addition, the training can be archived on the DHS-Net, our Intranet Web site, to be accessed at any point in time.

The department strictly adheres to a zero tolerance policy in terms of coercing or influencing clients in any arena. Included in both the voter registration coordinator and local office staff training, as well as embedded in the policy, are the following important mandates:

- Clients are made aware that voter registration is in no way linked to their benefits.
- Local office staff are not to attempt to coerce or influence clients to vote but to simply offer the opportunity to register.
- Local office staff may not display any political signs or slogans.
- Local office staff may not wear any political apparel or buttons.
- Local office staff may not give any advice or information about political parties or persons.
- Local office staff may not attempt to influence the political party chosen by the applicant.

Public Education
In addition to training coordinators and staff who are responsible for implementing voter registration activities, the team recognized the need to reach out to our clients and the public in order to build awareness that this service is available at the department and is part of our core mission. The team created public education materials to get the message out about the importance of registering to vote, and the role of the Michigan Department of Human Services in promoting voter registration. The department is providing local offices with copies of voter registration posters in English, Spanish, and Arabic. These can be displayed in local office lobbies and used during outreach activities. In addition, a DVD on voter registration is being provided to all local offices for play in their lobbies. With help from Demos and a marketing specialist, 30 second public service announcement scripts have been developed. We are in the process of securing several Michigan celebrities to lend their voices and personas to the cause in the form of radio and television spots. The department's Office of Communications has developed press releases related to the initiative and has created tips for

engaging local media outlets that can be shared with local office coordinators. Information and links on voter registration will also appear on the department's Web site and the intranet site.

Community Partnership
Because of this need to build public awareness, and the constraints on resources, the team chose to engage community partners to assist in building awareness of the opportunity to register at department locations, and to promote voter registration in general in collaboration with the department. This is one of the areas that we are most excited about because of the supportive responses from community organizations. The League of Women Voters is extremely interested in working with local Michigan Department of Human Services offices to assist with the voter registration process. Some local offices will be inviting non-partisan community partners to sit in their lobbies and assist clients with the voter registration process. In addition, there may be opportunities for our staff to go outside of the local office to assist with voter registration.

Potential Benefits of Michigan Department of Human Services Approach
The Civic Engagement Team expects that voter registration will be offered to tens of thousands of Michigan citizens in coming months at our local offices. We also expect that increased focus on voter registration promotion will also increase other empowerment-oriented activities as our workers become more adept at promoting civic engagement and the importance of each citizen becoming engaged in our communities. While this last outcome is most difficult to measure, we expect that it will make a difference in the effectiveness of our service delivery systems as we get better at working with consumers as partners with a real voice in the decisions that affect their lives.

The Civic Engagement Initiative ensures compliance with a federal mandate, creates a system of accountability for results, and generates hard data that can be used to improve the process and highlight successes. In addition, we have already begun to see a strengthening of intergovernmental relationships. We believe that the Department of Human Services' model can encourage public assistance agencies in other states to work toward innovative ways to meet the National Voter Registration Act goal of promoting voter registration.

In addition to strengthening department compliance and promoting greater partnerships with clients, community organizations and other governmental agencies, the success of the Civic Engagement Initiative will benefit the state and nation. A more engaged and more diverse citizenry will strengthen our democracy and help us all find the solutions we need to the challenges we face.

Thank you for this opportunity to provide testimony regarding this important initiative.

Ms. LOFGREN. Now is the time on our agenda when members can ask a few questions. I would like to start out first by saying thanks to you for being here today, but also sharing your experience. I think what you are showing us is that some attention can yield results, and we don't have to accept the nearly 80 percent decline in the performance of section 7.

I was thinking as you were talking—and this is the last year I will be able to say this—but I have spent more time in local government than I have in Congress. I have served on the Board of Supervisors, and I can recall at one time we actually sent voter registration cards out with the AFDC checks. We mailed the checks every week because so many of the AFDC recipients—ours has got a different program name now obviously—they didn't have cars. If they had a car, they wouldn't be eligible for—I mean, they would have too much by way of assets.

You know, it is very difficult. If you can just imagine being, in most cases, a single mother with several small children, no vehicle, in a community where public transit is very tough; and to make everything happen and—you know, registering to vote wasn't always at the top of the to-do list.

And yet to hear from you that in Michigan—and I think, by extrapolation, North Carolina—this is not seen as a burden, but really as part of helping families get on their feet, to have self-confidence and self-sufficiency. It is not a separate thing; it is part of what you are trying to do to help people build their own lives.

So I am just wondering, you know, for States that are noncompliant, what advice would you have for them? I mean, has this been resisted by line staff in either one of your States? Or has this been embraced? Are there some tricks of the trade you would give to others in States that are not performing?

Ms. TRUSS. I think that the identification of the local office coordinator is key. Having someone who is passionate about the initiative in each of the local offices, I think, helps to keep it on the radar for the local office staff.

So that would be one piece of advice. And I know that Demos has identified that as a best practice as well.

Ms. MCLEAN. I think in some instances there are staff that find this burdensome initially, but those generally are the staff that had been there for a very long time, perhaps before this was implemented. And as new people are brought in and trained and reminded of their duties, then it just becomes a part of their jobs.

Ms. LOFGREN. Let me ask: The EAC was established to help promote things like this. Are there things that in your judgment the EAC could and should be doing to promote section 7 compliance? Either one of you.

Ms. MCLEAN. I think that the EAC is doing a very good job of what they see as their responsibilities, and I think they are more focused—and I hope none of them are in the room; they may not appreciate this. I think that they are focused right now on voting systems and that type of legislation.

Ms. LOFGREN. But if our idea is to make sure that every vote counts and that America makes a decision that is important for us, then not having people registered is important as well, not just the voting machine issue.

Ms. TRUSS. I know that the EAC is looking at on-line live portals to help individuals determine whether they are already registered or not. I think that could be a really beneficial tool.

Ms. LOFGREN. Not everyone on public assistance is on line all of the time.

Ms. TRUSS. Right. So I think workers, if they had access to that on-line portal while they are assisting clients at the registration process, I think that would be beneficial.

Ms. LOFGREN. That would be—it would be for the workers.

I would just note that in your written testimony, Ms. Truss, on page 4—and I think this is very important and I assume would be the case in every State—that the employees are totally precluded from trying to influence how people register, or wearing political buttons or giving advice of any kind, of that nature.

Is that the case in North Carolina as well?

Ms. MCLEAN. Yes, it is. Some of the workers would even go out to visit—make home visits and they were advised not to have any stickers, bumper stickers, on their car.

Ms. LOFGREN. I think that is an important component.

With that, I would turn to the ranking member for his questions.

Mr. MCCARTHY. Thank you, Madam Chair. I appreciate the hearing.

I think it is rather unique we have—Ms. McLean, you are with the elections department and you are with human services, correct—so we get a little of both analyses looking at it from the department point of view and working with the elections.

Ms. McLean, you used the number, 74 percent drop-off, when you did the study. Was that a study you did internally or did someone else do that study for you? What was that?

Ms. MCLEAN. No, sir. That study was done by the NVRA implementation project. The collaboration between Project Vote, Demos and ACORN. And it came from a survey that had been devised and that they had actually conducted.

Mr. MCCARTHY. So they conducted the survey?

Ms. MCLEAN. Yes, sir.

Mr. MCCARTHY. Okay. Have we done any survey since this has been implemented?

Ms. MCLEAN. They have done the same survey or have reported that, and that is where the number came from, that our voter registrations have increased almost six-fold in the amount of time since this reimplementation plan went into effect.

Mr. MCCARTHY. Based upon their survey and their questionnaire?

Ms. MCLEAN. And based upon the numbers that are being reported weekly by the agencies to the State board.

Mr. MCCARTHY. And this 74 percent, that was a downturn during, you said, which years?

Ms. MCLEAN. 2004–2005.

Mr. MCCARTHY. And in trend, did you see an increase during that time or a downward for people on public assistance in North Carolina?

Ms. MCLEAN. There was an increase. And that is why——

Mr. MCCARTHY. 2003 and 2004?

Ms. McLEAN. Right. And that is why I think the numbers were so shocking: That in a year when assistance applications were increasing, the voter registration numbers were still declining.

Mr. McCARTHY. How does it work there when someone comes in? Because when I went to the DMV, they asked me; is that—you just ask whoever comes forward? Is that how it works in your State?

Ms. McLEAN. In the agencies?

Mr. McCARTHY. Yes.

Ms. McLEAN. Yes, sir. As when they are offering—when they first come in, they are provided whatever the application is for that particular agency. And also then they offer them the opportunity to register to vote.

Mr. McCARTHY. Is there anything else offered besides voter registration at the end? I mean, are there other things you have to offer them? Or no?

Ms. McLEAN. None that I am aware of, no, sir.

Mr. McCARTHY. Have you ever registered one person, I guess, more than once? I guess you have probably had that happen.

Ms. McLEAN. They are what we refer to as "duplicate registrations"; and, yes, we do get some of those. But we take the approach that we would rather have the duplicate registrations than none.

Mr. McCARTHY. Can a noncitizen get benefits in North Carolina?

Ms. McLEAN. I believe that they can, but they cannot register to vote.

Mr. McCARTHY. So you ask them that question?

Ms. McLEAN. That is one of the questions, yes, for registration purposes. It is not one of the questions, I don't believe, for any of the assistance.

Mr. McCARTHY. Okay. So someone comes in, they get assistance. I did the paperwork, I gave it to them; and the person asks.

What do you say, are you registered to vote, or would you like to register to vote?

Ms. McLEAN. Would you like to register to vote?

Mr. McCARTHY. Then they ask, are you a U.S. citizen?

Ms. McLEAN. Yes, sir.

Mr. McCARTHY. That is on——

Ms. McLEAN. That is on our registration application, yes, sir.

Mr. McCARTHY. Does the person handling it ask them that question or is it just on the application itself?

Ms. McLEAN. They would ask that question if the person needed assistance in reading the application.

Mr. McCARTHY. So they only ask if they need assistance in reading the application?

Ms. McLEAN. I can't say for certain, but I believe that is the way they are supposed to do it, yes, sir.

Mr. McCARTHY. Okay.

Ms. Truss, if I am not a citizen, can I get benefits in Michigan?

Ms. TRUSS. Yes.

Mr. McCARTHY. Do you do the same thing that they do?

Ms. TRUSS. Very similar, yes.

Mr. McCARTHY. Walk me through it just real quick.

I am sorry, do you do the same thing where someone fills out for whatever assistance they are getting; and then the person—do you have guidelines on what—because you are telling them not to do

one party or the other, what are the guidelines you tell them to do? The employee?

Ms. TRUSS. As part of the financial assistance application process, voter registration is offered. And they are to determine whether the person applying is a citizen or not; and if they are not a citizen, they are not to offer that person——

Mr. MCCARTHY. And they just do that by asking?

Ms. TRUSS. Asking.

And we have also built into our training that if they knowingly offer someone the opportunity to register to vote that they know is not a citizen, they understand that there are penalties associated with that.

Mr. MCCARTHY. One 10-second followup: Did you do any studies such as North Carolina did about the 74 percent, or did ACORN do a study for you too?

Ms. TRUSS. Actually, I believe they studied all of the States and then reported out in one report on how all the States were doing.

Mr. MCCARTHY. Has the State done any study themselves for their own checks and balances?

Ms. TRUSS. In terms of our voter registration activities within the department?

Mr. MCCARTHY. Yeah.

Ms. TRUSS. I wouldn't say we have done something so extensive. What we have done is now shored up our activities, and we are just gathering baseline data in terms of voter registrations in our local offices reported to a central repository. So we are just sort of at the beginning of gathering that data within our State.

Mr. MCCARTHY. Well, I thank both of you for your testimony. Thank you.

Thank you, Madam Chairwoman.

Ms. LOFGREN. Before calling on Ms. Davis, I would, without objection, put into the record the report I received from the California Secretary of State that outlines the number of registrations per county under NVRA. I would note that my county, all of them could do better. Santa Clara County last year registered a little under 3,000; Kern County registered 14.

[The information follows:]

NVRA Social Services Agencies (non-DMV)

COUNTY	2006 Total	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07	2007 Total
Alameda	290	4	18	37	36	16	55	29	3	28	5	no report	no report	242
Alpine	3	0	0	0	0	0	0	0	0	0	0	0	0	0
Amador	0	0	0	0	0	0	0	10	4	no report	6	10	3	33
Butte	324	16	23	29	15	29	22	30	35	32	53	26	35	345
Calaveras	37	4	4	3	3	3	6	4	1	7	5	2	1	43
Colusa	3	0	1	no report	0	0	0	0	0	0	2	1	10	14
Contra Costa	1,448	135	79	93	117	136	96	120	131	120	157	134	125	1,448
Del Norte	1	0	0	0	0	0	0	0	0	0	0	0	0	0
El Dorado	102	0	0	0	12	1	2	0	9	1	0	0	1	26
Fresno	721	19	18	28	23	16	10	18	30	25	27	100	13	327
Glenn	102	12	10	22	4	8	12	4	12	3	14	10	2	111
Humboldt	176	23	24	28	22	23	20	19	16	11	11	7	11	166
Imperial	196	4	3	1	3	3	1	4	1	1	1	no report	6	28
Inyo	3	0	0	0	0	0	1	0	1	0	0	0	1	3
Kern	89	4	2	2	0	0	3	0	no report	2	1	0	0	14
Kings	2,635	16	6	4	77	3	11	208	275	168	359	353	279	1,759
Lake	102	8	6	5	13	6	3	7	11	9	16	7	10	101
Lassen	77	24	1	1	3	2	2	6	2	3	6	5	no report	55
Los Angeles	24,216	1,617	2,144	438	1,018	524	1,352	1,559	1,539	2,882	2,749	no report	no report	15,622
Madera	14	1	0	0	0	0	1	2	2	2	1	1	0	10
Marin	158	6	5	10	3	13	4	4	2	8	4	2	5	86
Mariposa	176	2	4	4	2	1	6	4	6	10	4	7	12	62
Mendocino	789	14	41	122	84	28	116	73	44	158	173	200	121	1,204
Merced	301	29	12	10	13	15	18	14	17	18	33	30	46	255
Modoc	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Mono	0	0	0	0	0	0	0	0	0	no report	0	0	0	0
Monterey	162	18	10	8	12	14	13	9	17	19	14	7	22	162
Napa	54	4	5	158	170	158	no report	0	11	4	7	6	4	517
Nevada	26	0	0	2	0	3	0	4	0	1	5	1	18	34
Orange	2,673	76	159	0	0	41	11	68	66	0	70	88	205	824
Placer	46	5	5	1	4	no report	7	9	4	7	7	6	6	61
Plumas	88	0	0	0	0	0	0	5	11	0	0	0	4	20
Riverside	254	26	24	41	31	41	31	36	37	13	51	37	45	387
Sacramento	412	5	11	5	19	6	18	12	24	36	46	86	116	384
San Benito	6	0	1	0	0	1	1	0	1	0	0	0	0	4
San Bernardino	533	6	15	8	29	5	4	11	12	3	5	3	79	180
San Diego	414	117	35	43	44	35	45	48	97	26	60	38	60	648
San Francisco	280	26	21	30	13	25	25	34	43	36	37	24	42	356
San Joaquin	3,074	444	180	116	67	151	98	49	90	155	321	194	239	2,105
San Luis Obispo	44	6	6	3	7	7	2	5	9	13	3	8	8	76
San Mateo	376	28	14	9	13	26	11	25	21	35	42	38	34	298
Santa Barbara	138	1	15	7	6	2	2	4	4	14	5	4	1	64
Santa Clara	7,856	79	130	93	169	128	127	134	185	188	763	412	498	2,886
Santa Cruz	6	1	2	0	1	0	no report	1	138	3	no report	3	16	161
Shasta	465	13	28	29	28	33	9	22	35	31	60	38	58	383
Sierra	6	0	0	0	0	0	0	0	0	0	0	0	0	0
Siskiyou	55	2	3	3	2	0	0	0	25	13	0	10	no report	58
Solano	402	21	20	29	15	16	32	31	23	31	42	30	41	331
Sonoma	466	33	30	36	28	28	46	42	53	43	65	51	44	498
Stanislaus	237	1	7	67	29	7	110	3	22	2	0	3	1	242
Sutter	124	5	4	6	5	2	3	5	4	5	6	12	12	69
Tehama	221	7	28	7	35	15	5	10	12	2	47	31	29	228
Trinity	31	0	0	0	5	0	0	4	3	3	6	2	4	27
Tulare	189	9	3	11	14	27	10	11	10	18	28	9	no report	148
Tuolumne	92	12	4	23	12	11	20	9	6	5	3	9	5	119
Ventura	106	2	14	12	6	12	8	19	13	10	9	8	3	121
Yolo	72	5	0	2	2	0	0	1	2	0	2	0	4	18
Yuba	644	16	18	9	13	25	28	30	23	26	29	27	34	278
TOTALS	51,713	2,904	3,194	1,584	2,225	1,642	2,418	776	3,160	4,249	5,358	2,983		31,584

	2007 Total	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	2008 Total
Alameda	242													0
Alpine	0	0	1											1
Amador	33	4	3											7
Butte	345	68												68
Calaveras	43	3	0											3
Colusa	14	0												0
Contra Costa	1,448	257												257
Del Norte	0	0	0											0
El Dorado	26	0	0											0
Fresno	327	98	20											118
Glenn	111	8												8
Humboldt	166	23												0
Imperial	28	5												5
Inyo	3	2	0											2
Kern	14	0												0
Kings	1,759	955	1,042											1,997
Lake	101	21	ompleted											21
Lassen	55	8	8											16
Los Angeles	15,822													0
Madera	10	9	9											18
Marin	66	17	10											27
Mariposa	62	27												27
Mendocino	1,204	952	705											1,657
Merced	253	40	33											73
Modoc	8	2												2
Mono	0	119												119
Monterey	162	26												26
Napa	517	30	19											49
Nevada	34	8	1											9
Orange	824	141	0											141
Placer	61	22	4											26
Plumas	20	3	10											13
Riverside	387	120	126											126
Sacramento	384	196	104											288
San Benito	4	0	0											0
San Bernardino	180	283	0											283
San Diego	648	186	6											191
San Francisco	356	61	63											124
San Joaquin	2,105	246	113											359
San Luis Obispo	78	10	4											14
San Mateo	296	83	8											91
Santa Barbara	84	5	2											7
Santa Clara	2,886	47	18											65
Santa Cruz	161	20	3											6
Shasta	393	325	92											417
Sierra	0	0	0											0
Siskiyou	58	27	26											53
Solano	331	92												92
Sonoma	498	126	53											179
Stanislaus	242	0	0											0
Sutter	69	21	9											30
Tehama	228	45	41											86
Trinity	27	8	0											8
Tulare	148													0
Tuolumne	119	10	7											17
Ventura	121	49	29											78
Yolo	18	4	1											5
Yuba	278	0	216											216
TOTALS	31,684	4,817	2,786											7,603

Ms. LOFGREN. So Mr. Davis is recognized.

Mr. DAVIS OF ALABAMA. Thank you, Madam Chairwoman.

Let me pick up Chairwoman Lofgren's comments at the outset. She was talking about why this is such a core issue for some of us on the committee, and I will add just one thing to what she said.

There are some parts of the electorate on both the left and right who have multiple ways of engaging the political process. Some of them on both the left and right can raise money for candidates. Some of them on the left and right can blog or have ready access to the Internet. But for people who are economically marginalized, frankly, voting and voting in good numbers is about the only possible way they have to influence what goes on here and in your various State capitals.

I assume both of you ladies would agree with that general proposition?

Ms. MCLEAN. Yes, sir.

Ms. TRUSS. Yes, sir.

Mr. DAVIS OF ALABAMA. And the second broad observation that I want to make is this; I want to use my State and the two States that neighbor us, Georgia on our east and Mississippi on our west. I am from Alabama. As of 2004, the last few years for which I have seen the data, in those three States, approximately 58–59 percent of African-Americans who were eligible to vote, meaning over the age of 18 with no legal impediments or disqualifications, less than 60 percent of them were actually registered. Whereas for Caucasians, the numbers of those eligible voters registered tend to be in the mid-70s.

Are the numbers similar to that, Ms. McLean, in North Carolina, or do you happen to know?

Ms. MCLEAN. I really couldn't tell you the exact percentages, but I do believe they would be similar to what you were saying.

Mr. DAVIS OF ALABAMA. And, Ms. Truss, Michigan is obviously not a southern State, but you have a large African-American inner city in Detroit. Do you happen to know the comparable numbers of blacks eligible to vote versus those registered in Michigan?

Ms. TRUSS. I don't have that available, but I would be happy to get that information and report back to the subcommittee.

Mr. DAVIS OF ALABAMA. The reason I make the observation is because obviously we have removed virtually every major legal impediment to someone voting based on race. Every now and then a State will try to backtrack in that area, but we have done a pretty good job of rooting them out.

But it seems that economic marginalization still remains and that that is, frankly, as powerful an impediment today as hard de facto laws and rules were in the 1960s. I believe that.

So I just want to underscore the chairwoman's comments about why this is important from a public policy standpoint. And the questions I want to ask have to deal with something else that Chairwoman Lofgren and I spend a lot of time focused on. Both she and I serve on the House Judiciary Committee; so one of our roles is to oversee the Department of Justice, and one of our constant sources of concern is what piques their interest and what doesn't.

So to put this in the context of today's hearing, based on some material the committee has gathered, from 2001 to 2007 DOJ initi-

ated one section 7 enforcement action, in the entire country, and they promptly settled that one.

During that same time period, DOJ brought suit against four States relying on different sections, including section 8, which deals with purging the voter rolls. Can you comment, Ms. McLean, on what that says to you, the fact that DOJ initiated one section 7 enforcement action in 6 years? What do you take from that?

Ms. MCLEAN. I would like to think that that means that most everybody appeared to be trying to do their jobs.

Mr. DAVIS OF ALABAMA. You would like to take that from it.

Is there a less charitable interpretation out there?

Ms. MCLEAN. That is what I would like to take from it. Yes, I would.

Ms. LOFGREN. I think the witness is trying to not become involved in that.

Mr. DAVIS of Alabama. The point I want to make—obviously, we hope that States are doing their jobs, but I think this is not contested. During this same period of time when, in most States that aren't North Carolina and Michigan, there has been a big drop-off in the number of Section 8-eligible people who have been registered to vote. There continue to be these lagging gaps between minorities that are eligible to vote and those who are actually voting.

So it would seem to me if the proposition was correct, that these States don't have good numbers because they did such a wonderful job in the 1990s and got everybody registered, that frankly we would see those gaps close. Wouldn't you agree with that, Ms. McLean?

Ms. MCLEAN. I would agree with that.

Mr. DAVIS of Alabama. And, Ms. Truss, I would assume you would agree with that piece of logic, too?

Ms. TRUSS. Yes.

Mr. DAVIS of Alabama. Thank you, Madam Chairwoman.

Ms. LOFGREN. Thank you.

The Chair recognizes the gentlelady from California, Mrs. Davis.

Mrs. DAVIS of California. Thank you. Thank you both for being here.

Ms. McLean, I am just wondering—I appreciate and greatly applaud the efforts that you are bringing forward. If I am not mistaken, one of the key ingredients is the training of staff.

Ms. MCLEAN. That is correct. We found that staff needs to know how to do this and why they are doing this.

Mrs. DAVIS of California. Will there be follow-up so that you are able to go back and really look at those numbers and figure out, okay, what are some of the things that we would expect to have happen and what would be the surprises? I mean, what is going to be different 2 years from now if you were going to testify on this and you wanted to tell us the results?

What do you think from the plan, from what you have put in place and your analysis as you move forward—and I am hoping that that will be there—that you would be able to suggest?

Because part of the difficulty, too, is that as we have all said, when survival is your highest priority, sometimes other things are not as important and yet critical in terms of understanding the needs of any electorate.

And so how will we evaluate, you know, your primed efforts here?

Ms. MCLEAN. Well, I think one of the things that we have learned from this process is that we had assumed that the agency voter registration was on autopilot and that we assumed that these agencies were doing the jobs that they were expected to do. We have learned from that that we need to continuously stay focused on the activities of these section 7 agencies. Requiring them to report, comparing the reports to other reports that we receive from a different agency will enable us to identify if there is a potential problem out there that someone has dropped the ball, so to speak.

Mrs. DAVIS of California. And what would you expect to be the greatest reason for dropping the ball?

Ms. MCLEAN. I would think probably lack of realization that this is a Federal mandate. It is not just another State agency that is asking you to do something else in your job.

Mrs. DAVIS of California. Do you, and Ms. Truss as well, do you have a sense of why—you know, why maybe it is difficult for people to register? Why don't people register?

We may take it for granted that people want to register. What do you all think?

Ms. TRUSS. I think that for those of us who have been voting since we were of the age that we could vote, we understand that it is a powerful experience, and we understand how engaging it is and how it makes us a part of our local community, part of our State, the decisions that are made on our behalf and on a national level.

And I am not sure that, like you said, when you are just kind of subsisting and you are really just going about your day trying to get from A to B that that really becomes a part of your experience. So I think what is powerful is to get engaged and try to have the experience and then to feel that feeling that those of us who have done it get from it.

So I think it is just a matter of maybe it has just not been part of their experience. So initiatives like the one in Michigan and the one in North Carolina hopefully will engage a more diverse group of people who haven't had that experience and that will sort of fuel the initiative to continue.

Mrs. DAVIS of California. Anything else we should be doing?

Ms. TRUSS. I agree with Ms. McLean that we need to continue to train. I think that you really have to keep this kind of initiative going, and it can't be just something you start at one point and you just assume that it is going to continue on. You have to revisit. You have to look at the data, go back, fix what is broken or make things better, take best practices from one place and share them with others.

I think it is just something you have to stay focused on, and I know that that is really important to our director.

Mrs. DAVIS of California. Thank you.

Thank you, Madam Chair.

Ms. LOFGREN. Thank you very, very much. You are both role models for other States. And we certainly do appreciate your being here. And please take back to your States our admiration for your efforts; we hope to publicize them as models for others.

Let's now call the second panel forward, if we could. Let me introduce the witnesses as they are sitting down.

Lisa Danetz is Senior Counsel at Demos and has spent the last 5 years as a voting rights and campaign finance lawyer with their affiliate, the National Voting Rights Institute. Her past and current work includes litigation and negotiation with States regarding implementation of the National Voter Registration Act, constitutional litigation to promote and defend campaign finance reforms, legislative drafting and FEC enforcement work.

Ms. Danetz received her Bachelor's degree from Yale University and her Juris Doctorate, cum laude, from New York University School of Law.

Michael Slater is the Deputy Director of Project Vote where he focuses primarily on ensuring the voting rights of low-income and minority Americans. During his tenure with Project Vote, Mr. Slater has helped lead a successful effort to overturn laws in seven States restricting voter registration, including Project Vote v. Blackwell, as well as contributed to the passage of election legislation in half a dozen States.

Mr. Slater directs Project Vote's NVRA implementation project, which seeks to ensure that States are in compliance with the public agency registration requirements of the National Voter Registration Act.

And finally we have David B. Muhlhausen, who is a Senior Policy Analyst at the Heritage Foundation's Center For Data Analysis. Dr. Muhlhausen specializes in criminal justice policy, as well as evaluating the performance of government programs.

Prior to his work with the Heritage Foundation, Dr. Muhlhausen worked on the Senate Judiciary Committee as well as a manager at a juvenile correctional facility in Baltimore.

Dr. Muhlhausen received his Bachelor's degree from Frostburg State University and his Doctorate degree in public policy from the University of Maryland, Baltimore County.

STATEMENTS OF LISA DANETZ, SENIOR COUNSEL, DEMOS; MICHAEL SLATER, DEPUTY DIRECTOR, PROJECT VOTE; AND DAVID B. MUHLHAUSEN, SENIOR POLICY ANALYST, HERITAGE FOUNDATION

Ms. LOFGREN. We welcome the three of you and you heard the advice to the prior witnesses about the light system. So we would note that your full written statements are part of the record of this hearing and invite you to give oral testimony of about 5 minutes.

And if we could begin with you, Ms. Danetz.

STATEMENT OF LISA DANETZ

Ms. DANETZ. Thank you, Chairwoman Lofgren, Ranking Member McCarthy and other members of the Subcommittee on Elections of the House Administration Committee for inviting me to testify today.

Ms. LOFGREN. Is the microphone on? Why don't you pull it a little bit closer?

Ms. DANETZ. Is that better? I have to be honest; nobody has ever told me that I didn't project well.

In my time at Demos, I have worked extensively on efforts to ensure better compliance with and implementation of the NVRA's requirements, especially with regard to public assistance agency-based registration. I have advised State elections and human services officials about compliance, brought litigation to ensure compliance and spoken and written about the issue.

In particular, I have had the opportunity, as you just heard, to work with the States of Michigan and North Carolina on their efforts; and I wish to formally commend them to you for their voluntarily undertaking the implementation of best practices with respect to agency-based voter registration.

In North Carolina, the improved procedures led to over 34,400 voters registered at the State's public assistance agencies in the first year after the reimplementation process started. That is an almost six-fold increase in the average number of voters being registered each month at North Carolina's public assistance agencies.

The work of Demos and our partners during the past several years has demonstrated, unfortunately, that not all States are like North Carolina and Michigan and that the early promise of the NVRA has not been sustained with respect to voter registration at public assistance offices.

Chairwoman Lofgren has already indicated the 79 percent decline since implementation of the law. And for whatever reason, many States are no longer offering voter registration opportunities at their public assistance offices.

I think it is important to look past the numbers, however, because it is not just numbers that suggest that there is noncompliance. When we go into the States to see what is happening firsthand, we see local offices that do not offer the opportunity to register to vote, local offices that do not even have voter registration applications at the office, staff who are entirely unaware of their obligations, voter registration services offered in the office but not for services offered by the Internet, mail, over-the-telephone ways in which many services are offered now; and also local offices that don't use the statutorily required declination form, which is specified by the statute.

Every State, I think, should be able to accomplish results similar to that attained in North Carolina by implementing certain practices that largely ensure, one, that local workers know their responsibilities; and, two, that they are held accountable for performing them.

Such practices include the formation of an NVRA improvement team with a designated Chair; the designation of local NVRA coordinators, as Ms. Truss already discussed; sending of instructions to agency and office personnel; regular training and performance reviews of staff; as well as regular reporting and monitoring of performance data.

The statute specifically tasks the Justice Department with enforcement of the NVRA. And we know from experience that such enforcement can be quite effective. In 2002, DOJ brought a lawsuit against Tennessee for that State's failure to provide voter registration services at public assistance agencies. As a result of the consent decree entered to settle the litigation, Tennessee's public assistance agencies' numbers of voter registration applications sky-

rocketed. In the 2-year period preceding the last Presidential election, public assistance agencies received almost 174,000 voter registration applications. In the most recent period, they received almost 121,000 voter registration applications. That was one in five of all public assistance registrations in the Nation that came from Tennessee.

Given the success of litigation in increasing voter registration applications at public assistance agencies, it is remarkable that the Justice Department has been largely absent since that 2002 case against Tennessee.

In the past several months, there have been some more encouraging signs of Justice Department interest. And we are hopeful that the recent steps indicate a renewed willingness on the part of the Justice Department to resume more vigorous enforcement of section 7.

I will just end by saying that with the examples of North Carolina and Michigan, as well as a renewed commitment to full enforcement of the NVRA, I believe we can realize the congressional intent and help hundreds of thousands of additional voters participate in the political process.

Thank you.

Ms. LOFGREN. Thank you very much.

[The statement of Ms. Danetz follows:]

National Voter Registration Act, Section 7: The challenges that public assistance agencies face

Testimony before the Committee on House Administration, Subcommittee on Elections United States House of Representatives

Lisa J. Danetz, Senior Counsel, Dēmos: A Network of Ideas and Action

April 1, 2008

Thank you, Chairwoman Lofgren, Ranking Member McCarthy, and members of the Subcommittee on Elections of the Committee on House Administration, for inviting me to testify at today's hearing on "National Voter Registration Act, section 7: The challenges that public assistance agencies face."

Introduction: My Work on this Issue

Currently, I serve as Senior Counsel at Dēmos: A Network for Ideas and Action. Dēmos is a non-partisan public policy center, founded in 2000, whose work has focused on expanding democratic participation and lowering the barriers that exist to that participation. Since 2004, Dēmos has conducted extensive research on compliance with Section 7 of the NVRA including statistical analysis and field investigations, published three reports on the NVRA, worked with public assistance and election officials in states across the country to improve their compliance with the NVRA, and served as counsel in a case currently on appeal in the Sixth Circuit challenging Ohio's failure to implement the law.

In my time at Dēmos, I have worked extensively on efforts to ensure better compliance with and implementation of the NVRA's requirements, especially with regard to public assistance agencies. I have advised state election and human services officials about compliance, brought litigation to ensure compliance, and spoken at conferences and written about the issue. In particular, I have had the opportunity and privilege to work with state officials in both North Carolina and Michigan and I wish to formally commend them to you for their voluntarily undertaking the implementation of best practices with respect to agency-based voter registration. In North Carolina, the improved procedures led to over 34,500 voters registered at the state's public assistance agencies between February 2007 and February 2008, an almost six-fold increase in the average number of voters being registered each month. While the program in Michigan is not yet completely rolled out, the state Department of Human Services will utilize extensive public education materials and also will partner with other agencies and community organizations to reach unregistered voters in a way that is truly innovative.

I. Overview of Problem

As this subcommittee is no doubt well aware, in 1993, Congress passed with a bipartisan majority, and the president signed into law, the National Voter Registration Act.[1] Through its many provisions, the NVRA was specifically designed to increase the number of eligible citizens registered to vote and to enhance voter participation in elections.

On the House side, it was the House Administration Committee that considered the bill that became the NVRA. In considering the bill, the Committee was concerned that "low voter turnout in Federal elections poses potential serious problems in our democratic society,"[2] and the NVRA was designed to address these problems and thereby achieve a more participatory and representative democracy. The Committee recognized that "failure to become registered is the primary reason given by eligible citizens for not voting" and that "the difficulties encountered by eligible citizens in becoming registered to vote is an issue which can be directly addressed through the legislative process."[3] Thus, in passing the bill, the House intended Congress to "assist in reducing barriers, particularly government-imposed barriers, to applying for registration wherever possible."[4]

Sentiment was similar on the Senate side. The Senate Committee on Rules and Administration reported that there were "almost 70 million eligible citizens who did not participate in the 1992 Presidential election because they were not registered to vote."[5] The Committee stated, "[T]he purpose of our election process is not to test the fortitude and determination of the voter, but to discern the will of the majority."[6]

By enactment of the NVRA, Congress sought to reduce registration barriers by mandating that states provide the opportunity to register to vote in several specific and different ways. The most well-known of these provisions is the requirement that voter registration applications be integrated into drivers' license applications, the "motor voter" provision from which the law received its nickname. The law also mandated state acceptance of a federal mail-in registration form.

Finally, and most relevant to this hearing, the law required that public assistance agencies and offices that primarily serve the disabled must provide voter registration services to ensure that low-income people and the disabled also have the opportunity to register to vote. Specifically, such agencies must (i) distribute mail voter registration application forms; (ii) assist applicants in completing the voter registration forms; and (iii) accept completed voter registration forms and forward them to the appropriate election official.[7] Moreover, each agency must (i) distribute voter registration materials with each

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[1] 42 U.S.C. §§ 1973gg to 1973gg-10.
[2] H.R. Rep. No. 9, 103rd Cong., 1st Sess. 4 (1993).
[3] *Id.* at 3.
[4] *Id.*
[5] S. Rep. No. 6, 103rd Cong., 1st Sess. 2 (1993).
[6] *Id.* at 3.
[7] *See* 42 U.S.C. § 1973gg-5(a)(4)(A).

application for assistance, and with each recertification, renewal, or change of address form relating to such assistance; (ii) inquire of the applicant, in writing, whether he or she would like to register to vote or change his or her voter registration address, (iii) inform the applicant, in writing, that the decision to register or decline to register to vote will not affect the amount of assistance provided by the agency; and (iv) provide assistance completing the voter registration forms to the same degree the agency provides assistance in completing its own forms.[8] Recognizing that low-income and disabled citizens may be less likely to visit motor vehicle departments, Congress included the requirement for agency-based registration at public assistance agencies to ensure greater equality of access to voter registration.[9] Indeed, Census data confirm that low-income citizens are among the least likely to register to vote at a motor vehicle department.[10]

At the time of its passage, some states implemented the NVRA in a comprehensive fashion while other states aggressively fought implementation. California, Illinois, Michigan, Mississippi, Pennsylvania, New York, South Carolina, and Virginia, for example, all fought the law in court.[11] The federal courts uniformly upheld the law and ruled that it was well within Congress' power to improve citizens' access to participation in federal elections. After the first few years of implementation, the NVRA was responsible for adding millions of new voters to the registration rolls.[12]

The work of Dēmos and its partners during the past several years has demonstrated, unfortunately, that the early promise of the NVRA has not been sustained with respect to voter registration at public assistance offices. For whatever reason, many states are no longer offering voter registration opportunities at their public assistance offices. This is not necessarily because of a deliberate effort to defy the law; it may just be that a lack of consistent oversight and training combined with a high level of staff turnover at agencies has caused the issue to fall off the radar screen in many places. Nevertheless, there are serious compliance problems with this very important law requiring agencies to affirmatively offer low-income people the opportunity to participate in the political process.

Simply stated, public assistance agency-based voter registration has declined dramatically, denying low-income citizens across the country of an opportunity to register to vote. As documented in our recent report *Unequal Access: Neglecting the National Voter Registration Act, 1995-2007*, the number of voter registration applications

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[8] *See* 42 U.S.C. § 1973gg-5(a)(6).
[9] H.R. Conf. Report No. 66, 103rd Cong., 1st Sess. 19 (1993).
[10] U.S. Census Bureau, "Voting and Registration in the Election of November 2004, Table 14," available at http://www.census.gov/population/www/socdemo/voting/cps2004.html.
[11] *See, e.g., Wilson v. U.S.*, 878 F. Supp. 1324 (N.D. Cal. 1995) (California); *ACORN v. Edgar*, 56 F. 3d 791 (7th Cir. 1995) (Illinois); *ACORN v. Miller*, 912 F. Supp. 976 (W.D. Mich. 1995), aff'd., 129 F.3d 833 (6th Cir. 1997) (Michigan); *Young v. Fordice*, 520 U.S. 273 (1997) (Mississippi); *ACORN v. Ridge*, 1995 U.S. Dist. LEXIS 3933 (E.D. Penn. 1995) (Pennsylvania); *United States v. New York*, 3 F. Supp. 2d 298 (E.D.N.Y. 1998), aff'd. in part, rev'd in part sub nom., *Disabled in Action of Metropolitan New York v. Hammons*, 202 F.3d 110 (2d Cir. 2000) (New York); *Condon v. Reno*, 913 F. Supp. 946 (D.S.C. 1995) (South Carolina); *Natl. Coalition v. Gilmore*, 152 F.3d 283 (4th Cir. 1998) (Virginia).
[12] Federal Election Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995-1996."

coming from public assistance agencies has declined by 79 percent since the initial implementation of the law, from over 2.6 million applications in 1995-1996 to only 540,000 in 2005-2006.[13] At the same time, the Food Stamp Program – by far one of the largest public assistance programs required to offer voter registration – had several hundred thousand more adult citizen participants nationwide in fiscal year 2006 compared to a decade prior.[14] Over 13 million low-income adult citizens remained unregistered in 2006 and a staggering income gap in registration rates remains: in 2006, only 60 percent of adult citizens in households making less than $25,000 a year were registered to vote compared to over 80 percent of those in households making $100,000 or more.[15]

In our work, we have seen a strong correlation between low public assistance registration numbers and specific examples of compliance problems. Investigations that Dēmos and partners such as Project Vote have conducted in states including Ohio, Florida, New Mexico, Missouri, Arizona, Virginia, Maryland and Pennsylvania, among others, have uncovered the following:

- Local offices that do not offer the opportunity to register to vote when clients seek to apply for services, or for redeterminations, recertifications, and changes of address with respect to such services.
- Local offices that do not even have voter registration applications on site.
- Staff at local offices who are entirely unaware of the office's obligation to provide voter registration to public assistance clients.
- Voter registration services that are offered at in-office interactions but not to clients who interact with the agencies via Internet, telephone, or mail.
- Local offices that do not use the statutorily required "declination forms"– i.e. the agency's written offer of voter registration to clients—or use forms that do not conform in important respects to requirements of the statute.

When made aware of the problems, different states have reacted differently – just as they did fifteen years ago. Thus, states such as North Carolina and Michigan have embraced best practices in order to register as many low-income clients as possible. Others, such as Maryland, are in the process of reviewing their NVRA registration procedures to address the decline in the numbers of registrations at public assistance, disability, and other agencies. Unfortunately, other states have been far more resistant to addressing the problem. Ohio, for example, has taken the view that no state official has the obligation to ensure implementation of this federal law, leaving any particular individual's opportunity to register entirely dependent on how seriously the individual's local county office takes this federal law. As a result, thousands of low-income citizens in Ohio – and thousands more in other states that have neglected their NVRA

[13] Douglas R. Hess and Scott Novakowski, "Unequal Access: Neglecting the National Voter Registration Act, 1995-2006" (February 2008), available at http://www.demos.org/pub1531.cfm.
[14] See "Food Stamp Households Characteristic Reports" for fiscal years 1996 and 2006 at http://www.fns.usda.gov/oane/MENU/Published/FSP/FSPPartHH.htm; Tables B-10, B-11, and B-12.
[15] Source: U.S. Census Current Population Survey, November 2006 Voting and Registration Supplement, analysis by Demos and Project Vote.

responsibilities – have been denied the opportunity to register to vote that the NVRA was intended to provide.

II. Achieving the Promise of Section 7 of the NVRA

A. The North Carolina Experience

North Carolina's experience with public assistance registration over the past several years illustrates both the urgency of the problem and the tremendous gains that can be achieved when states institute improved Section 7 procedures. In 2005-2006, investigation of Section 7 compliance in North Carolina suggested a serious lack of compliance. Interviews conducted outside public assistance offices in two of North Carolina's major cities, Raleigh and Greensboro, yielded not a single person who was offered voter registration services. Data submitted to federal authorities by North Carolina indicated a 73.5 percent decline in public assistance voter registrations between initial implementation of the law in 1995-1996 and 2003-2004.[16] In 2005, public assistance offices in each of 35 counties registered fewer than 10 clients and public assistance offices in 11 of those 35 counties did not register a single client.[17]

Armed with these findings, we and our partners contacted Gary Bartlett, the Executive Director of the State Board of Elections since 1993, to convey the seriousness of North Carolina's compliance problem. Mr. Bartlett expressed concern at the survey findings. He described North Carolina's proud history of implementing the NVRA in the mid-90s when many states were resisting implementation and fighting to have the law declared unconstitutional. Mr. Bartlett shared his strong commitment to solving the problem and acted quickly on that pledge. Working cooperatively with Dēmos and its partners, North Carolina implemented a comprehensive compliance plan, and has achieved dramatic increases in the numbers of persons completing voter registration applications at public assistance offices.

While North Carolina registered only 11,600 persons at public assistance agencies in the entire two-year period of 2005-2006, the state has registered over 34,500 persons from February 2007 to February 2008, the first year of North Carolina's re-implementation program. This reflects a nearly six-fold increase in the average monthly number of registrations at North Carolina public assistance agencies and represents a registration rate of approximately 11 percent of those clients offered voter registration services. Such results only underscore the enormous promise of the NVRA in providing the opportunity to vote for hundreds of thousands of low-income Americans, if similar compliance efforts were conducted nationwide.

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[16] Lisa J. Danetz and Scott Novakowski, "Expanding Voter Registration for Low-Income Citizens: How North Carolina is Realizing the Promise of the National Voter Registration Act" (updated November 2007), available at http://www.demos.org/pub1446.cfm.
[17] *Id.*

B. Best Practices

Through our work in numerous states on implementation of Section 7's requirements, we have identified a number of best practices a state can implement in order to see its agency-based voter registration figures increase and ensure proper compliance with Section 7.

1. Form an NVRA Improvement Team with a Designated Chair.

One helpful element in a statewide plan to implement Section 7 of the NVRA is the creation of an "NVRA Improvement Team" led by a state-level official who can convene the necessary personnel to ensure an effective agency-based registration program. Depending on the state's laws and procedures, the chair may be the state's chief election official, someone in the governor's office, the head of a state agency, the Attorney General, or some other official. The Team should include representatives from the chief election official's office, the designated public assistance agencies, other relevant executive offices, and relevant civic organizations. Through regular meetings and consultation, the Team can develop and coordinate improved NVRA procedures and monitor systematic reporting from agency sites regarding NVRA performance.

In addition, the chief election official and state-level public assistance agencies' officials should each designate a staff member to be responsible for coordinating NVRA responsibilities within their respective departments.

It bears mentioning that the active leadership of a high-level state official can be key to achieving optimal results. North Carolina and Michigan each has a high-level official ensuring that NVRA procedures are put into place while consulting and coordinating with other relevant government officials and agencies. In North Carolina, the effort has been spearheaded by the Executive Director of the State Board of Elections while, in Michigan, the Director of the Department of Human Services has taken the initiative in implementing reforms.

2. Designate Local NVRA Coordinators.

In order to ensure accountability and coordination at each local office that must provide voter registration services, each such office should have a designated NVRA Coordinator. This Coordinator has the responsibility to implement voter registration procedures in his or her local office. Thus, the Coordinator ensures that the local office has an adequate supply of voter registration applications, trains frontline workers regarding their responsibilities under the law, reports data on voter registration activities to the relevant state-level official, forwards completed voter registrations to the relevant elections officials, and serves as the local office expert on voter registration. The Coordinators also have responsibility for whatever additional requirements the state imposes; for example, the Coordinator may have responsibility to ensure that NVRA posters are displayed in the local office lobby.

3. Send An Immediate Directive to Agency/Office Personnel.

At the very onset of an NVRA re-implementation initiative, the relevant agency directors should send memos detailing the responsibilities of staff for compliance with the NVRA to all offices covered by the NVRA. The memo should include procedures for offering voter registration, how registration materials are to be ordered, how records are to be kept, how and to whom data are to be reported, and detailed instructions on when and to whom to transmit completed voter registration applications. The memo also should make clear that each local office must designate an NVRA Coordinator to be responsible for the day-to-day functioning of the voter registration program.

4. Training & Performance Reviews of Staff

Training of NVRA Coordinators and local frontline workers is essential to ensure effective (and actual) implementation of agency-based voter registration. As a first step, election officials and state public assistance agency officials need to review already-existing NVRA written policies, procedural manuals, and/or training materials for accuracy, and should update or amend them as necessary. Next, NVRA Coordinators should be trained by state officials in "train the trainer" programs. The NVRA Coordinators should then train all current local agency employees and ensure that all new employees are trained on voter registration procedures as part of their orientation. Refresher training for agency employees should be conducted at least once per year. Successful compliance with voter registration procedures should be assessed as part of the regular performance reviews that agency personnel receive.

5. Reporting and Monitoring of Performance Data

A key feature of effective NVRA implementation in public assistance agencies is a well-developed system of evaluation and tracking. Monitoring each office's performance, through frequent reporting of the numbers of voter registration applications and declination forms completed at each office, will help to assess whether the procedures being implemented are effective and will allow offices with low performance to be identified for remedial action. In addition, collection of such data will help a state to report information required for the Election Assistance Commission to make its mandated biennial report to Congress on the impact of the NVRA.[18]

Ideally, each agency office should be directed to begin tracking and reporting to the chair of the NVRA Improvement Team the following information on a weekly basis: (1) the number of completed voter registration applications transmitted to the appropriate election official; (2) the number of clients who declined to register; (3) the number of applications, redeterminations or recertifications, and changes of address; and (4) the total number of declination forms (which should be equal to the previous number). Data on the number of applications and declination forms should be made available for review by all NVRA Improvement Team members.

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[18] *See* 42 U.S.C. § 1973gg-7(a)(3).

Submitting these figures via e-mail or a web-based tracking system makes the process easy for local office staff and helps with accuracy in reporting and monitoring. While North Carolina uses an e-mail-based system, both Iowa and Michigan have developed web-based tracking systems. In Iowa, the system allows voter registration supervisors to access a designated website and input voter registration numbers from the previous week. The system works similarly in Michigan although, in that state, NVRA Coordinators must input the number of applications, the number of redeterminations, the number of changes of address, the number of completed voter registration applications, and the number of clients who declined to register. In both states, state-level officials can then visit the website to review office performance. For those working in technology departments of public assistance agencies or governmental offices, web-based systems are fairly simple to create.

In addition to its reporting requirements, North Carolina has instituted a system of in-person unannounced compliance spot checks to assess local public assistance agencies' compliance with Section 7. These visits have also helped improve compliance at the local level.

6. Public Education Regarding Agency-Based Registration

In order to encourage voter registration, a state can undertake many different types of activities to educate the public about the importance of registering to vote. In Michigan, for example, the plan calls for local DHS offices to play a DVD about registering to vote in their office lobbies and to place voter registration posters in the lobby and client interview areas where there is a high likelihood that clients will see them, outreach to local media outlets to announce the DHS offices' voter registration efforts, enlisting County Directors or District Managers to talk about voter registration activities during meetings with community partners, and requesting Community Resource Coordinators to help publicize the availability of voter registration services. In addition, the state DHS is planning to create celebrity public service announcements to be aired statewide.

7. Simultaneous Electronic Registration

New technologies have the potential to enhance and streamline agency-based voter registration procedures. For those states that have the technological capability and resources, one such technology used by many motor vehicle departments is simultaneous electronic registration (SER). SER electronically transfers information from the client's application for benefits to a voter registration application, which is then printed out, signed by the client, and transmitted to election officials. The client does not need to manually complete the voter registration form, saving time while also reducing language and literacy barriers as well as the effect of paperwork fatigue. Furthermore, problems with legibility and incomplete voter registration forms are largely eliminated.

Dēmos and its partners in this work have many examples of training materials, procedure outlines, and other support materials that we are happy to provide to interested states to assist in implementing best practices.

III. Legal Enforcement

It is important to note that the statute specifically tasks the Justice Department with enforcement of the NVRA and we know, from experience, that such enforcement can be quite effective. In the 1990s and early in this decade, the Justice Department was an active participant in litigation that required states to comply with the law and that established the constitutionality of the NVRA.

In 2002, the Department of Justice brought a lawsuit against Tennessee for that state's failure to provide the required voter registration services at public assistance offices. Prior to this lawsuit, in the period 1999-2000, Tennessee received 49,636 voter registration applications through its public assistance agencies.[19] Under the court order in place as a result of that lawsuit, Tennessee's voter registration at public assistance agencies increased dramatically. In 2003-2004, Tennessee's public assistance agencies registered 173,927 voters, 16 percent of the total number of voters registered in the state.[20] In 2005-2006, they registered 120,962 voters.[21] Indeed, in 2005-2006, one in five of all public assistance registrations in the nation occurred in Tennessee.[22]

Maryland had a similar experience as a result of litigation, although that litigation was brought by private parties. In the first two years of NVRA implementation (1995-1996), Maryland registered only 982 individuals through its public assistance agencies.[23] After being sued in 1996 for its failure to implement the NVRA and entering into a settlement agreement in 1998, the state saw its registrations increase dramatically to 22,095 in 1997-1998 and again to 32,250 in 1999-2000.[24] In 2000, however, the federal court settlement agreement governing Maryland's compliance with the NVRA expired, and the number of voter registration applications processed through Maryland's public assistance agencies dropped substantially: Voter registration applications from public assistance agencies decreased dramatically to 1,151 in 2001-2002, 1,867 in 2003-2004, and 8,788 in the most recent reporting period of 2005-2006.[25] Between the height of Maryland's NVRA compliance in 1999-2000 and the most recent reporting period in

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[19] Federal Election Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000."
[20] Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2003-2004," available at http://www.eac.gov.
[21] Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005-2006," available at http://www.eac.gov.
[22] *Id.*
[23] Federal Election Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995-1996."
[24] Federal Election Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office," 1997-1998 and 1999-2000.
[25] Federal Election Commission and Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office," 2001-2002, 2003-2004, 2005-2006.

2005-2006, the number of voter registrations from public assistance agencies dropped by close to 73 percent. As stated above, Maryland is in the process of reviewing its NVRA registration procedures to address the decline in the numbers of agency-based registrations.

Given the success of litigation in increasing the numbers of voter registration applications completed at public assistance agencies, it is remarkable that the Justice Department has been largely absent from NVRA Section 7 enforcement since the 2002 case against Tennessee. In 2004, Dēmos and Project Vote provided Justice Department officials with significant evidence of states' noncompliance in a face-to-face meeting and several follow-up memos. The Justice Department, however, showed little interest in pursuing additional Section 7 enforcement cases, even while it was actively suing states to conduct more vigorous purges to remove voters from registration rolls.[26] Moreover, a 2005 letter from 30 members of Congress to then-Attorney General Alberto Gonzalez requesting an investigation into NVRA Section 7 non-compliance went unanswered. This failure of enforcement has not gone unnoticed.[27]

In the past several months, however, there have been small but definite signs of interest in enforcement of Section 7 of the NVRA at the Justice Department. In August 2007, under intense scrutiny by the newly elected 110th Congress for its selective enforcement of voting rights laws, the Voting Section issued 13 letters to states requesting that they explain their poor performance in public assistance agency-based registration. In an appeal regarding Ohio's failure to comply with Section 7 of the NVRA, the Justice Department in November 2007 submitted an *amicus* brief supporting the plaintiffs we represent who sought enforcement of the law. Indeed, just last week, Justice Department attorneys met with representatives from Dēmos, Project Vote, and Lawyers' Committee for Civil Rights Under Law to discuss the need for enforcement of Section 7 of the NVRA. We are hopeful that these recent steps indicate a renewed willingness on the part of the Justice Department to resume more vigorous enforcement of Section 7.

Conclusion

The NVRA's goal of lowering barriers to voter registration reflects our nation's commitment to a fully representative democracy in which the voices of all citizens may be heard. The full promise of the NVRA has not yet been achieved, however, because of widespread noncompliance with the requirements of Section 7 for registration at public assistance agencies, disability offices, and other designated agencies. Nevertheless, the example of states that have implemented strong compliance programs and best practices provides encouragement that, with a renewed commitment to full enforcement of the NVRA, we can realize Congress' intent and help hundreds of thousands of additional voters participate in the political process.

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[26] *See* Letter from Dēmos and Project Vote to Hon. Jerrold Nadler and Hon. Trent Franks, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, Committee on the Judiciary, February 25, 2008, at 3.
[27] *See* Pam Fessler, National Public Radio, "Justice Dept. Accused of Partisan Voter-Roll Purge," (October 11, 2007), available at http://www.npr.org/templates/story/story.php?storyId=15198501.

Thank you for the opportunity to testify this morning. I am available to answer any questions at this time, and Dēmos is eager to work with you going forward.

Ms. LOFGREN. We will turn now to Mr. Slater.

STATEMENT OF MICHAEL SLATER

Mr. SLATER. Good afternoon, Chairwoman Lofgren, Ranking Member McCarthy and members of the Subcommittee on Elections. My name is Michael Slater. I am Deputy Director of Project Vote. Project Vote is a national nonprofit, nonpartisan organization that promotes registration and voting to Americans who are historically underrepresented in the electorate.

It is an honor to be here today to present testimony on the National Voter Registration Act, a law meant to ensure that all Americans have equal access to voter registration opportunities.

As the subcommittee knows, Congress passed the NVRA with the intent to increase registration by removing State barriers to voter registration opportunities. The act also requires States to offer voter registration at motor vehicle departments, section 5, and at public assistance agencies, section 7.

Congress included section 7 in the NVRA because it has the potential to offset the longstanding underrepresentation of low-income citizens in the electorate. The House committee reporting on the NVRA explained that the inclusion of section 7 was to ensure that the poor and persons with disabilities who did not have driver's licenses would not be excluded from those for whom registration would be convenient and readily available.

Section 7's promise of a more representative electorate is as important today as it was in 1993. Of all adult citizens from households with annual economics below $25,000 in 2006, approximately 40 percent were unregistered, compared to only 20 percent from households with incomes greater than $100,000. The registration rate for non-Hispanic whites was 71 percent in 2006, but only 61 percent for non-Hispanic blacks, 54 percent for Latinos and just 49 percent for Asian Americans. Nonwhites are less registered in large part because they are disproportionately low income.

Just as the promise of NVRA is relevant today, so too is its potential. Fully 34 percent, or 64 million, voting-eligible Americans were not registered to vote in 2006.

A study by the Washington secretary of state shows that section 7 can play an important role in reaching them. In 2007, election officials in Washington compared their list of registered voters to the list of adult citizens who received public assistance. Their comparison found that of the 1.2 million adult citizens who used public assistance programs in 2006, more than 780,000 were not registered to vote. Even if the State's data-matching efforts missed some registered voters, Washington's report indicates that a significant proportion of the State's 1.4 million unregistered citizens can be reached through public assistance agencies.

Unfortunately, as my colleague, Ms. Danetz, has testified, there is substantial evidence that the 79 percent decline since 1975 in the number of voter registration applications from section 7 agencies is the result of State's noncompliance.

In the past 4 years, we have talked with State human service directors who have no knowledge of the NVRA, with election officials who have acknowledged that their States are no longer in compli-

ance and with agency staff who stopped offering voter registration years ago.

In 2006, Project Vote began to assess the availability of voter registration at agency offices and conduct client interviews. Out of 56 public assistance offices in six States, only 21, less than half, could produce a voter registration application upon request.

The evidence collected by Project Vote surveyors is telling. In Denver, one agency worker told us their office had been out of voter registration forms for 7 or 8 years. In St. Louis, an agency worker told our surveyor their office did not offer voter registration and suggested that she look voter registration up in the phone book; while a worker at another St. Louis office directed us to contact the Urban League. In Seattle, an agency worker simply said they used to offer voter registration but no longer did.

Surveys of clients confirm the problem. Of the 386 clients we surveyed whose transactions were covered by the NVRA, only 73, less than 20 percent, had been provided with an opportunity to register.

Noncompliance by States has been facilitated by the failure of the Justice Department to enforce the provisions of section 7. Since 2000, the Justice Department has brought only one lawsuit to enforce its public agency provisions, although recent conversations indicate there might be some change in that.

In short, States are denying low-income Americans an opportunity to register to vote that Congress afforded them in 1995. The results have been, in part, an electorate that continues to skew towards the affluent and a democracy impoverished by it.

Fortunately, there is good news. A few simple steps can bring States into compliance and generate significant numbers of registration from eligible Americans. Ms. Danetz has already identified a number of those, and I would simply like to share some results from a few States:

In Iowa, where executive leadership, a simple reporting system and a commitment by staff resulted in the number of applications from public assistance agencies more than doubling in the election cycle following reforms.

In September 2005, Oregon implemented a set of reforms focusing on identifying and training NVRA coordinators in each office. The result was a 65 percent increase in registrations from counties and programs we examined.

In January 2008, the Election Division and the Department of Human Services again collaborated to train another cohort of 499 NVRA coordinators.

And New Mexico has started the first but still incomplete steps to reinvigorate agency registration. Their results yielded 672 voter registration applications in February of this year compared to just 102 registrations from 2007.

And let me conclude by saying the research shows that when States take section 7 seriously, individuals respond by registering to vote. Our job today is to get all States to take section 7 seriously so all Americans have an equal opportunity to register to vote in 2008. Thank you.

Ms. LOFGREN. Thank you very much.

[The statement of Mr. Slater follows:]

Testimony of Michael Slater, Deputy Director, Project Vote

Hearing on the "National Voter Registration Act: the Challenges Public Agencies Face" before the Subcommittee on Elections of the Committee on House Administration

Washington, D.C

Tuesday, April 1, 2008

Chairwoman Lofgren, Ranking Member McCarthy and members of the Subcommittee on Elections, my name is Michael Slater. I testify today in my capacity as Deputy Director of Project Vote, a national nonpartisan, nonprofit organization that promotes registration and voting to Americans who are historically underrepresented in the electorate.[1] It is an honor to be here today to present testimony on the National Voter Registration Act (NVRA), a law meant to ensure that all Americans have equal access to participation in our democracy through voter registration.

Project Vote began efforts to ensure the fair and effective implementation of the public agency registration (Section 7) provisions of the NVRA in 1994, shortly after the law was enacted. Project Vote issued the first reports evaluating NVRA implementation and organized litigation in response to the decision of several states to refuse to comply with the Act. The subsequent court decisions not only upheld the NVRA but reaffirmed Congress's constitutional authority to regulate federal elections, including the regulation of voter registration procedures.

In 2004, a decade after the start of our original work on the NVRA, Project Vote responded to the alarming decline of public agency registration rates by undertaking a new initiative to ensure states were not only complying with the requirements of Section 7, but were doing so using the most effective practices. For the past four years, we have been assessing states' compliance with Section 7, developing best practices for agency registration, providing pro bono technical assistance to states and, when necessary, initiating litigation.

My testimony today covers four main areas:

1. the purpose of Section 7 and its relevance today in light of marked disparities in the composition of the electorate,
2. evidence of widespread non-compliance with the law,
3. recent, positive experiences in states that are working to improve compliance, and
4. selected best practices.

[1] Project Vote's testimony is coauthored by Douglas Hess, who served as director of our NVRA efforts from 1994 to 1996, and continues to work with in this area. I would also like to acknowledge the assistance of Jody Herman.

1. The Purpose of the NVRA and of Section 7

The National Voter Registration Act (NVRA) was passed by Congress in 1993 to increase participation in federal elections by removing obstacles to voter registration and by giving states an affirmative responsibility to offer voter registration services to citizens when they interact with their government. One of the bill's sponsors noted that with the NVRA, Congress was completing the work it had begun with the passage of the Voting Rights Act.

The NVRA's best known provision is its "motor voter" requirement, which instructs states to offer individuals an opportunity to register to vote when they apply for or renew their driver's licenses. An equally important but less well known provision of the NVRA is the requirement in Section 7 that states offer voter registration to individuals when they apply for or recertify their eligibility for public assistance, as well as when they change addresses. The programs covered by the NVRA include, but are not limited to: the Food Stamp Program, Temporary Assistance for Needy Families (TANF), the Women, Infants and Children (WIC) program and Medicaid.[2]

Section 7 is an important provision of the NVRA because it has the potential to offset the longstanding under-representation of low-income citizens in the electorate. The House Committee reporting on the NVRA explained that Section 7 was included in the Act to ensure that "the poor and persons with disabilities who do not have driver's licenses [would]...not be excluded from those for whom registration will be convenient and readily available."[3]

Today, the need for the effective implementation of Section 7 is as great as it was in 1993. Indeed, the pool of unregistered citizens is larger than it was when Section 7 was first implemented:

- in 1996, about 52 million adult citizens were unregistered (29 percent);
- in 2004, about 55 million adult citizens were unregistered (28 percent); and
- in 2006, close to 64 million adult citizens were unregistered (32 percent).

Moreover, the proportion of the U.S. voting-eligible population that registers to vote remains highly skewed towards Whites, the educated, the wealthy and the able-bodied. In particular, eligible young minorities and those who have recently moved are disproportionately missing from the registration rolls. Of adult citizens from households with annual incomes below $25,000 in 2006, approximately 40 percent were unregistered compared to only 20 percent from households with incomes greater than $100,000. The registration rate for non-Hispanic Whites was 71 percent in 2006, but only 61 percent for non-Hispanic Blacks, 54 percent for Latinos and

[2] 42 USC Section 1973gg.
[3] NVRA House Report 103- 9, p.5.

just 49 percent for Asian-Americans.[4] As we discuss in our report *Representational Bias in the 2006 Electorate*, minorities lag behind Whites in rates of voter registration, partly because they are disproportionately low-income.

Section 7 holds as great a promise for correcting these disparities as it did in 1993. One public assistance program alone, the Food Stamp Program, served nearly 12 million adult citizens in an average month in Fiscal Year 2006.[5] Census surveys verify the ability of agency-based registration to reach the populations that Congress was concerned about: registered members of low-income households are several times more likely to have registered through a public assistance office than other citizens.[6] Furthermore, in these surveys, individuals who indicated they were not able to work due to a temporary or permanent disability were three times more likely to have reported registering to vote through a public assistance office than other registered citizens.

A recent and interesting analysis related to the potential of agency registration comes from the State of Washington where the Secretary of State's office compared the list of registered voters to the list of adult citizen who received public assistance. Their comparison found that of the 1.2 million adult citizens who used the state's public assistance programs in 2006, only 33.5 percent were registered to vote. Even assuming some matches between the lists were missed, this demonstrates that Washington's public assistance agencies have a pool of hundreds of thousands of adult citizens they can reach with much needed voter registration services. Indeed, given that low-income citizens constitute a disproportionate share of the unregistered population, these agencies appear to be able to reach the lion's share of the states 1.4 million unregistered adult citizens.

2. Non-Compliance with NVRA Section 7 is Widespread

Voter registration at public assistance agencies has plummeted from 2.6 million in 1995-1996 to just 550,000 in 2005-2006, a 79 percent decrease. This decline cannot be explained by a decline in public assistance caseloads, the rate of citizenship among applicants or registration rates of low-income individuals. None have changed with any degree of significance; meanwhile, as noted above, the pool of eligible individuals who are not registered to vote has increased by ten million.

Since 2004, Project Vote has analyzed state and county registration data from the Election Assistance Commission (data previously maintained by the Federal Election Commission),

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[4] Hess, Douglas R. *Representational Bias in the 2006 Electorate* (2006, Project Vote), p.11; available at http://www.projectvote.org.
[5] See Table2 in Hess, Douglas R. and Scott Novakowski, *Unequal Acccess* (2008, Project Vote and Demos).
[6] http://www.census.gov/population/socdemo/voting/cps2004/tab14.xls and additional analysis of the Current Population Survey November 2004 and 2006 Election Supplements by Project Vote

engaged in conversations with state public assistance agency executives and state election officials, surveyed clients at agencies, interviewed agency personnel, assessed agency offices covered by the NVRA, and pursued public records inquiries related to states' implementation of Section 7. The evidence points overwhelmingly to chronic and pervasive non-compliance by states. The evidence of this decline is detailed in a report we released with Demos entitled *Unequal Access: Neglecting the National Voter Registration Act, 1995-2007.*[7]

As a summary of that report and our ongoing work in specific states, we have found that:

- agency and election officials are often unaware of their responsibilities under Section 7 of the NVRA,
- many agency offices have been found without voter registration materials,
- agency staff often have not been trained to register voters, and
- election officials rarely provide information, support or training to agency staff.

The end result of the near-total breakdown of voter registration service delivery as envisioned by Section 7 is that millions of individuals across the country who are applying for benefits, recertifying their eligibility for benefits or changing their addresses at public assistance agencies are routinely denied their right to an opportunity to register to vote as required by the Act.

Project Vote is currently working to ensure the citizens of Arizona, California, Colorado, Florida, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Oregon and Washington are provided the opportunity to register to vote that is guaranteed to them by the NVRA. Missouri and Arizona are instructive examples of the evidence and degree of non-compliance.

> **Missouri**. Once a leader in public agency registration, Missouri's voter registration applications from public aid offices drop from 143,000 in 1995-1996 to not quite 16,000 in the 2005-2006 cycle (a decline of 89 percent). Approximately 380,000 adult citizens participated in the Food Stamp Program in an average month in 2006, and over a quarter million low-income adult citizens in Missouri were unregistered in 2006. In the first two years of implementation, agency registrations accounted for 15 percent of all registrations in Missouri, for the 2006 cycle they accounted for only 2 percent.
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> In May 2007, Project Vote visited offices in the four most populous counties in Missouri. Of the eleven public assistance agency sites visited, three had no voter registration applications on hand and none included the required voter registration forms in their applications for benefits. Of 53 clients surveyed outside these offices by Project Vote staff, only four recalled having been offered voter registration despite having met with agency staff while applying or recertifying for benefits. (The NVRA requires that agencies offer voter registration forms and services at times such as these, and further

[7] Hess, Douglas R. and Scott Novakowski, *Unequal Acccess* (2008), available at http://www.projectvote.org.

requires that agencies provide clients with as much assistance with voter registration applications as any other agency form.)

Arizona. Arizona ranks 47th in the nation in terms of citizens who are registered to vote: 62 percent of adult citizens were registered in 2006 compared to a national average of 68 percent. This registration rate translates into approximately 280,000 low-income citizens who are not registered. Despite this large pool of potential applicants, registrations from Arizona's public assistance agencies has declined steadily, from a peak of 32,137 in the 2000, to 11,347 in 2004 and then to just 5,323 in the 2006. Whereas agency registrations accounted for 6 percent of all registrations in 1997 and 1998, they accounted for only one-half of one percent in 2006.

In late 2007, Project Vote surveyed offices in Maricopa and Pima counties, the state's two most populous counties. In addition to several offices not having the required forms for voter registration, three offices wrongly informed Project Vote staff that they were not required to offer voter registration. Project Vote surveyed eight-nine clients at agency offices who should have been offered an opportunity to register to vote; only eleven were.

I could provide similar information for Colorado, Florida, Ohio, New Mexico and Washington. Instead, I will summarize the results of survey data. Project Votes assessed whether voter registration services were available in 56 public assistance offices in six states. We found that only twenty-one offices could provide voter registration applications upon request. We surveyed three hundred eighty-six clients whose transactions with the public agency were covered by the NVRA. Only seventy-three (less than 20 percent) had been provided with an opportunity to register to vote. In California, where we have not yet conducted client surveys, the statistical data points strongly to noncompliance.

Noncompliance by states has been facilitated by the failure of the Justice Department to enforce the provisions of Section 7. Since 2000, the Justice Department has brought only one lawsuit, against Tennessee in 2002, to enforce the public agency provisions of Section 7. Indeed, the results of Department's enforcement action in Tennessee are instructive as to the great potential of Section 7 and the need for aggressive enforcement: since 2002, Tennessee's public assistance offices regularly file over 50,000 voter registration applications each year. During the 2006 election cycle, one in five voter registrations from public aid offices in the nation came from Tennessee.

In 2004, Project Vote and several other organizations met with representatives of the Civil Rights Division to present our concerns regarding states' noncompliance with Section 7. On several subsequent occasions, we presented further evidence of noncompliance. However, in

contrast to lax enforcement of Section 7, the Justice Department has in this decade brought Section 8 lawsuits against four states and the City of Philadelphia and has had an aggressive program to pressure states to purge their voter rolls since early 2005.

Finally, in 2007, the Department sent letters to eighteen states querying them about various aspects of their implementation of Section 7. The letters themselves raised questions however, which we describe in a February 25, 2008, letter to the Chairman and Ranking Member of the House Committee on the Judiciary.[8] Last Tuesday, Project Vote, Demos and the Lawyers' Committee for Civil Rights Under Law met with Justice Department officials regarding the evidence of Section 7 non-compliance across the country. We hope, given the overwhelming evidence presented to the Department, that this meeting is a sign that the Department will now engage in vigorous enforcement efforts in the near future.

3. Recent State Efforts to Improve Voter Registration Services at Agencies Yield Results

In recent years, several states have made significant improvements in the delivery of NVRA-mandated voter registration services while others are taking more modest steps. In 2004, Iowa Governor Vilsack, Secretary of State Culver and public assistance agency executives committed themselves to improving NVRA compliance. They took a number of steps, the first of which was an inter-agency meeting to manage the process of improving the delivery of voter registration services. Next, the agency issued a clear, direct memorandum to staff reminding them of their responsibilities and providing clear directives on how registration was to be offered. The state then set up a simple, Internet-based reporting system that each agency office uses weekly to report their voter registration and client interaction numbers. This online reporting system allows managers to monitor office performance and attend to offices that appear to be performing poorly. Agency staff promoted voter registration at the offices through signs, offered clients in waiting rooms an opportunity to register and made sure each client who was being seen for a transaction covered by the NVRA was presented with a voter registration application.

As a consequence of executive leadership, an interoffice memorandum, a simple reporting system and a commitment by staff, the number of applications originating from Iowa's public assistance agencies more than doubled in the election cycle following implementation of reforms. Such a dramatic increase is particularly promising since Iowa already has the fifth highest voter registration rates in the county.

In Oregon in 2004, executive-level personnel from the offices of Secretary of State Bill Bradbury, Governor Kulongoski and the Secretary of the Department of Human Services (DHS) met to develop a plan to improve compliance with the NVRA's public agency registration

[8] Available at http://www.projectvote.com.

requirement. Oregon had been a leader when the NVRA was first implemented, but officials acknowledged that they had not taken steps to ensure continued compliance with the Act. They set about to correct that situation.

Their first step was to revitalize the NVRA site coordinator system, which was the key structure for ensuring the delivery of voter registration services. Each public assistance office that saw clients was to have an NVRA site coordinator whose duties included ensuring all staff members were made aware of their responsibilities to offer voter registration forms to clients, stocking blank voter registration applications, transmitting completed applications to county election officials weekly and reporting total applications collected and transmitted to the Secretary of State's office monthly. By 2004, this system of trained coordinators had decayed.

The Department of Human Services undertook an aggressive site coordinator recruitment initiative that yielded 689 coordinators. The Secretary of State's Election Division responded by developing a detailed training for site coordinators, which Election Division staff presented at six locations around the state in September 2004. DHS took additional steps to improve their compliance with Section 7, including updating the chapter on voter registration in the procedural manual used by office managers and caseworkers and creating an evaluation tool that regional managers use to assess each office's compliance. Unlike Iowa, however, Oregon's DHS refused to agree to regularly track their registration numbers and client caseload. (However, agency registration data is available from election officials.)

In 2007, Project Vote obtained registration data from election officials and examined data for DHS offices in Oregon's five most populous counties. We compared registration data from September 2003 to August 2004 (pre-treatment) with September 2005 to August 2006 (the second year of treatment). We found that the number of registrations had increased by 65 percent. In addition to the reforms mentioned above, Oregon has continued to act on its renewed commitment to Section 7. In January 2008, the Election Division and DHS collaborated to train 499 agency personnel on how to provide clients an opportunity to register to vote in the context of social service delivery.

New Mexico, too, has taken some initial steps to fulfill its NVRA-mandated voter registration responsibilities in offices responsible for the Food Stamps and Temporary Assistance to Needy Families (TANF) Programs. Since last winter, New Mexico officials have been receiving technical assistance from Project Vote and Demos. In February of 2007, these New Mexico offices transmitted only 102 registration applications to election officials. In February 2008, however, these offices transmitted 672 voter registration applications. Although the state still has many counties yet to comply with the NVRA, and the state's WIC and Medicaid offices have not yet been involved in these reforms, the dramatic increase in agency registrations is a hopeful sign of what the state can do when they fully comply. Moreover, these increases came only one

month after the state issued new guidelines to the agencies, demonstrating that performance increases can come about with simple measures.

4. Selected Best Practices

From years of working to help states deliver voter registration services at public assistance agencies, Project Vote has learned that state officials need to follow a few key steps to ensure meaningful compliance with Section 7:

a. **Establish Inter-agency Cooperation.** Election officials and agency directors must meet regularly to ensure that (i) agency officials understand their responsibilities under the Act, (ii) effective staff training occurs, (iii) voter registration materials are available and (iv) the data collection requirements of the NVRA are being met.

b. **Appoint NVRA Coordinators.** Each office that serves clients needs to appoint a member of the staff to coordinate NVRA activities. This includes training new staff, transmitting completed voter registration applications to election authorities and reporting data on compliance to agency management and election officials.

c. **Collect and Measure Agency Registration Data.** The NVRA requires state election officials to report to the Election Assistance Commission the number of applications that originate from Section 7 agencies. Moreover, it has been our experience that agencies that do not collect data on voter registration applications by local agency office cannot manage NVRA implementation and cannot be assured their local offices are complying with the law. Consistent with this experience, we find that when agencies collect and monitor data from their local offices, voter registration application numbers increase markedly.

d. **Monitor and Act on Registration Data.** Both election and agency officials should monitor and analyze the registration data produced by local offices. For offices that report unusually low registration numbers, or that fail to report, supervisory action should be taken to ensure that NVRA procedures are being followed, staff are trained and supplies are readily available. Moreover, NVRA responsibilities should be made a regular part of evaluations of public assistance offices and their employees.

5. Conclusion

The NVRA holds out the promise that all Americans deserve an equal opportunity to register to vote and participate in our democracy. Many states, however, are undermining that promise and furthering inequalities in our electorate by ignoring the rights of citizens to voter registration

services in public assistance agencies. Congress and the Justice Department need to act so that states quickly comply with their responsibility to provide registration opportunities to all their residents, not just some.

Ms. LOFGREN. And finally we will turn to Dr. Muhlhausen.

STATEMENT OF DR. DAVID B. MUHLHAUSEN

Mr. MUHLHAUSEN. My name is David Muhlhausen. I am a Senior Policy Analyst at the Heritage Foundation. I thank Chairwoman Lofgren, Ranking Member McCarthy and the rest of the subcommittee for the opportunity to testify today.

My testimony presents preliminary findings from a forthcoming report on the relationship between welfare caseloads and voter registrations at State public assistance offices. The views I express and this testimony are my own and should not be construed as representing any official position of the Heritage Foundation.

The National Voter Registration Act of 1993 required States to allow eligible persons to register to vote at various government agencies, including public assistance offices. Since the initial reporting period of 1995 to 1996, the number of persons registering to vote at public assistance offices has declined. This trend has led some to speculate that the decline is the result of States failing to provide individuals the opportunity to register to vote at these offices. Another possible explanation is that welfare reform caused the decline in registrations.

The analysis presented in my written testimony tests the hypothesis that the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 contributed to the decline in public assistance voter registrations. Welfare reform led to a substantial decrease in welfare caseloads, which in turn may have led to fewer voters registering at public assistance offices.

Chart one of my written testimony plots the trends in the average number of AFDC/TANF participants and the average number of voter registrations at public assistance offices in the States from 1995 to 2006. As illustrated in the chart, the decline in registration closely follows the decline in AFDC/TANF participation.

While the association between welfare caseloads and voter registration seems obvious, other factors may explain the relationship. To check for other explanations for the decline, my research analyzes a panel data set of 45 States and the District of Columbia over 12 years. My analysis controls for welfare participation rates, socioeconomic factors and political election cycles. Controlling for those factors, AFDC/TANF participation has a statistically significant association with public assistance voter registrations. A 1 percent decrease in AFDC/TANF participation is associated with a half a percent decline in voter registrations.

Other factors that appear to influence public assistance voter registrations are a State's minority population, Presidential and gubernatorial election years. Changes in food stamp participation; women, infant and children, WIC, participation; unemployment rates and income per capita do not appear to have any statistically measurable association with public assistance voter registrations. Based on the analysis of the data, declining AFDC/TANF caseloads from 1995 to 2006 made a substantial contribution to the decrease in public assistance voter registrations.

Unlike previous research, my study is panel regression analysis to estimate the relationship between AFDC/TANF participation and other factors that influence public assistance registrations.

Controlling for other factors, a 1 percent decrease in AFDC/TANF participation is associated with a half a percent decrease in public assistance voter registrations.

While research on this topic is new and in need of further analysis, Members of Congress should not easily dismiss the major role of welfare reform in declining public assistance voter registrations.

I thank you.

Ms. LOFGREN. Thank you very much.

[The statement of Dr. Muhlhausen follows:]

214 Massachusetts Ave. N.E Washington D.C. 20002 (202) 546-4400 www.heritage.org

CONGRESSIONAL TESTIMONY

The Impact of Welfare Reform on Declining Public Assistance Voter Registrations

Statement of
David B. Muhlhausen, Ph.D.
Senior Policy Analyst
Center for Data Analysis
The Heritage Foundation

Before the Subcommittee on
Elections of the
Committee on House Administration of the
United States House of Representatives

Delivered April 1, 2008

Introduction

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairwoman Zoe Lofgren, Ranking Member Kevin McCarthy, and the rest of the subcommittee for the opportunity to testify today. My testimony presents preliminary findings from a forthcoming Center for Data Analysis report on the relationship between welfare caseloads and voter registrations at state public assistance offices.[1] The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Background

The National Voter Registration Act of 1993 required states to allow eligible persons to register to vote at various government locations, including public assistance offices. Starting in 1995, states reported the number of voter registrations by registration location in two-year intervals.[2]

Since the initial reporting period (1995–1996), the number of persons registering to vote at public assistance offices has declined. This trend has led some to speculate that the states are failing to provide welfare recipients the opportunity to register to vote at public assistance offices.[3] A recent report by Project Vote and Demos, two organizations devoted to voting rights advocacy, performed a descriptive analysis of trends in public assistance registrations.[4] Their study suggests that the number of voter registrations from public assistance offices declined by 79 percent from the reporting periods of 1995–1996 to 2005–2006.[5] First, this estimate does not explain why registrations decreased. Second, it does not control for factors that influence voter registration rates such as the passage and implementation of welfare reform in 1996.

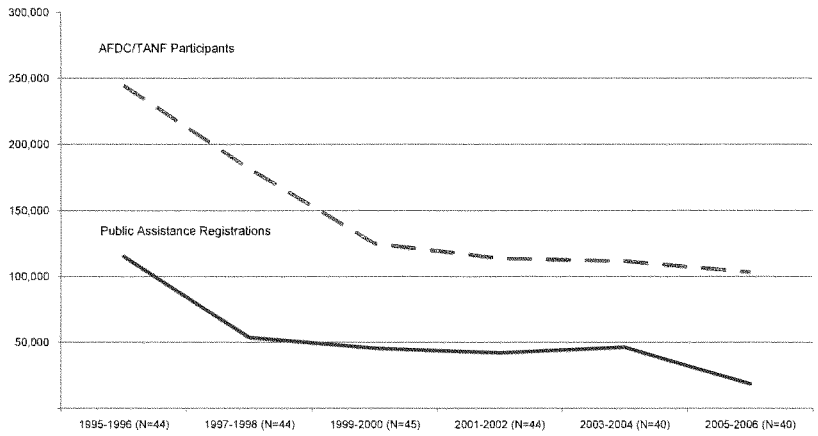
Other possible explanations for the decline include (1) that voter registration drives by community mobilization organizations replaced the need for welfare recipients to register to vote at public assistance offices and (2) that welfare reform caused the decline in registrations.

The analysis presented in my testimony directly tests the hypothesis that the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 contributed to the decline in public assistance voter registrations. PRWORA replaced Aid to Families with Dependent Children (AFDC) with Temporary Assistance for Needy Families (TANF). Research by Professors June E. O'Neill and M. Anne Hill of Baruch College strongly suggests that welfare reform accounts for more than half of the decline in AFDC/TANF participation of single mothers during the 1990s.[6] Welfare reform led to a substantial decrease in welfare caseloads, which, in turn, may have led to fewer voters registering at public assistance offices.

Chart 1 plots the trends in average AFDC/TANF participation and the average number of voter registrations at public assistance offices in the states from 1995 to 2006. As illustrated in the chart, the decline in voter registrations closely follows the decline in

AFDC/TANF participation. While the association between welfare caseloads and voter registrations seems obvious, other faetors that may explain the relationship were also tested.

Chart 1: Average State AFDC/TANF Participants and Public Assistance Voter Registrations, 1995-2006



Source: Heritage Foundation calculations. Average AFDC/TANF caseloads are based on even years. Data are weighted by state population.

Data and Modeling

To check for other possible explanations for the decline in voter registrations, a state-level panel data set of public assistance registrations, welfare participation rates, socioeconomic factors, and political election cycles was constructed. Using panel analysis allows this study to test the relative influence of varying AFDC/TANF participation rates on the number of voter registrations while controlling for other factors thought to influence registrations.

The data set contains 12 years of data for 45 states and the District of Columbia. During the time frame of this analysis, several states either failed to report voter registration or were not required to do so. Six states did not report any data during the time frame of the analysis, while 11 states reported public assistance registrations intermittingly.[7] The data set is an unbalanced panel because of incomplete voter registration reporting by some states in certain years.

Methodology. The longitudinal nature of the panel data allows researchers to analyze important policy questions that descriptive studies cannot address.[8] The previous research by Project Vote and Demos failed entirely to take into account important policy and

socioeconomic factors that vary across states and over time and that affect registration rates.

Variables. For this analysis, the dependent variable is the number of public assistance registrations per 100,000 residents age 18 or over.[9] The independent variables are AFDC/TANF recipients per 100,000 residents, Food Stamp participants per 100,000 residents, Women and Infant Children (WIC) participants per 100,000 residents, income per capita, unemployment rate, minority population percent, 18 and older population percent, presidential elections, U.S. Senate elections, gubernatorial elections, off-year congressional elections, and state fixed effects.[10] Table 1 presents the means and standard deviations for the variables presented in the analysis.

Table 1: Descriptive Statistics

Variable	Mean	Standard deviation
Public assistance voter registrations per 100,000 adults	329.0	341.6
AFDC/TANF recipients per 100,000 residents	2,515.5	1,692.4
Food Stamp recipients per 100,000 residents	7,812.2	2,648.3
WIC recipients per 100,000 residents	2,594.3	1,177.3
Income per capita	26,162.7	6,687.1
Unemployment rate	5.0	1.1
Minority population percent	28.1	12.7
Age 18 and over percent	74.5	1.7
Presidential election year	0.25	0.43
Senatorial election year	0.34	0.47
Gubernatorial election year	0.25	0.44
Off-year election	0.50	0.50

Note: Data weighted by state population, N = 512
Source: Heritage Foundation calculations.

The independent variables were chosen based on their anticipated influence on public assistance registrations. For example, AFDC/TANF, Food Stamp, and WIC participation rates measure the level of welfare recipients being served by public assistance offices. Increased welfare participation is anticipated to be positively associated with public assistance registrations.

State unemployment rates and income per capita help to control for the influence of the economy. Unemployment is an especially important variable to include in the analysis because it is highly likely that the sharp decline in unemployment during the 1990s decreased welfare participation. Professors O'Neill and Hill assert that "The true effect of

welfare reform cannot be determined without accounting for changes in unemployment and other possible factors affecting single mothers' choices."[11] If decreased unemployment is partially responsible for the decline in AFDC/TANF participation, then it follows that decreased unemployment would lead to fewer public assistance registrations. In addition, the election variables help to control for periods of increased political activity that are also anticipated to be positively associated with public assistance registrations.

The panel data techniques used in the analysis reduce omitted variable bias by introducing state (cross-sectional) fixed effects into the model specification.[12] By controlling for state fixed effects (individual differences related to each state), the analysis accounts for time-invariant unobserved factors that influence public assistance registration rates in a particular state. The fixed-effects model helps to control for differences in registration rates that are not explained by the independent variables.

Regression Analysis

Table 2 presents the findings of an Ordinary Least Squares (OLS) panel regression.[13] All standard errors are robust to heteroskedasticity and autocorrelation, and the regression is weighted by state population.

Table 2: The Impact of AFDC/TANF Participation on State Public Assistance Voter Registrations per 100,000 Adult Residents, 1995-2006

Variable	Coefficient	Standard Error
AFDC/TANF recipients per 100,000 residents	0.062*	0.026
Food Stamp recipients per 100,000 residents	0.028	0.018
WIC recipients per 100,000 residents	0.00002	0.003
Income per capita	-0.005	0.006
Unemployment rate	16.6	11.7
Minority population percent	-12.6***	3.7
Age 18 and over percent	-39.0	36.3
Presidential election year	97.4***	29.8
Senatorial election year	9.5	32.6
Gubernatorial election year	48.8*	24.5
Off-year election	-42.3	27.0
Constant	3346.6	2647.1
Centered R-squared	0.6761	
N	512	

* $p < .05$ ** $p < .01$ *** $p < 0.001$

Note: Heteroskedasticity and autocorrelation robust standard errors are reported. The model includes state fixed effects. The data are weighted by the total population

Source: Heritage Foundation calculations.

Controlling for other factors, AFDC/TANF participation has a statistically significant association with public assistance registrations. A one-unit increase in AFDC/TANF participants per 100,000 residents is associated with an increase of 0.062 additional registrations per 100,000 adult residents. Another way to interpret this finding is to calculate the elasticity. The elasticity represents the percentage change in public assistance registration rates given a 1 percent change in a particular independent variable. A 1 percent increase in AFDC/TANF participation is associated with a 0.49 percent increase in voter registrations. Conversely, a 1 percent decrease in AFDC/TANF participation is associated with a 0.49 percent decline in voter registrations.

Food Stamp and WIC participation do not appear to have any statistically measurable association with public assistance registrations. The results for income per capita, unemployment, and the adult population percentage are statistically insignificant as well.

A state's minority population percentage has a statistically significant and negative relationship with public assistance registrations. A 1 percent increase in the minority population is associated with a reduction of 12.6 registrations per 100,000 adults. Further, a 1 percent increase in the minority population is associated with a 1.1 percent decrease in registrations.

For the election cycle variables, presidential and gubernatorial election years have statistically significant and positive associations with public assistance registrations. During presidential and gubernatorial election years, registrations increased by 97.4 per 100,000 adults and 48.8 per 100,000 adults, respectively. The elasticity calculations for the election year variables represent the percentage change in registrations during a particular type of election year. During presidential and gubernatorial election years, the registration rate increased by 0.08 percent and 0.04 percent, respectively. Senate and off-year congressional elections appear to have no statistically measurable influence on registrations.

Conclusion

Declining AFDC/TANF caseloads from 1996 to 2006 made a substantial contribution to the decrease in public assistance voter registrations. Unlike previous research, my research used panel regression analysis to estimate the relationship between AFDC/TANF participation and other factors that influence public assistance registrations. Controlling for other factors, a 1 percent decrease in AFDC/TANF participation is associated with a 0.49 percent decrease in public assistance registrations. While research on this topic is new and in need of further analysis, Members of Congress should not easily dismiss the major role of welfare reform and decreased welfare participation in declining public assistance voter registrations.

* * *

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The top five corporate givers provided The Heritage Foundation with 1.3% of its 2006 income. The Heritage Foundation's books are audited annually by the national accounting firm of Deloitte & Touche. A list of major donors is available from The Heritage Foundation upon request.

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[1] Patrick Tyrrell, a research assistant in the Center for Data Analysis at The Heritage Foundation, greatly assisted in the preparation of the data for this analysis.

[2] Public assistance registration data were obtained from Federal Election Commission/Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office," 1995–1996, 1997–1998, 1999–2000, 2001–2002, 2003–2004, and 2005–2006. Recent reports are available at *http://www.eac.gov/clearinghouse/reports-and-surveys/*. Later reports are available upon request from the Election Assistance Commission.

[3] Frank Askin, "Turning Back the Clock on Voting Rights," *New Jersey Record*, September 27, 2007; Michael Slater, "Compliance with the NVRA: Not Optional," *National Voter*, Vol. 57, Issue 2 (February 1, 2008); and Robyn Blummer, "Gaming the Voting System for the GOP," *St. Petersburg Times*, March 23, 2008.

[4] Douglas R. Hess and Scott Novakowski, *Unequal Access: Neglecting the National Voter Registration Act, 1995–2007*, Project Vote and Demos, February 2008.

[5] *Ibid.*, p. 5.

[6] June E. O'Neill and M. Anne Hill, "Gaining Ground? Measuring the Impact of Welfare Reform on Welfare and Work," Manhattan Institute, Center for Civic Innovation *Civic Report* No. 17, July 2003, at *http://www.manhattan-institute.org/pdf/Cr_17.pdf* (March 26, 2008).

[7] Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming did not report any data, while Alabama, Connecticut, Maine, Massachusetts, Nevada, New Mexico, New York, Rhode Island, South Carolina, Vermont, and West Virginia provided incomplete data for one or more time periods. The following states are exempt from the NVRA: Idaho, Maine, Montana, New Hampshire, Wisconsin, and Wyoming. See Federal Election Commission/Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of elections for Federal Office, 2005–2006," at *http://www.eac.gov/clearinghouse/reports-and-surveys/* (March 27, 2008). States that were exempt, failed to report, or reported zero public assistance registrations were coded as missing.

[8] In addition, by increasing the number of data points compared to cross-sectional and time-series analyses, panel analysis increases the degrees of freedom and reduces possible collinearity among the independent variables, thus improving the efficiency of the econometric estimates.

[9] The original public assistance voter registration variable was divided in half and distributed by year in equal portions. For example, Alabama reported 80,096 registrations during the 1995–1996 period. The 80,096 registered voters were equally distributed into 1995 and 1996, with 40,048 registrants in each cell.

After the allocation, the registrations were divided by the state's population age 18 and over and then multiplied by 100,000.

[10] Data for these variables were obtained from the U.S. Department of Health and Human Services, U.S. Census Bureau, U.S. Bureau of Economic Analysis, and U.S. Bureau of Labor Statistics.

[11] O'Neill and Hill, "Gaining Ground?" p. 15.

[12] Cheng Hsiao, *Analysis of Panel Data* (Cambridge, U.K.: Cambridge University Press, 1986).

[13] Several alternative regressions were estimated. The first alternative regression analyzed data from 1997 to 2006, because the 1995–1996 public assistance registration data may drastically overstate the number of registrations that can reasonably be expected from public assistance offices. During 1995–1996, the debate over welfare reform was at its peak. The political debate likely led opponents of reform to encourage welfare recipients to register to vote in an attempt to influence the policy process. This notion is supported by the fact that average state public assistance registrations dropped from 155,177 in 1995–1996 to 53,552 in 1997–1998—a decline of 54 percent. When the data are limited to 1997 to 2006, the coefficient for AFDC/TANF participants remains positive and statistically significant. The second alternative specification analyzed data from all years, while individual time period dummy variables were introduced for the 1997–1998 to 2005–2006 periods. These time period variables control for differences in reported public assistance registrations between the first reporting period (1995–1996) and later reporting periods. In this model, the coefficient for AFDC/TANF participation is statistically insignificant, while the time period dummy variables are statistically significant. The third alternative regression re-estimated the model specification of the second alternative regression, except that the data were limited to the years of 1997 to 2006. The coefficient for AFDC/TANF participation is statistically significant, while the time period dummy variable coefficients are not statistically distinguishable from zero. This result strongly indicates that the reporting of public assistance registrations was unusually high in the 1995–1996 period compared to later reporting periods.

Ms. LOFGREN. Now we will come to our time for questions. I will begin. I appreciate the testimony of all of the witnesses, and certainly, Dr. Muhlhausen, I am—obviously, the number of people on assistance would have an impact, but it seems to me until we have registration forms and asking people, we would not really see that impact.

So I guess—my question really would be, I guess, to Ms. Danetz. You have done these studies all over the country. Have you looked at California?

Ms. DANETZ. I have not specifically looked at California. Our reports address California, however. I believe Project Vote has been in California, however.

Ms. LOFGREN. Mr. Slater, have you been—I am looking at these figures that the Secretary of State sent over. And the State of California has about 38 million people. It is a lot of people.

In 2006, 51,713 were registered under section 7. In 2007, that dropped to 31,584. So far for 2008, it is 7,600. That strikes me as very low numbers for a State as large as California.

In my own county in 2006, it is about 1,900,000 people in Santa Clara County. We have got 7,858 in 2006; only 2,886 in 2007; and so far in 2008, just 65.

And in Kern County, I will tell you—in 2006, there were 89; 2007, it dropped to 14; and so far in 2008, it is zero.

So are these numbers that would indicate a sufficient effort being made, or what can you tell us about California?

Mr. SLATER. I had an opportunity to talk with Secretary Bowen about that very issue about a month ago, and she shared our concerns that perhaps California was not in compliance, probably in two ways.

One, they are probably not collecting data that they need to to report on their activities. I do find it hard to believe, for example, that LA County, regardless to what extent they are complying, is only helping 74 people in a 2-year period that has 30 percent of the State's population. So I assume there is a compliance issue, but I also believe that it is probably true that they are not offering voter registration as consistently as they ought to.

I mean, California is registering about as many people as the State of Oregon, which is significantly smaller. If we take a look at Oregon, which I think is doing a good but not great job, we see that they are registering about eight or nine people per 100 individuals, adult citizens who are on food stamps. If California registered people at the same rate, they would have registered 183,000 people.

So I think there is just a significant difference between the two States on implementation. So it is a concern for us, and we are trying to address that issue, but we do not have hard survey data like we do in other States.

Ms. LOFGREN. I am wondering, I think our Secretary of State does a fine job, I mean, but there has to be a coordination between the human service agencies and the Secretary of State. The human service agencies are run in each of the 58 counties, really, not by the State.

How would you approach—you know, I guess, probably, 80 percent of the population of California is in 10 counties. But what ad-

vice could you give me, as a Californian and chair of the Elections Subcommittee, for approaching that project if we wanted to take responsibility for our own State?

Mr. SLATER. Our experience and the experience of Demos is that, in each State where they have implemented real reform, it is because the executive branch and the Secretary of State's office have worked together closely to develop a plan and then to exercise some real political leadership in organizing the agency heads and agency staff to then implement that plan. I think that is what is needed in California. It is kind of a Cabinet-level executive team that really handles rolling out the reimplementation of NVRA.

Ms. LOFGREN. Now, you mentioned, Ms. Danetz, that the Justice Department did not seem terribly interested when you presented the evidence of section 7 noncompliance in the 2004–2005 time frame.

Could you quantify what impact this disinterest may have had on the rights of low-income Americans to register?

Ms. DANETZ. Sure. You can see from the results in Tennessee the impact that the Justice Department involvement has on a State's public assistance-based voter registration applications. In that State, before DOJ involvement, there were, I think, 49,000 or 50,000, and then that went up in the next presidential election cycle to almost 174,000.

So, certainly, in a State-by-State way, any place that DOJ decides to get involved there is going to be a measurable improvement, and tens of thousands, if not hundreds of thousands, of additional people can be registered.

Moreover, I think that when the Justice Department engages in enforcement litigation or compliance litigation, it sends a message to other States that this is something that is going to warrant attention.

Ms. LOFGREN. My time has expired, so I will turn now to Mr. McCarthy for his questions.

Mr. MCCARTHY. Well, thank you, Madam Chair.

First, Madam Chair, I have received written testimony from Brad King, Co-Director of the Indiana Election Division. I will just ask unanimous consent——

Ms. LOFGREN. Without objection, that will be entered into the record.

[The information follows:]

United States House of Representatives
Committee on House Administration
Subcommittee on Elections Hearing
April 1, 2008
Testimony of J. Bradley King
Co-Director, Indiana Election Division of the Office of Secretary of State

Thank you, Madame Chair and members of the Subcommittee, for the opportunity to submit this written testimony. My name is Brad King. I serve as Co-Director of the Indiana Election Division, the state agency which helps voters, poll workers, and local officials conduct elections in Indiana.

The Subcommittee's hearing today addresses Section 7 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-5), specifically "the challenges that public assistance agencies face."

Section 7, which has not been amended since its enactment 15 years ago, requires that: (1) each state shall designate as voter registration agencies all offices in the state that provide public assistance; (2) each public assistance office provide assistance to applicants in completing voter registration applications (unless the applicant declines); and (3) each public assistance office accept the completed voter registration applications and transmit the applications to the appropriate state election official.

However, in addition to simply requiring that basic voter registration services be provided, Section 7 goes on to specify that the public assistance agency shall distribute with "*each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such... assistance*" a voter registration application, unless the applicant, in writing declines to register to vote.

Further, Section 7 prescribes in great detail the precise wording to be used on the voter registration application, including how to ask the applicant if the applicant wishes to register to vote. The text of Section 7 even specifies that check boxes must appear on the form to indicate if an applicant is declining to register, and that the explanatory text must be "*in close proximity to the boxes and in prominent type.*" Finally, lest any detail of the form be overlooked, Section 7 requires that the text explaining declining to vote appear in ALL CAPITAL letters.

The world has changed since 1993, and Section 7 has not kept up with it. During the last 15 years, the implementation of the National Voter Registration Act has resulted in a massive shift in how most voters register to vote. Registration by mail, and registration at motor vehicle license branches have become accepted parts of the election process, and are the preferred method of registration for an overwhelming percentage of voters in many states such as Indiana. Further, in 2008, voter registration applications have become widely accessible through a variety of websites. Internet access to these websites is available in almost every public library throughout the nation.

Section 7 poses challenges to public assistance agencies because it is hamstrung by its own inflexibility.

Section 7 fails to recognize the significant differences between the types of agencies providing voter registration services to applicants. An individual may visit a motor vehicle license branch once, or perhaps twice, a year, and be served by whichever employee is serving license renewal customers that day. In contrast, an applicant at a public assistance agency may be visiting the agency each month, and may interact with an assigned caseworker.

Section 7 also requires that the applicant must be asked as part of "*each application for assistance, and with each renewal*" of the application for assistance. As a result, a caseworker striving to comply with Section 7's requirements is compelled to repeatedly ask the same applicant the same question every month, even if the caseworker can see by simply looking at the file that the applicant *did* apply to register at their appointment just weeks ago.

This mindless repetition of offers for voter registration assistance can breed skepticism in both the caseworker and applicant towards the entire voter registration process. The applicant may wonder if their previous voter registration application submitted to the public assistance agency was not accepted or processed. The caseworker may convey resigned indifference to the registration process as "just one more thing" that they are required to do.

The paperwork generated by Section 7's procedures spills over from public assistance agencies to voter registration offices. Repeated offers (and declinations) of voter registration services result in duplicate voter registration applications that county voter registration offices must process. County voter registration offices must also retain large numbers of declinations resulting from monthly visits by applicants to public assistance agencies.

I do not pretend to be familiar with the intricate procedures that public assistance agency caseworkers must perform as part of their services to every applicant, but I do appreciate that they are complex and constantly changing. Since 1993, Indiana and many other states have implemented far-reaching structural changes in its public assistance agencies. Whether these changes result from repeated renaming of agencies and programs, or from more fundamental changes in our nation's approach to public assistance, caseworkers in these agencies, along with their managers and agency administrators, continue to face formidable challenges in simply keeping up.

I would suggest that the procedures in Section 7 can be modernized (and customized) to make it as easy as possible for public assistance agencies to offer voter registration services to their applicants.

First: recognizing that public assistance agencies have a significantly different relationship with their applicants than motor vehicles license branches have with their customers.

Rather than requiring the monthly repetition of offers of voter registration, public assistance agency caseworkers could be directed to offer voter registration services when a "triggering event" occurs, such as an upcoming federal primary election or federal general election, when interest in voter registration typically increases. A reasonable window for offering voter registration services might be beginning 90 days before a scheduled primary or general election, and ending 30 days before that election (or at a later date if registration remains open after that time).

Another "triggering event" already referenced in Section 7 would occur when the applicant notifies the public assistance agency of a change of address, which would require the applicant to submit either a new registration application, or a transfer of an existing registration record if the applicant wished to be registered.

Secondly: recognizing that form design is an important part of the voter registration process, in the same way that ballot design is an important part of voting. The goals of Section 7 can be accomplished without imposing rigid specificity in federal law regarding the layout and text of registration forms used by public assistance agencies. Voters (as well as election administrators) have come to appreciate since the 2000 election that the design of forms and ballots is an important aspect of the election process. The resulting academic studies and redesign efforts in a number of jurisdictions have made ballots less confusing for voters. Likewise, enabling those who are most skilled in the science of designing forms to develop user-friendly voter registration applications for use by public assistance agencies, will make the voter registration process less confusing for those applicants.

The administration of Section 7 of the National Voter Registration Act by public assistance agencies is also part of a larger picture: ensuring that our voter registration lists are accurate.

Our laws need to strike the right balance between ensuring that each eligible voter has access to the ballot, while safeguarding the integrity of our elections. Comprehensive voter list maintenance programs, including address confirmation mailings, are an essential tool for achieving that balance.

All election officials, whether Democratic, Republican, or neither, want clean voter registration lists. Ultimately the voters benefit by having clean lists.

I do know that bad registration lists, inflated with the names deceased voters or absent voters, carry the potential for fraud. Clean lists diminish opportunities for fraud.

Election officials already face challenges to make (and keep) these registration lists accurate. To carry out this duty, election officials are compelled to stay between the

inflexible, and sometimes ambiguous, lines drawn by the National Voter Registration Act and the Help America Vote Act of 2002 (HAVA). Their task is made more difficult by ongoing struggles to get the money they need to do this job. Finally, partisan gridlock can act as a ball and chain to hinder timely voter list maintenance and can even keep voter list maintenance from being done at all.

One difficulty in keeping voter lists clean results from how Americans live; voters are constantly on the move. If this voter is inclined to be dishonest, then the constraints on voter list maintenance will offer an opportunity for fraud. This year, an individual might register to vote and legally cast a ballot in both the Indiana primary in May, and then in the South Dakota primary this summer.

However, unless this voter is both honest and conscientious, and provides previous address information, election officials must wait for the clock to run on the intricate procedures mandated by NVRA to perform voter list maintenance. As a result, this South Dakotan voter's name may remain on the Indiana registration rolls until after November 2010.

Indiana has struggled for years to keep its voter registration lists clean. County voter registration officials worked hard to keep the registration lists accurate, but still had to fight for the funds to do so, and to dispel the notion that election work was only required on two days out of the year.

Indiana enacted legislation to implement NVRA in 1995, but this occurred only after a federal court acted to end partisan gridlock between the state legislature and the governor's office over how to perform voter list maintenance. In other states across the nation, similar issue arose with regard to NVRA voter list maintenance requirements. These disputes were eventually resolved in the courts.

The court's order required the Election Division to perform only a limited amount of voter list maintenance: once a year, voters whose names appeared more than once on the registration rolls were sent confirmation mailings to determine if the names were truly those of "duplicate voters". The court order did not direct the Election Division to perform other essential tasks for voter list maintenance, such as identifying deceased voters, or identifying voters who may have moved entirely outside of Indiana, and whose names would therefore not appear on the state's "duplicate voter" list. As a result, these voter list maintenance tasks were not completed due to partisan gridlock.

In Indiana, the Election Division is headed by two Co-Directors. Each Co-Director is nominated by one of the two major political party chairs, and is then appointed by the Governor. Although the Election Division is, by its name, a division of "the office of the Secretary of State", in fact the Co-Directors work with the Secretary of State to help administer elections. The Secretary of State has no authority to supervise or direct the work of the office's "Election Division" or its Co-Directors. To complete the gridlock, neither the Secretary of State, nor the Governor, nor any other elected official has the power to simply "break a tie" when the two Co-Directors cannot agree on how to conduct

voter list maintenance or make any other decision. If necessary, the courts are the only source for a remedy to end a partisan gridlock.

Indiana's Democratic Party appointee Co-Directors made it impossible to conduct any voter list maintenance beyond the limited scope of the "duplicate voter list". They would not agree to purchase the Social Security Administration's "Death Master File" to identify deceased voters. They would not agree to use the National Change of Address Program to identify voters who had moved. They certainly would not agree to conduct any kind of statewide mailing whatsoever.

As a result, Indiana's registration lists became increasingly bloated. During the course of the last decade, this lack of voter list maintenance led to ludicrous and alarming results: numerous counties in Indiana reported numbers of registered voters that approached, or even exceeded 100% of their voting age population. Some large counties had almost no voters whose registrations had been inactivated by using NVRA procedures.

Voter confidence in Indiana's elections began to be undermined when the media, using data readily available from public records, ran stories noting the large number of duplicate, deceased, or absent voter names that remained on the rolls.

Finally, during 2006, the U.S. Department of Justice notified the Co-Directors of the Election Division that Indiana was failing to comply with its voter list maintenance duties under NVRA, and that the Department would file a lawsuit to compel Indiana to meet these responsibilities. The Department made Indiana an offer: either enter into a consent decree, and act now to start cleaning up the registration lists, or face protracted litigation in the federal courts to get the job done.

Despite this call to action, the Democratic Party Co-Directors still would not agree to conduct voter list maintenance in accordance with the practices of other states. As the attached documents indicate, my then-colleague as Co-Director was unwilling to agree to Indiana's first statewide mailing of any kind to its voters. Only as Department of Justice attorneys were preparing to board a plane to Indianapolis to file their lawsuit in federal court did my colleague finally agree to sign the consent decree, and only after having been advised by the Indiana Democratic Party to do so.

As a result of the consent decree in the case, Indiana's Election Division sent more than 4.3 million post cards to the addresses listed on every Indiana voter record. The mailing was designed to automatically return-to-sender all registrations that are no longer accurate. This postcard was followed by a second mailing designed to confirm whether the returned postcards truly were from inaccurate records. While initial estimates were that 675,000 postcards would be returned to the state, the number posted by the deadline for response came to 1,018,008. Undeliverable postcards continued to roll in after that deadline, with more than 70,000 additional cards collected as of August 1, 2006.

Unfortunately, due to delays in getting one of the state's two major political parties to sign off on the cleanup plan, the additional postcard records could not be removed until 2010.

As a result of this mailing, Indiana identified one in four of all the voter records in the state as potentially inaccurate.

All of the work by the state and county registration offices to update registration records based on this new information still had to be completed by August 10, 2006, when NVRA's "90 day deadline" before the general election cuts off many voter list maintenance activities.

To complete this voter list maintenance task, county officials spent many additional evening and weekend hours to individually review thousands of voter records. But some could not overcome the effect of years of voter list maintenance neglect within the short time allowed. One county determined that more than 5,000 of the registrations on its list should be designated as "inactive voters", but missed the iron-clad 90 day NVRA deadline to enter its data into the voter registration system by just a few hours. As a result, these 5,000 voter names remained as active voters on the 2006 general election rolls.

Although Indiana continues to make progress in cleaning up its bad registration rolls, hundreds of thousands of "inactive" registrations remain on the lists, waiting for up to four years to pass before NVRA permits these registrations to be cancelled. Indiana's record of ongoing problems with ensuring accurate registration lists were referenced several times during last month's oral arguments before the United States Supreme Court in the Indiana photo ID cases. The plaintiff in one of these cases, *Indiana Democratic Party v. Rokita*, had previously advised its nominee as Indiana Election Division Co-Director to steadfastly oppose any statewide mailing as part of a comprehensive registration maintenance program.

Thanks to Indiana's new statewide voter registration system, the Election Division can now monitor county progress in completing voter list maintenance tasks. Every large group of individuals includes some who are diligent, most who are competent, a few who are neither. Indiana's voter registration officials are no different than any other group in this respect. But we have moved past the day when a newly elected voter registration official could, without warning, discover that her predecessor had bequeathed her stack after stack of unprocessed returned registration list mailings.

Reliance on the information obtained from statewide mailings by election administrators has been the cornerstone of making progress in cleaning up registration lists, even within the legislative confines imposed by NVRA and HAVA.

Bad voter registration lists not only frustrate anyone involved in the election process -- they undermine voter confidence in the accuracy and integrity of our elections. A voter who is also a parent simply does not understand why the name of her daughter remains

on the precinct polling list years after the daughter moved away to college. At the university, the daughter may be astonished to discover that a dozen past students are registered to vote at her dormitory room's address. Worst of all, a voter who continues to see the name of a deceased spouse on the rolls election after election is not encouraged by this painful reminder to turn out to vote next time.

Likewise poll workers, the under-appreciated and over-stressed women and men who faithfully serve all of us as voters, are frustrated by bad registration lists. They cannot understand why the government doesn't respond when they volunteer the same information year after year in the spirit of making their own precinct's voter list more accurate. They ask whether the government isn't listening when they write on the poll list that their neighbors have moved away, or whether the government doesn't trust them. Neither question encourages these critically needed poll workers to continue to serve.

Inflated voter registration lists also have an economic impact that ripples through the election process. To plan and ensure that **all** voters named on the list have access to the ballot, election officials must spend their limited funds for contingencies that will not occur. Additional voters require additional precincts, additional poll workers, additional voting machines, and additional printed poll lists, all at additional cost.

Why do so many state and local election administrators, poll workers and voters care about accurate voter registration lists? Because despite widespread suspicion and cynicism about the election process, they share a belief which is at the core of the American experiment in democracy: elections matter.

Thank you very much for the privilege of submitting this testimony to the Subcommittee.

SECRETARY OF STATE
STATE OF INDIANA

Todd Rokita
Secretary of State

April 12, 2006

Murray Clark
Indiana Republican Party Chairman
47 South Meridian Street, 2nd Floor
Indianapolis, Indiana 46204

Dan Parker
Indiana Democratic Party Chairman
One North Capitol, Suite 200
Indianapolis, Indiana 46204

Dear Chairmen:

Thanks to the work of a host of individuals over the last three years following the enactment of the Help America Vote Act of 2002 (HAVA), we now have a statewide voter registration system that promises to revolutionize election management and administration in Indiana. I would begin by acknowledging and thanking both state parties for the significant and ongoing contributions made to this project. Former Chairman Robin Winston represented the Democratic Party as a member of the "Vote Indiana Team" (which developed the Plan to implement HAVA), and he was a strong contributing a member of the statewide voter registration system's Steering Committee. The same can be said for Zach Main and Andy Hahn who have been as equally involved representing the Republican Party on these task forces.

The new system links all 92 county voter registration offices to a single, uniform and centralized database maintained by the state. The system interfaces with the Department of Correction, the Department of Health, and the Bureau of Motor Vehicles so that information used for voter list maintenance, which was formerly sent by these agencies on a monthly or quarterly basis is now being sent to county voter registration offices within 48 hours after the agency receives the information. In short, the new system is a tool that will permit county voter registration officials to provide a far more accurate voter roll for use in Indiana elections.

However, counties cannot do this work alone. Federal law (the National Voter Registration Act of 1993 [NVRA]) requires that the State designate an NVRA officer to ensure that voter list maintenance is conducted on a regular, timely, and uniform basis. Under Indiana law, the Co-Directors of the Indiana Election Division jointly serve as the NVRA officer. As you know, each Co-Director is nominated by the appropriate State Chairman to serve in that office upon appointment by the Governor, and must act jointly under state law for the Election Division to take any official action.

The State House, Room 201, Indianapolis, Indiana 46204, (317) 232-6531, FAX (317) 233-3283
email: aa@sos.IN.gov www.sos.IN.gov

We now stand at a unique point in our state's history. We have the tools and the funding, available through HAVA, to conduct a comprehensive statewide voter registration maintenance program. Voter list maintenance can now move beyond the limited scope performed by the Election Division in previous years through the "Duplicate Voter Registration Elimination Project" to identify other voters whose registration address is now inaccurate. For example, the name of a voter who moved to another address, but did not re-register or who moved out of Indiana entirely would never have appeared on any list of potentially duplicate voter registrations prepared since 1995. As a result, I believe that the large number of Indiana counties who have more than 100% of their voting age population listed as registered voters points out the critical need for a comprehensive state level voter list maintenance program.

I propose that the NVRA Officers act under current state law, and in accordance with NVRA, to conduct a residency confirmation and outreach procedure (Indiana Code 3-7-38.2-16). Under this procedure, a voter education and outreach mailing would be sent to every voter in Indiana. The Election Division would then send a confirmation notice to any voter whose initial mailing is returned by the United States Postal Service as the result of an inaccurate or outdated address.

In addition to their voter list maintenance responsibilities as the state's NVRA officials, the Co-Directors of the Indiana Election Division are also required by Indiana law to jointly consent to the expenditure of HAVA funds for voter list maintenance or other purposes. I write today to urge that you and your party's Co-Director recognize both the value and necessity of conducting a comprehensive voter registration list mailing by consenting to the expenditure of HAVA funds for this purpose. Conducting this program will both ensure that Indiana fully complies with NVRA's requirements, and begin the ongoing process of state monitoring and oversight of county voter registration list maintenance.

Federal law requires that county voter registration officials complete their NVRA voter list maintenance work by making any changes to their lists based on this information no later than 90 days before an election. As a result, this deadline falls on August 9, 2006 for any voter list maintenance program conducted this year.

If we are unable to conduct a state level voter list maintenance program in time to permit county voter registration officers to act on this information by the August 9th deadline, the ability to fully clean up Indiana's voter registration rolls would be delayed another two years. Any voter whose registration address is identified by the United States Postal Service as currently incorrect, and who does not respond to the follow-up notice, or vote at that registration address during the 2006, 2007, or 2008 elections would remain on the registration rolls until December 2008. If that voter did not vote by the 2008 General Election, he would then be removed entirely. However, if no timely voter list maintenance program is conducted and completed in 2006, then these inaccurate or outdated registrations will remain on the rolls until after the November 2010 election, at the earliest. That would further waste taxpayers' money and continue to contribute to the potential for election fraud.

The county voter registration officials will need adequate time to process any registration information that comes from such a comprehensive mailing. As a practical matter, we must begin preparing for these mailings immediately by reserving mailing equipment and

services so that 4.3 million Hoosier voters can receive this educational and outreach mailing in time for the voter list maintenance program to be completed in accordance with federal law.

As a result, I ask that you communicate your support concerning this matter to the Co-Director affiliated with your party no later than Wednesday, April 18th as this would allow the Co-Directors the time necessary to make arrangements for this educational and outreach mailing to be sent out to the voters beginning on or about May 9th and would be able to finish the project by August 9, 2006.

Together, we can leverage the new Statewide Voter Registration System, and available federal funds, to achieve what has never before been possible in Indiana. Both political parties stand to gain from more accurate voter registration lists, and for more secure and fair elections that would result from fulfilling our State's voter list maintenance responsibilities under federal and state law.

I thank you for your consideration, and encourage your support in improving our electoral process to which we all owe a great debt. Please do not hesitate to contact me, at 232-6536, if I can be of further assistance in this matter.

Sincerely,

Todd Rokita
Indiana Secretary of State

Cc:
J. Bradley King, Co-Director, Indiana Election Division
Kristi Robertson, Co-Director, Indiana Election Division
Mr. John Tanner, U.S. Department of Justice, Civil Rights Division, Voting Section
Mr. Eric Eversole, U.S. Department of Justice, Civil Rights Division, Voting Section

SECRETARY OF STATE
STATE OF INDIANA

Todd Rokita
Secretary of State

April 28, 2006

Kristi Robertson
Co-Director
Indiana Election Division
302 West Washington Street, Room E204
Indianapolis, IN 46204

Dear Ms. ~~Robertson~~: Kristi

During the last several days, we have been provided with detailed information demonstrating that there are sufficient Help America Vote Act (HAVA) funds available to conduct a statewide mailing to all Indiana voters. This mailing would be performed to comply with voter list maintenance requirements under federal law (which would require two separate mailings before any action may be taken by a county voter registration office concerning any registration record).

This comprehensive mailing would significantly reduce the number of duplicate and other inaccurate registrations that are for the first time easily visible due to the successful implementation of the newly created Statewide Voter Registration System (SVRS). Since at least 19 Indiana counties have more registrants listed in SVRS than 100% of the total citizen voting age population for that county, and since more than half of Indiana's counties exceed 90% of that percentage, the need for a comprehensive approach to voter list maintenance is necessary, and in fact, mandated by federal law. I know that some would prefer to explore a piecemeal approach like the kind attempted in recent past cycles, or to attempt combinations of several other methods to attempt to address at least part of Indiana's staggering voter list inflation.

However, I feel strongly that the magnitude of inaccurate information now contained in the voter registration file (from years and years of incomplete attention) makes these approaches either incomplete or inefficient in meeting our obligation to correct existing errors and maintain an accurate voter registration file in the future. Indiana has long avoided cleaning the voter registration file across all records and now has the needed tools and funding to do so.

I hope that after receiving this information, you are willing to move forward in support of this endeavor to fulfill Indiana's responsibilities under the National Voter Registration Act (NVRA). Enclosed are a change order request, Executive Document Summary, and a spreadsheet containing a detailed breakdown of costs that would be incurred to conduct all phases of this mailing. I have also enclosed the design of the post card to be sent to all voters.

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email: aa@sos.IN.gov www.sos.IN.gov

As you know, signatures are required from both Co-directors of the Indiana Election Division and myself in order to utilize the available HAVA funds. As you know we must start immediately in order to finish by the legally prescribed deadline. As such, I look forward to continuing to work with you on voter list maintenance efforts to improve the accuracy of Indiana's SVRS file, since your leadership is essential to ensuring the integrity of our electoral process.

Sincerely,

Todd Rokita
Indiana Secretary of State

Cc: Mr. Murray Clark-Chairman, Indiana State Republican Party
Mr. Dan Parker-Chairman, Indiana State Democratic Party
Mr. Eric Eversole-Civil Rights Division, Department of Justice
Mr. J. Bradley King-Co-Director, Indiana Election Division

STATE OF INDIANA

TODD ROKITA, Secretary of State

J. Bradley King, Co-Director
Kristi Robertson, Co-Director

ELECTION DIVISION
302 WEST WASHINGTON STREET, ROOM E204
INDIANAPOLIS, INDIANA 46204-2743
Telephone: (317) 232-3939
Fax: (317) 233-6793

May 5, 2006

The Honorable Todd Rokita
Indiana Secretary of State
The State House, Room 201
Indianapolis, IN 46204

Dear Secretary Rokita:

Thank you for your letter of last week regarding a statewide voter registration mailing. While I agree with you that efforts should be made to ensure an accurate voter registration file and that this should be a goal of the Indiana Election Division, I disagree with you on the best ways to accomplish it. My concern is quite simple – that we provide an accurate statewide voter registration system that is cost effective for the taxpayers of Indiana.

Our bipartisan agency has worked with you and past Secretaries of State on various efforts to address this issue. For example, we have conducted a duplicate voter registration elimination program, developed a statewide voter registration system that daily matches voters against the Indiana Department of Health for deceased voters and the Indiana Department of Correction for incarcerated voters that may be ineligible, and have worked with county officials by conducting extensive training so that errors on the statewide voter file could be reduced.

I believe that we can accomplish the goal of establishing a more accurate voter file by doing the following:

- Conduct a duplicate voter registration elimination program to determine potential voters that may be registered to vote in Indiana at more than one address.
- Match the Indiana Voter Registration List against the United States Postal Service's National Change of Address Program (NCOA) to determine potential voters that may have moved.
- Match the Indiana Voter Registration List against the Social Security Administration's Death List to determine individuals who may have died in the United States including Indiana voters who may have died out of state.
- Encourage counties to process the backlog of information from the Indiana Department of Health that has data on deceased voters for the past 10 years.
- Pay for improvements to the statewide voter registration system to reduce the impediments to voting that were demonstrated at the primary on Tuesday, such as voters appearing on the wrong polls lists, system performance issues with the absentee process, and significant problems with the format of the poll books.

These solutions will help provide Hoosiers with a more accurate voter file and will ensure that we reserve valuable but limited federal funds to improve the administration of elections here in Indiana at a fraction of the cost of your proposal.

Sincerely,

Kristi Robertson

Kristi Robertson
Co-Director

cc: Mr. Dan Parker, Chairman, Indiana Democratic Party
Mr. Murray Clark, Chairman, Indiana Republican Party
Mr. Eric Eversole, Civil Rights Division, U.S. Department of Justice
Mr. J. Bradley King, Co-Director, Indiana Election Division

SECRETARY OF STATE
STATE OF INDIANA

Todd Rokita
Secretary of State

May 11, 2006

Dan Parker, Chairman
Indiana Democratic State Party
One North Capitol, Suit 200
Indianapolis, IN 46204

Dear Chairman Parker:

I thank you for your party's response (given through Democratic Indiana Election Division Co-Director, Kristi Robertson) to my letters proposing that a statewide outreach and voter education mailing be sent to each Hoosier voter to help clean-up Indiana's bloated voter registration list. I acknowledge the urgent responses, indicating support, from Chairman Clark and Co-Director King to my initial letter dated April 12th.

The information you received from me, included a detailed cost estimate, design template for the mailer itself (showing my name nowhere on it), and a change order request (with accompanying Executive Document Summary) so that the State could act swiftly to implement this voter list maintenance program. However, your party's response included none of these items, and included no cost estimates to support your assertion that the total cost of the multiple mailing efforts you propose would actually be a "fraction" of the cost of a statewide mailing.

To the contrary, the segmented, piecemeal activities you propose may waste taxpayer funds in multiple efforts that still fail to address the entirety of the problem facing the legacy data that our new statewide voter file has inherited and identified after years of inattention. Furthermore, receiving your response on May 5th without the data and documents necessary to implement any voter list maintenance program puts at risk Indiana's chance to complete any meaningful voter list maintenance program by the August 9th deadline imposed by federal law. In fact, as of the date of this letter, we are now more than a day behind in completing this comprehensive plan and affording the counties the time they require to take action on the results of the mailing.

I would disagree with the last point in your party's response, which indicates that the State would require the expenditure of any additional funds to address sporadic issues concerning the operation of the statewide voter registration system (SVRS). These issues followed at least two years of bi-partisan planning and bi-partisan state oversight that went into developing the system that we saw perform very well during the May 2nd Primary Election. Further refinement of SVRS would have no effect on the funds available through Help America Vote Act (HAVA).

Perhaps most important to note, the activities you propose would not allow the state to use HAVA funds to provide important election information to every voter (such as notification about the State's voter ID law) at the same time that voter list maintenance efforts are conducted. **Balking at the chance to conduct a comprehensive voter education effort conflicts with your**

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email: aa@sos.IN.gov www.sos.IN.gov

publicly voiced criticism about Indiana's voter ID law and outreach efforts. A statewide mailer that is universal, uniform, and non-discriminatory, which would be delivered to every voter is a logical investment to bolster voter confidence and secure election integrity for Hoosier voters and taxpayers.

In closing, I ask that you quickly reconsider the comprehensive voter list maintenance plan that has been set forth by this office. However, if you or Ms. Robertson choose to deny the state this opportunity to improve the accuracy of our voter file, I ask that your party's representative, in short order, at least provide the basic budget information and contract documents essential for implementing your own proposal. We are hopeful that we can act together to provide a long overdue, comprehensive solution to this matter.

Sincerely,

Todd Rokita
Indiana Secretary of State

cc: Mr. Eric Eversole, Civil Rights Division, U.S. Department of Justice
Mr. John Tanner, Civil Rights Division, U.S. Department of Justice, C/O Eric Eversole
Mr. Murray Clark, Chairman, Indiana Republican State Party
[redacted] Co-Director, Indiana Election Division
Ms. Kristi Robertson, Co-Director, Indiana Election Division

Enclosures:
Cost estimate spreadsheet
Design Template for mailer

Notice to Registered Indiana Voters

Provided by the Indiana Secretary of State and the Indiana Election Division
with funds from the Help America Vote Act of 2002

November 7, 2006 is Election Day

A new Indiana law requires registered voters to provide photo identification before casting a ballot. **To be valid for voting purposes, your ID MUST:**

- **Display your photo**
- **Display your name, and the name must conform with the name on your voter registration record**
- **Contain an expiration date and either be current or not expired before November 2, 2004**
- **Be issued by the State of Indiana or the U.S. government**

In most cases, an Indiana driver's license, Indiana photo ID card, or U.S. passport fulfills this requirement. If you do not have photo ID, you may obtain an Indiana photo ID card for voting purposes free of charge from any BMV license branch that issues photo ID cards and driver licenses.

For information about exemptions to the new law and information about casting a provisional ballot if you do not have photo ID, please visit www.sos.in.gov, www.PhotoID.in.gov or contact the Indiana Election Division at 800.622.4641

All returned cards will be sorted, bundled and delivered by Quest to individual counties.

Deliverable and Pricing Schedule

Description	Investment	
Project Management	$ 24,000.00	
Project Charter and Plan	$ 27,500.00	
Prepare file for VR Mailing	$ 25,000.00	
Mailing 1		**Based upon Qty 4,300,000**
Card Printing	$ 21,000.00	
mailing Services	$ 158,500.00	*based upon QTY 4,300,000
Data Entry/sorting/copy	$ 110,000.00	*based upon QTY 675,000-Bar code
Mailing 2 (follow-up to undeliverables)		**Based upon Qty 675,000**
Card Printing	$ 18,000.00	
Mailing services	$ 35,032.00	
Data Entry/Sorting/Copy	$ 110,000.00	
Sort/pack cards by county	$ 144,600.00	
VR Data update	$ 27,500.00	
Total Services	**$ 673,632.00**	

Postage Requirements

Mailing 1	Unit Cost	Qty	Total
1st Postcard	[illegible]	[illegible]	$ [illegible]
BRMAS Setup	[illegible]	[illegible]	$[illegible]
2nd Postcard	[illegible]	[illegible]	$ [illegible]
Return Postage-2nd Card	[illegible]	[illegible]	$ [illegible]
*All postage must be received prior to mailings			$ [illegible]

Grand Total **$ 1,582,882.00**

Assumptions:

- State will provide artwork, design and content in a timely manner
- State will deposit postage costs prior to any mailing directly with the USPS

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

May 18, 2006

VIA FACSIMILE AND FIRST-CLASS MAIL

Kristi Robertson, Co-Director
Indiana Election Division
302 W. Washington, Room E204
Indianapolis, Indiana 46204

Brad King, Co-Director
Indiana Election Division
302 W. Washington, Room E204
Indianapolis, Indiana 46204

Dear Co-Directors Robertson and King:

I am writing to you as the State officials responsible for complying with the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg *et seq*. As you know, the NVRA requires each State to ensure that all eligible voters who make timely application are registered to vote. *See* 42 U.S.C. § 1973gg-6(a)(1). It further requires "each State" to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of – (A) the death of the registrant; or (B) a change in the residence of the registrant . . . ." 42 U.S.C. § 1973gg-6(a)(4).

The State and its counties have long failed to comply with these list maintenance requirements. We first brought this matter to the State's attention on April 7, 2005. Yet, as you relayed to Department attorneys, the State recently discovered, as part of the implementation of a new statewide database, over 29,000 possible deceased registrants on the State's registration list and an additional 290,000 possible duplicate registrations. There is no reason under Section 8(c)(2)(B) of the NVRA why voters who have been positively identified as deceased or duplicates cannot be immediately removed from the registration rolls. Moreover, the State's current registration data shows that at least 10 counties have more than 100% of their voting age population actively registered to vote (that is, the county has more registered voters than people who could possibly vote). Many more counties have more than 90% of their voting age

population actively registered to vote. These facts strongly suggest that Indiana is not meeting its list maintenance obligations under the NVRA.

It is my understanding that you, as well as Indiana's Secretary of State, are committed to bringing the State into immediate compliance with the NVRA. I also am aware that the Secretary of State has proposed a statewide, non-discriminatory, election-related mailing that would identify additional registrants who are no longer eligible to vote in Indiana. Your commitment to resolve this issue, as well as the statewide mailing, is a good start. However, to bring the State into compliance with the NVRA, the State must be willing to exercise greater long-term oversight over each county and, if necessary, to take appropriate action against a non-compliant county. To that end, I would propose that the Department and the State negotiate a memorandum of agreement that memorializes the State's short-term and long-term plan for ensuring compliance with the NVRA.

We appreciate your continued cooperation and look forward to working with you to resolve these issues. Please contact Eric Eversole (202-305-0566) concerning the State's intentions within one week of the date on this letter.

Sincerely,

Wan J. Kim
Assistant Attorney General

cc: Todd Rokita, Indiana Secretary of State

STATE OF INDIANA

TODD ROKITA, Secretary of State

J. Bradley King, Co-Director
Kristi Robertson, Co-Director

ELECTION DIVISION
302 WEST WASHINGTON STREET, ROOM E204
INDIANAPOLIS, INDIANA 46204-2743
Telephone: (317) 232-3939
Fax: (317) 233-6793

May 25, 2006

Wan J. Kim
Assistant Attorney General
Civil Rights Division
United States Department of Justice
Washington, DC 20530

By electronic mail and U.S. mail

Dear Assistant Attorney General Kim:

Thank you for your letter of May 18, 2006, which asked that the Co-Directors of the Indiana Election Division contact Mr. Eric Eversole by this date concerning the State's intentions with regard to the enforcement of voter list maintenance provisions of the National Voter Registration Act. I have provided Mr. Eversole with the electronic mail copy of this response.

I should begin by stating that this response reflects my individual view as one of the two Co-Directors of the Indiana Election Division, and not necessarily that of my colleague as Co-Director, and therefore, not of the Election Division itself. Under Indiana Code 3-6-4.2-3, as construed by the Indiana Supreme Court in *Sammons v. Conrad*, 2000, 740 N.E. 2d 114, the Election Division can only act when its two Co-Directors agree.

I agree with your assertion that Indiana is not currently meeting its voter list maintenance obligations under the National Voter Registration Act (NVRA). The large number of deceased and duplicate voter registrations identified as part of the implementation of the statewide voter registration system before January 1, 2006, and the fact that 67 of Indiana's 92 counties currently have more than 90% of their citizen voting age population registered to vote indicate that the state's voter registration rolls are bloated with many inaccurate and invalid voter registrations. I find these statistics to be very disturbing since I take my own responsibility and that of the State to properly enforce NVRA very seriously.

To carry out these voter list maintenance duties, the Secretary of State has proposed (and I have supported as one of Indiana's "NVRA officials" jointly designated under Indiana Code 3-7-11-1 to administer NVRA), using a statewide, non-discriminatory, election related mailing that would identify registrants who are no longer eligible to vote in Indiana. You described this mailing in your letter as "a good start." However, as previous correspondence received by Mr. Eversole indicates, my fellow Co-Director has not

agreed to expend any funds for this uniform statewide mailing, and has instead proposed using a combination of methods such as programs to identify deceased voters, duplicate voters, and individuals with addresses that may be identified as invalid or outdated by the National Change of Address Program (NCOA).

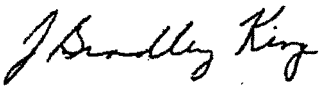
Before 2006, Indiana conducted programs to do largely what my colleague is proposing now like identifying both deceased and duplicate voter registrations, and provide that information to county voter registration officers. These proposals have produced what I would describe as "mixed" results at best. Although several counties were diligent in processing this information, this office has been advised by both incumbent county election officials and county election officials who have just taken office, that in some counties, the voter list maintenance information has been simply "filed away" and not used by the county to either inactivate (or, when appropriate, to cancel), voter registrations included in the information provided by the state. I do not believe this approach satisfies the letter or the spirit of NVRA, but would invite you to suggest differently if that is the case. I do note that you support Secretary Rokita's comprehensive approach, however.

Even if my colleague's "combination" plan would satisfy the law, I have received no details regarding any proposed budget or other contract documents necessary to implement any component of this combination of programs. As a result, I am concerned that it is increasingly likely that the state and county voter registration offices will be unable to complete any voter list maintenance program before the August 9, 2006 deadline for doing so under NVRA.

As a result, I join the Secretary of State's office in continuing to question whether this "combination" approach to voter list maintenance is in fact less expensive and more effective than the detailed, comprehensive proposal the Secretary submitted for starting with a uniform statewide mailing.

That being said, during our last telephone conversation with Mr. Eversole, both my colleague and I agreed to discuss the development of a memorandum of understanding with the Department that would memorialize a commitment for the State's short-term and long-term plans for ensuring compliance with NVRA's voter list maintenance provisions. The Secretary of State and I completely agree with a long term maintenance approach now that we have, for the first time ever, a great tool (the statewide voter file) for doing this maintenance effectively and at a reasonable cost. I appreciate Mr. Eversole's willingness to defer this discussion until after this office completed its many tasks related to our state's May 2, 2006 primary. Now that these tasks are almost entirely completed, I would be more than happy to discuss this proposed memorandum of understanding with Mr. Eversole, and would make myself available for a telephone conference at any time convenient for him.

Very truly yours,



J. Bradley King

CC:

The Honorable Todd Rokita-Indiana Secretary of State
Ms. Kristi Robertson-Co-Director, Indiana Election Division
Mr. Dan Parker-Chairman, Indiana State Democratic Party
Mr. Murray Clark-Chairman, Indiana State Republican Party

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

June 16, 2006

VIA FACSIMILE AND FIRST-CLASS MAIL
Steve Carter
Indiana Attorney General
Indiana Government Center South
402 West Washington Street
Indianapolis, Indiana 46204

Dear Attorney General Carter:

I am writing to notify you that I have authorized the filing of a lawsuit against the State of Indiana and the Co-Directors of the Indiana Election Division for violations of Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg-6. The Attorney General of the United States is authorized to seek relief to ensure compliance with the NVRA, as set forth in 42 U.S.C. § 1973gg-9(a).

Section 8 of the NVRA requires Indiana to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of – (A) the death of the registrant; or (B) a change in the residence of the registrant. . . ." 42 U.S.C. § 1973gg-6(a)(4). Although the NVRA sets forth various procedures and time lines for removing voters who may have moved, *see* 42 U.S.C. §§ 1973gg-6(b)-(f), these requirements do not apply when Indiana has identified a registrant who has died or been incarcerated, or when there is a duplicate registration.

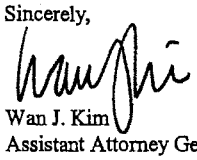
Indiana and its counties have long failed to comply with Section 8 of the NVRA. Although we first brought this matter to the State's attention in April 2005, the State's registration list still contains many deceased registrants, voters who have moved, and duplicate registrations. Indeed, the State's expert in *Indiana Democratic Party v. Rokita* admitted that the State's registration rolls were vastly overstated. The Indiana Election Division has further admitted that there may be more than 29,000 deceased registrants on its statewide database and another 290,000 duplicate registrations.

Given these facts, the Department attempted to resolve this matter by sending a May 18, 2006, letter to the Co-Directors of the Indiana Election Division, offering to negotiate a memorandum of agreement wherein the State would create and implement a short-term and long-term plan for complying with the NVRA. In a letter response dated May 25, 2006 (which is enclosed), one of the Co-Directors, Mr. Brad King, acknowledged that the State was not complying with its list maintenance obligations under the NVRA. Mr. King indicated that he was willing to consider an agreement to resolve this matter, but that he could not execute a binding agreement without the consent of Kristi Robertson, the other Co-Director of the Election Division. Ms. Robertson did not respond to our letter.

Ms. Robertson's failure to respond to the Department's letter is disappointing. We are still hopeful, however, that the State is willing to resolve this matter without costly and protracted litigation. To this end, the Department is willing to negotiate a joint stipulation and consent decree, to be filed simultaneously with the complaint in Federal court, which would set forth the State's plan for complying with the NVRA.

I have instructed Department attorneys to wait until a week from the date of this letter before filing the complaint. If the State is willing to resolve this matter with a consent decree or has any questions regarding this letter, please contact Eric Eversole at (202) 305-0566 before that date. We look forward to your response and to a timely resolution of this matter.

Sincerely,



Wan J. Kim
Assistant Attorney General

cc: Kristi Robertson, Co-Director of the Indiana Election Division
J. Bradley King, Co-Director of the Indiana Election Division
Todd Rokita, Indiana Secretary of State

Encl.

STATE OF INDIANA

TODD ROKITA, Secretary of State

J. Bradley King, Co-Director
Kristi Robertson, Co-Director

ELECTION DIVISION
302 WEST WASHINGTON STREET, ROOM E204
INDIANAPOLIS, INDIANA 46204-2743
Telephone: (317) 232-3939
Fax: (317) 233-6793

June 19, 2006

Wan J. Kim
Assistant Attorney General
Civil Rights Division
United States Department of Justice
Washington, DC 20530

By electronic mail and U.S. mail

Dear Assistant Attorney General Kim:

Thank you for your courtesy in copying me on your letter of June 16, 2006 to Indiana Attorney General Steve Carter concerning the status of the Department's enforcement of Section 8 of the National Voter Registration Act of 1993 ("NVRA") with regard to the State of Indiana and the Co-Directors of the Indiana Election Division.

I particularly appreciate your enclosure of my previous correspondence to you, dated May 25, 2006, regarding this matter.

I repeat my willingness to enter into an agreement with the Department to ensure that Section 8 of NVRA is fully and effectively enforced in Indiana counties, both in 2006 and in future elections. I am also willing to sign a joint stipulation, if the filing of litigation by the Department and the entry of a consent decree are now necessary due to delays resulting from the regrettable circumstances described in your June 16 letter.

In your earlier letter of May 18, you described the statewide, uniform, and non-discriminatory mailing to all Indiana voters proposed and supported by myself and Secretary of State Rokita as "a good start" in bringing Indiana's current voter registration rolls into compliance with NVRA. In my view, this mailing lays the essential foundation for the ongoing oversight of county voter list maintenance activities in Indiana necessary in the future.

I understand from earlier telephone conversations with Mr. Eversole that the Department has developed a template for a memorandum of understanding to be entered into between the Department and state NVRA authorities for voter list maintenance activities to be brought into compliance with NVRA. I would suppose that much of the same language employed in this template would also be included in any joint stipulation and consent decree.

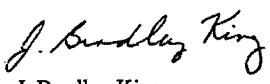
Therefore, to facilitate the prompt resolution of this matter by the end of this week as requested in your letter, I have enclosed a copy of the detailed information previously prepared regarding this statewide non-discriminatory mailing.

I would respectfully request that you provide myself and my colleague with a proposed memorandum of understanding (or joint stipulation) that incorporates a requirement for a statewide mailing, along with any other provisions you consider necessary and proper to bring Indiana into compliance with Section 8 of NVRA.

I will promptly review, and would plan to sign any such memorandum of understanding or joint stipulation before the week is out, after appropriate consultation with legal counsel.

Thank you again for your ongoing efforts to resolve this matter to ensure that NVRA is properly administered and enforced in Indiana.

Very truly yours,



J. Bradley King

CC:

The Honorable Todd Rokita, Indiana Secretary of State
The Honorable Steve Carter, Indiana Attorney General
Ms. Kristi Robertson-Co-Director, Indiana Election Division
Mr. J. Murray Clark, Chairman, Indiana State Republican Party
Mr. Dan Parker-Chairman, Indiana State Democratic Party

Enclosure

Notice to Registered Indiana Voters

Provided by the Indiana Secretary of State and the Indiana Election Division
with funds from the Help America Vote Act of 2002

November 7, 2006 is Election Day

A new Indiana law requires registered voters to provide photo identification before casting a ballot. To be valid for voting purposes, your ID MUST:

- Display your photo
- Display your name, and the name must conform with the name on your voter registration record
- Contain an expiration date and either be current or not expired before November 2, 2004
- Be issued by the State of Indiana or the U.S. government

In most cases, an Indiana driver's license, Indiana photo ID card, or U.S. passport fulfills this requirement. If you do not have photo ID, you may obtain an Indiana photo ID card for voting purposes free of charge from any BMV license branch that issues photo ID cards and driver licenses.

For information about exemptions to the new law and information about casting a provisional ballot if you do not have photo ID, please visit www.sos.in.gov, www.PhotoID.in.gov or contact the Indiana Election Division at 800.622.4641

All returned cards will be sorted, bundled and delivered by Quest to individual counties.

Deliverable and Pricing Schedule

Description	Investment	
Project Management	$ 24,000.00	
Project Charter and Plan	$ 27,500.00	
Prepare file for VR Mailing	$ 25,000.00	
Mailing 1		**Based upon Qty 4,300,000**
Card Printing	$ 21,000.00	
mailing Services	$ 158,500.00	*based upon QTY 4,300,000
Data Entry/sorting/copy	$ 110,000.00	*based upon QTY 675,000-Bar code
Mailing 2 (follow-up to undeliverables)		**Based upon Qty 675,000**
Card Printing	$ 18,000.00	
Mailing services	$ 35,032.00	
Data Entry/Sorting/Copy	$ 110,000.00	
Sort/pack cards by county	$ 144,600.00	
VR Data update	$ 27,500.00	
Total Services	**$ 673,632.00**	

Postage Calculation

Mailing 1	Unit Cost	Qty	Total
1st Postcard	$0.179	4,300,000	$ 769,700.00
BRM AS Set-up	$500	1	$500
2nd Postcard	$0.1790	675,000	$ 120,825
Return Postage-2nd card	$0.277	675,000	$ 187,275
*All postage must be received prior to mailings			
			$ 908,250.00

Grand Total $ 1,582,882.00

Assumptions:

- State will provide artwork, design and content in a timely manner
- State will deposit postage costs prior to any mailing directly with the USPS

STATE OF INDIANA

TODD ROKITA, Secretary of State

J. Bradley King, Co-Director
Kristi Robertson, Co-Director

ELECTION DIVISION
302 WEST WASHINGTON STREET, ROOM E204
INDIANAPOLIS, INDIANA 46204-2743
Telephone: (317) 232-3939
Fax: (317) 233-6793

June 19, 2006

Wan J. Kim
Assistant Attorney General
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Assistant Attorney General Kim:

Thank you for your letter regarding voter registration list maintenance activities in Indiana. I do apologize for the delay in my response. Post election duties here at the Election Division have had my attention the last couple of weeks. As I indicated on a conference call with Eric Eversole on March 31, 2006, I am willing to enter into negotiations with the Department for a memorandum of agreement detailing Indiana's plan for voter list maintenance activities that comply with NVRA.

Although a statewide mailing to all registered voters in Indiana may be possible in the future, I do not believe that this year is the time to perform such a mailing for the reasons I set forth in my May 5, 2006 letter to Secretary Rokita on which Mr. Eversole was copied.

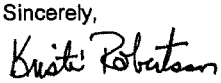
In addition to those reasons, we at the Election Division recently learned that possibly hundreds of voters appeared on two different poll books in different precincts at the May 2, 2006 Indiana Primary Election. In fact, our own Secretary of State (through no fault of his own) appeared on two different poll books. This situation is not due to duplicate registrations but a problem with how the Indiana Statewide Voter Registration System (SVRS) is processing data. Our SVRS vendor is working on a remedy to correct this situation; however, I currently am very concerned about sending a statewide mailing to over 4 million Hoosier voters and possibly disfranchising someone because we based our mailing on faulty information. Although the SVRS will become a useful tool for better voter list maintenance activities, there are still some corrections and improvements that must be made to this new system before we attempt something as ambitious and costly as a statewide mailing.

Nevertheless, there are several voter list maintenance activities that we can do right now as set forth in my earlier letter. In Mr. King's letter of May 25, 2006, he states that my proposals have been tried in Indiana with "'mixed' results" because the State still had to rely on the counties to process this information. But a statewide mailing would have the same problem. Indiana law provides that only the county voter registration offices can perform maintenance activities on voter registration records. Therefore, whether the State conducts a statewide mailing to place people on inactive status or the other activities I suggest, we are still in the position of relying on the counties to process this information. Indiana law does not provide the Election Division or the Secretary of State's Office with enforcement power to mandate that counties process the information provided by the State.

In addition, the only clean-up activity accomplished by a statewide mailing is to place voters on inactive status and remove them after two general elections. With my proposed solutions, deceased voters and voters canceling their previous registrations can be removed from Indiana's voter rolls immediately without a four year waiting period.

That being said, I do look forward to hearing from you to begin discussions about a possible agreement to establish a plan for Indiana's NVRA-related voter list maintenance activities.

Sincerely,



Kristi Robertson
Co-Director

cc: The Honorable Todd Rokita, Indiana Secretary of State
Mr. Dan Parker, Chairman, Indiana Democratic Party
Mr. Murray Clark, Chairman, Indiana Republican Party
Mr. Eric Eversole, Civil Rights Division, U.S. Department of Justice
Mr. J. Bradley King, Co-Director, Indiana Election Division

MEMORANDUM

TO: **County Voter Registration Officers**

FROM: **J. Bradley King and Kristi Robertson, Co-Directors**

RE: **Statewide Voter Registration Mailing and Other Voter List Maintenance Activities**

DATE: **June 23, 2006**

As the result of an agreement that the State has entered into with the United States Department of Justice, detailed information of which will be issued to you shortly, the State and your county will be required to conduct significant voter registration list activities during this summer.

These activities include:

- A postcard mailing containing basic election information, which will be sent by the State of Indiana to all registered voters in the State.
- A second mailing sent by the State to each voter whose general election mailing is returned by the United States Postal Service.
- A report sent to your office by the State listing the voters who have not responded in a timely fashion to this second mailing, so that the county can reclassify these voters as "inactive."
- A report sent to your office by the State identifying voters who may be deceased, so that the county can reclassify these voters as "cancelled."
- A report sent to your office by the State identifying voters who may have duplicate voter registrations so that the county can make appropriate changes in each case to the voter registration records to remove duplicate registrations for the same voter.

We will provide you with as much additional information about these mailings and reports as soon as possible and with a copy of the consent agreement.

We understand that these activities will require a great deal of work by both your office and our office. We will do our best at the Election Division to help all of us through this process.

Please expect to see more information from us soon. Thanks for your assistance.

STATE OF INDIANA

TODD ROKITA, Secretary of State

J. Bradley King, Co-Director
Kristi Robertson, Co-Director

ELECTION DIVISION
302 WEST WASHINGTON STREET, ROOM E204
INDIANAPOLIS, INDIANA 46204-2743
Telephone: (317) 232-3939
Fax: (317) 233-6793

MEMORANDUM

TO: County Voter Registration Officials and Election Officials

FROM: J. Bradley King and Kristi Robertson, Co-Directors

RE: Postcard to be mailed to all registered voters in Indiana.

DATE: June 28, 2006

We recently faxed and mailed a memo to you concerning the statewide mailing to be sent to all registered voters under a Consent Decree and Order issued by the U.S. District Court.

A copy of the postcard to be used in that mailing is on the following two pages.

This postcard will be mailed within the next few days to all registered voters in your county. The postcard will be sent to both "active" and "inactive" voters.

However, this postcard will not be sent to voters whose registration record is shown in SVRS as "cancelled."

Also, this postcard will not be sent to voters whose registration applications are shown as "pending" or "rejected" in SVRS, as of the date of the mailing.

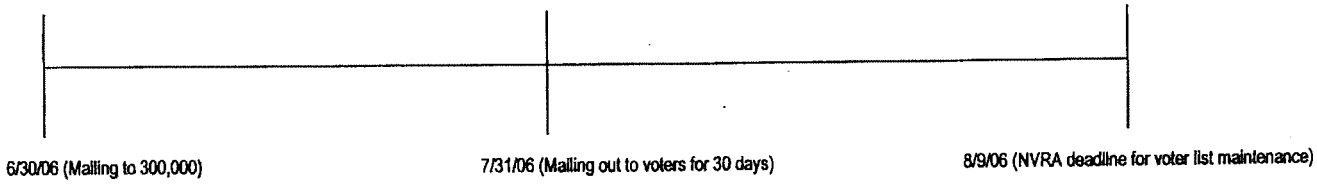
As you can see from reading the text on the postcard, the voter is not being asked to do anything or to respond in any way. The card simply contains information about the date of the next general election and the web site on the public portal that lets a voter check their voter registration status and polling place.

Please note that the postcard provides a toll-free number to contact the Office of Secretary of State for further information. The postcard also advises voters that they may contact their county election board as well, so we are providing this copy of the postcard so that you can be prepared if you do receive calls as a result of this mailing.

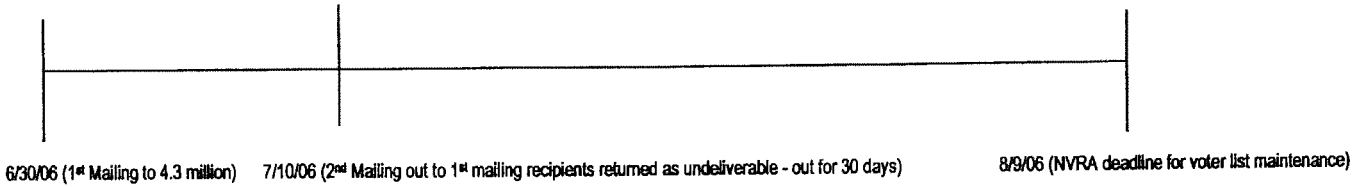
We are continuing to work through the details and procedures set forth in the federal court's Consent Decree, and will continue to provide you more information concerning the voter list maintenance activities required this summer by both the state and the county voter registration offices.

Thank you as always for your assistance.

Duplicate Elimination Program Timeline



Statewide Mailing Timeline



REVERSE OF CARD

November 7th is Election Day!

Visit **www.IndianaVoters.com**
to check your **voter registration**
and **polling place location.**

You may also call your County Clerk's Office, County Board of Elections, or 866-IN1-VOTE for further information on elections.

Information provided by the Indiana Election Division with funds from the Help America Vote Act of 2002.

281326-A.indd 1 6/26/06 2:17:27 PM

FRONT OF CARD

INDIANA ELECTION DIVISION
PO BOX 33489
INDIANAPOLIS IN 46209-0307

Presorted
First Class
U.S. Postage
PAID
Indianapolis, IN
Permit No. 5739

281328-A.indd 2 6/28/06 2:17:27 PM

Voter reg card 07-06 7/14/06 10:13 AM Page 1 (PANTONE 2865CCpbAat)

ELECTION DIVISION
PO BOX 13166
INDIANAPOLIS IN 46209-0375
SF 47912 (R4/6-02)

Presorted
First Class
U.S. Postage
PAID
Indianapolis, IN
Permit No. 5739

Where are you registered to vote?

RETURN POSTCARD

For the address listed to the right, please mark one box to indicate whether it is your current address, a previous address, or an address where you have never lived.

If you need more information, please contact your county voter registration office.

Check One: ☐ Current Address ☐ Previous Address ☐ Never Lived at this Address

If your current residence is within the same county as that listed above and you marked the box for Previous or Current Address above and you need to change your name or address, please complete the section below including the two questions regarding citizenship and age and provide a Voter Identification Number. If you have moved to a new county from the address listed above, then you must contact your new county to re-register.

Name Change (if any):

Current Address Change
(if different from the address listed above but in the same county):

Are you a citizen of the United States of America?
☐ Yes ☐ No

Will you be at least 18 years of age on or before election day?
☐ Yes ☐ No

Voter Identification Number County:
☐ Indiana Driver's License #
☐ Last Four Digits of Social Security Number
☐ I do not have an Indiana Driver's License or Social Security Number

I swear or affirm the accuracy of the information provided above by my signature below.
If I checked a previous address above, I request that all my previous address marked above, where I no longer live, be cancelled.

Your Signature:

Telephone Number with Area Code: ( )

Date:

Voter reg card 07-06 7/14/06 10:13 AM Page 2 (PANTONE 2945CCpbbbee)

Help INDIANA Protect Your Voter Registration Record!

Dear Voter:

We have received information from the United States Postal Service indicating that you no longer reside at the address shown on this voter registration record. Please help us make sure we have ***your*** correct registration address by filling out, **SIGNING**, and returning the attached addressed **postage prepaid** return postcard.

Here is how this postcard works:

If you mark that this address is your **current address and sign the card**, we will *keep* that record as your current voter registration address.

- If you mark **previous address and sign the card**, your registration at that address will be *removed* from the voter registration list.
- If you mark **never lived at this address and sign the card**, we will *keep* that registration record active because it is probably the registration of someone else with a similar name.
- **You must SIGN the return postcard for it to be effective and to remain an active voter.**

Please sign and return the attached postage paid return postcard no later than *August 2, 2006.*

If you do not return the postcard, or you return but do not sign the postcard, then your voter registration at the address identified on the return postcard will be placed on "inactive status."

"Inactive status" means you will still be allowed to vote if:

1) You go to the polls to vote (or cast an absentee ballot) during 2006, 2007,or 2008; OR
2) You confirm with the county voter registration office that you still live at the address listed on your voter registration and you are otherwise still qualified to vote.

If you do not vote in 2006, 2007 or 2008, or confirm your address on your voter registration, then your voter registration at the address identified on the attached return postcard will be cancelled after the November 2008 election.

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 1327 INDIANAPOLIS, IN

POSTAGE WILL BE PAID BY ADDRESSEE

ELECTION DIVISION
PO BOX 33186
INDIANAPOLIS IN 46209-0375

Mr. MCCARTHY. Thank you so much.

I appreciate all of the testimony today. I have found the hearing quite interesting.

Dr. Muhlhausen, in reading your report and in looking at your graph how it directly coincides with the number of participants and with the number of registrations, you used a regression analysis. Is that what you said you utilized that was different?

Mr. MUHLHAUSEN. Yes. What I did was we took the data available for each State over a 12-year period, from 1995 to 2006, and your dependent variable is the number of voter registrations per population times 100,000. So it is their rate, so States are comparable. You look and see how that variation changes among States, and you control for welfare participation in the sense of AFDC/TANF caseloads, WIC caseloads, food stamp caseloads, demographic characteristics of the State, income, unemployment, and political election cycles such as senatorial elections, gubernatorial elections, presidential elections and off-year elections.

After we control for all of those issues, what we find is that the regression explains about 70 percent of the variation in caseloads among the States. One of the significant variables is AFDC/TANF caseloads, and it suggests that, as AFDC/TANF caseloads decrease, so do public assistance registrations.

Mr. MCCARTHY. So, the reform they had within there, you saw caseloads go down?

Mr. MUHLHAUSEN. Yes.

Mr. MCCARTHY. Okay.

Mr. Slater, is that correct? In your research, did you use this regression analysis ever?

Mr. SLATER. No. What we looked at was data collected by the FDC and then the EAC. They track registrations from public assistance agencies. So the numbers that we are using show a decline, and our interest was in trying to establish why that decline occurred.

So what we did is we went into the field, and we asked public assistance providers, we asked agency directors, we asked clients, "Are you being offered a chance to register to vote?", "Do you know about this law?", "Are you providing these services?" We found from our field experience that the answer is, no, they are not doing that.

So, in comparison, I would say that the research from the field essentially trumps a statistical analysis.

Mr. MCCARTHY. Even though earlier you said that California seems—there is probably a lot of data problem of not reporting it. Did you put that into your research, as well, or not?

Mr. SLATER. I am sorry, I do not understand.

Mr. MCCARTHY. The question Chairwoman Lungren asked you——

Ms. LOFGREN. That is Lofgren, not Lungren.

Mr. MCCARTHY. Sorry, I apologize—was about California on the reporting of the number. You said you talked to the Secretary of State, and you felt it probably wasn't all not doing the job but that it was probably the data coming in.

So I am just asking you, regarding the data, did you correlate for that? Or what did you do about that? I assume, if California has

a data problem, there are probably some others about not reporting. I know they have to do a lot of paperwork.

Mr. SLATER. Well, what I said about California is that the statistics lead us to believe that that is the case. Now our job is to follow-up on that and do some surveys and develop some additional hard evidence.

Mr. MCCARTHY. Okay. You guys do voter registration as well, right? That is your main focus for low-income?

Mr. SLATER. Uh-huh.

Mr. MCCARTHY. And you did over 1 million in the last presidential cycle?

Mr. SLATER. 1.1 million in 2004, that is correct.

Mr. MCCARTHY. And your goal this time is how many?

Mr. SLATER. 1.2 million.

Mr. MCCARTHY. And it is mainly focused on low-income, correct?

Mr. SLATER. Low-income and minority communities, that is correct.

Mr. MCCARTHY. Does that correlate into any of the drop, as well? Do you think you are taking some people off the rolls as well from registering on the work you have done as well?

Mr. SLATER. Well, my preference, actually, would be for the State to do all of this. We would be happy to be out of the voter registration business if public agencies would do their job.

Our belief is that the registration rates have not fundamentally changed. In part, that is because of mobility rates among low-income Americans. They move frequently enough that they need to constantly reregister. So there is kind of a ready pool of low-income Americans that need to register to vote.

Mr. MCCARTHY. So low-incomes are very mobile?

Mr. SLATER. Yes. There is about a 25-percent mobility rate.

Mr. MCCARTHY. Do you think there is any responsibility on an American citizen to register? I mean, do you think it is a right of everybody or is it a responsibility of an individual to register to vote?

Mr. SLATER. I certainly thing that people have a responsibility to pay attention to politics, and I think they have a right to vote.

Mr. MCCARTHY. You made a comment that struck me kind of odd inside your statement, that people were not treated fairly. That always upsets me. I think people should be treated equal and fairly.

Is there any other place that people are offered for voter registration, I mean, from other avenues, from middle-income and others?

Mr. SLATER. Right, the Department of Motor Vehicles. I think that is one of the points that we like to make, which is that we have a law that is working effectively for Department of Motor Vehicles, which services people who can afford a vehicle or who have access to one. The point about section 7 is that it is able to get at all of those other people.

So to implement a law in one area that affects one group of people but to not then implement it in another area we think is just unfair, and we ought to solve that problem.

Mr. MCCARTHY. So you think it is not the low-income who are being unfairly treated but that it is the others? Is that what your answer would be?

Mr. SLATER. No. I am saying that we believe the States are doing a pretty good job at the Department of Motor Vehicles. They are not doing a very good job at public assistance agencies, and that is where we have an inequality in access to voter registration opportunities.

Mr. MCCARTHY. The DMV does a better job than all of the others?

Mr. SLATER. Much better. Somewhere between 40 to 50 percent of all applications in America originate from the Department of Motor Vehicles now.

Mr. MCCARTHY. Have you done any studies in regard to DMVs, Mr. Muhlhausen?

Mr. MUHLHAUSEN. Actually, one of the things I am interested in is looking at whether or not there is a substitution effect. That is what I am going to try to address in my forthcoming report, because I think that the way people register to vote has likely changed. I remember I used to register to vote by going to the county office and filling out the paperwork. Now when I move and when I change my driver's license, I register there.

So I think that the ways people register, especially with the advances in community mobilization efforts by certain groups, may actually substitute for the need to register to vote at public assistance offices. I think it is something that needs to be considered in thinking about this decline.

Mr. MCCARTHY. When will your report be done?

Mr. MUHLHAUSEN. I cannot give you a hard date. I have to finish writing it and do some additional analysis and receive feedback. So it will be out this year, preferably sooner rather than later.

Mr. MCCARTHY. Well, I know I went over my time, Chairwoman Lofgren. I apologize.

Ms. LOFGREN. That is all right.

The gentleman's time has expired.

I would note, without objection, we will make the Project Vote and Demos report part of our record.

[The information follows:]

UNEQUAL ACCESS:

NEGLECTING THE NATIONAL VOTER REGISTRATION ACT, 1995-2007

By Douglas R. Hess and Scott Novakowski

February 2008

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Executive Summary

Recognizing that burdensome and discriminatory voter registration laws have a damaging impact on American democracy, Congress passed the National Voter Registration Act (NVRA) in 1993 to make voter registration more accessible, with the hope of reducing disparities in voting among various populations. The NVRA remains one of the nation's most important voting rights laws.

Although millions of citizens have taken advantage of voter registration opportunities created by the NVRA, key provisions of the law meant to reach populations with low voter registration rates have been poorly and inconsistently administered in many states. Specifically, states have failed to adequately implement — and the Department of Justice has in recent years failed in their duty to enforce — NVRA provisions that require states to offer voter registration in government agencies providing public assistance benefits.

"Unequal Access: Neglecting the National Voter Registration Act, 1995-2007" details the following:

- The number of voter registration applications from public assistance agencies in 2005–2006 is a small fraction of what it was in 1995–1996, when the NVRA was first implemented (see Figure 1 and Tables 1a and 1b). Indeed, registrations from public assistance agencies declined by 79 percent during this time.
- The decline in registrations from public assistance agencies occurred despite the fact that millions of citizens from low-income households remain unregistered. In 2006, 13 million, or 40 percent of, voting-aged citizens from households earning under $25,000 were unregistered (see Table 2).
- Many states frequently fail to report data on their public assistance agency registrations to the Elections Assistance Commission, as required for the EAC's biennial report to Congress (see Table 3).
- Recent surveys of clients at public assistance agency sites in more than half a dozen states have found numerous instances where voter registration was not being offered as required by the NVRA; voter registration applications were completely absent at some agency sites.
- States that have adopted improved NVRA procedures have seen dramatic increases in voter registrations at public assistance agencies, indicating the potential for substantial improvement in other states.
- The Department of Justice has taken little action in recent years to enforce the public assistance agency registration requirements of the NVRA, despite being repeatedly presented with strong evidence of states' noncompliance.
- Based on the outcomes in states where recent compliance efforts have been undertaken, states can improve their compliance with the NVRA and increase the number of low-income citizens registering to vote by implementing recommended procedures, outlined in this report, to improve training, monitoring and reporting by agencies.

The NVRA is the only federal law requiring the government to affirmatively offer voter registration to broad segments of the population. Because of noncompliance with the NVRA, however, the

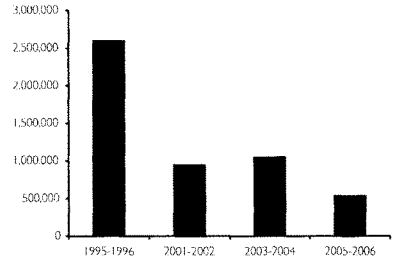
rights of thousands of low-income citizens are violated daily across the nation. Project Vote and Demos call on state election and public assistance officials to take immediate action to properly implement this important civil rights law. We also call on the Department of Justice to fulfill its role by actively enforcing the NVRA's requirement for voter registration at public assistance agencies.

Introduction

Congress passed the National Voter Registration Act (NVRA) in 1993 to "increase the number of eligible citizens who register to vote in elections for Federal office."[1] Recognizing that unfair and discriminatory registration laws have a "direct and damaging" effect on democratic participation, Congress designed the NVRA to make voter registration more accessible, with the hope of reducing disparities in registration and voting.[2] Key to this goal is Section 7 of the NVRA, which requires states to provide voter registration services at public assistance agencies (see box on Section 7 of the NVRA on page 4). The Act remains the only federal law requiring the government to affirmatively offer voter registration to broad segments of the population.[3]

Unfortunately, many states have failed to fully or consistently implement voter registration in public assistance agencies, and the U.S. Department of Justice has largely ignored violations of the law in recent years. For example, examination of federal data shows that, compared to the number of public assistance registrations achieved during the NVRA's first years of implementation, 1995–1996, the number of agency-based registrations has declined by 79 percent in the most recent reporting period (see Figure 1).

Figure 1: Voter Registrations from Public Assistance Agencies



Source: U.S. Federal Election Commission and U.S. Election Assistance Commission.

"As a result of states' noncompliance, millions of low-income citizens have been denied an opportunity to register to vote."

As a result of states' noncompliance, millions of low-income citizens have been denied an opportunity to register to vote, and a significant gap in registration rates between the rich and the poor remains. Indeed, in 2006 only 60 percent of adult citizens in households making less than $25,000 a year were registered to vote compared to over 80 percent of those in households making $100,000 or more.[4]

[1] 42 U.S.C. § 1973gg(b)(1)(3).

[2] 42 U.S.C. § 1973gg(a)(3).

[3] In fact, the United States is one of the only democracies that places the burden on the individual to register to vote. See Frances Fox Piven and Richard Cloward, *Why Americans Don't Vote* (1988), p. 17. Canada, Germany, Mexico and the United Kingdom all have systems in which the government assumes the responsibility for registering its citizens to vote.

[4] See Douglas R. Hess, Project Vote, "Representational Bias in the 2006 Electorate," (2006), Table 6: Household Income and Voting Behavior, available at http://www.projectvote.org.

This report — co-authored by Dēmos and Project Vote as part of their joint effort to improve NVRA agency implementation nationwide — examines in detail the decline in voter registration at public assistance agencies and presents data for each state.[1] The report also details the potential of the NVRA to increase registration among low-income citizens, the failure of states to collect and report data on their public assistance voter registration programs, and the failure of the

Section 7 of the NVRA: Voter Registration in Public Assistance Agencies

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Department of Justice to take action in the face of ever-mounting evidence that rights granted under the NVRA are being denied every day to thousands of citizens across the country.

This report concludes with an outline of effective "best practices" in NVRA Section 7 implementation. These practices are based on the experience of states that have improved their compliance with the NVRA and, as a result, have shown increases in the number of voter registration applications coming from agencies.

Evaluating Agency Registration: An Overview

Federal data reveal a troubling decline in the number of voter registration applications coming from public assistance agencies since initial implementation of the NVRA in 1995. Table 1a presents the number of public assistance voter registrations reported[6] to the federal Election Assistance Commission[7] by each state for four two-year election cycles: the first cycle after the NVRA was implemented (1995–1996) and the three most recent cycles (2001–2002, 2003–2004 and 2005–2006).[8]

The percent change in agency-based voter registration between cycles is shown in Table 1b for the following four comparisons:

- The first and the most recent NVRA reports (1995–1996 compared to 2005–2006)
- The two most recent election cycles (2003–2004 compared to 2005–2006)
- A pair of presidential-election cycles (1995–1996 compared to 2003–2004)
- A pair of mid-term election cycles (2001–2002 compared to 2005–2006)

The number of voter registrations from public assistance agencies declined 79 percent between initial implementation (1995–1996) and the most recent reporting period (2005–2006).[9] The decline between the two presidential election cycles was also dramatic: 60 percent. Registrations declined by 43 percent from the previous mid-term election cycle (2001–2002) to the most recent (2005–2006).

According to available data and field observations, the large declines reported in agency-based registration can be largely attributed to states failing to adequately implement the public assistance provisions of the NVRA. Evidence that noncompliance with the NVRA has driven the dramatic decline comes from surveys of public assistance clients and site visits to agency offices. For instance, in late 2005, staff and members of the community organization ACORN surveyed 103 clients coming out of Department of Job and Family Services (DJFS) offices in Ohio. Only three clients

[6] The failure by many states to provide the EAC with complete data has been an ongoing problem. These states are noted on Table 1b. We discuss in greater detail the problem of error reporting later in this report.

[7] The NVRA requires the Federal Election Commission (FEC) to provide Congress with a biennial report on the impact of the law on the administration of elections. This responsibility was transferred to the Election Assistance Commission (EAC) by the Help America Vote Act of 2002 (42 U.S.C. § 15482). Data on public assistance voter registrations are among those collected by the agency. See Federal Election Commission/Election Assistance Commission, "The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office," 1995–1996, 1997–1998, 1999–2000, 2001–2002, 2003–2004 and 2005–2006, most available at http://www.eac.gov.

[8] Several states are not required to implement the NVRA because they offered Election Day Registration at the polling place at the time the Act was passed. Those states, not in our tables, are Idaho, New Hampshire, Minnesota, Wisconsin and Wyoming. North Dakota also is exempt from the NVRA because it has no requirement for voter registration, and therefore is not included in our tables. The District of Columbia is treated as a state for our purposes.

[9] The decline that has occurred since the initial implementation period in 1995–1996 is all the more troubling because compliance with the NVRA was by no means complete even during that period. Indeed, several states, including California, Illinois, Michigan, Pennsylvania, Virginia and South Carolina, flatly refused to implement the NVRA and had to be sued to enforce compliance.

Alternative Explanations for the Decline in Agency Registrations

The report considers that more states are failing to comply with an important provision of the MVRA. Therefore, it is fair to ask: Are there alternative explanations for the dramatic decline in public assistance registrations? Specifically, we sought to address whether declines in public assistance registrations are due to (1) restrictions on agency caseloads, or (2) state-imposed agency staffing levels or priorities other than public assistance offices. The analysis indicates that neither of these hypotheses can explain most the dramatic decline in agency registrations over the past decade.

While welfare reforms and the booming economy in the late 1990s contributed to a decrease in participation in some public assistance programs, the trend reversed in the first years of the new century. For example, the Food Stamp Program — by far the most widely used public assistance program required to offer voter registration — had about twenty-five thousand more households participating in Fiscal Year 2000 compared to a year prior. The overall data raise expectations that increasing numbers of eligible assistance recipients should have registered at public assistance agencies in recent reporting periods. While it is clearly unlawful to reduce staff or other priorities of offices with the public mission of agency registration, the analysis of the records provided indicates that this is an unlikely explanation for the enormous decline documented in the report.

- First, in many places the number of agency staff, there are numbers that are sufficient to maintain levels of registration in both their public assistance agencies and their other offices. Data from the Department of Public Assistance in Pennsylvania, for example, show that the number of public assistance offices in the state has remained stable while the number of public assistance recipients has been cut in half.
- Second, there are a few states and counties that have improved their procedures and have increased registrations in public assistance offices. For example, there have been cases where a combination of the number of clients applying doubled, and the number of clients applying increased by more than 50 percent, yet the number of clients registering increased by more than 100 percent. In these cases, the agency staff and resources in public assistance offices were sufficient to increase registrations in the same time as the agency staff and resources in public assistance offices were sufficient to increase registrations in public assistance offices.
- Third, as Table 1 indicates, there remains a very large pool of Americans in low-income offices (more than 17 million in 2000). Many of these individuals are interacting with public assistance agencies on a regular basis and frequently change addresses and move frequently. Many of these individuals have not registered in other places.
- Fourth, there are many agencies clearly indicate that states are simply complying with the law. Data gathered in agency surveys and in case investigations have been consistent in finding that states are not complying.
- Finally, recently released court-ordered data from the ACLU's HIV/AIDS Elections demonstration and filing of key pleadings in that litigation show that agencies are not offering the voter forms at a rate consistent with current state reported data. Less than 50 public assistance agencies during

[illegible]

reported having been provided a form offering voter registration as required by the NVRA. Spot checks in DJFS offices in six Ohio counties revealed that only one of them had voter registration applications on site. Surveys in 2006 and 2007 outside offices in Arizona, Colorado, Florida, Maryland, Missouri, New Mexico and North Carolina have revealed similar violations of the NVRA.[10] Moreover, it was found that states may meet some of the law's requirements for voter registration services at agencies while neglecting others. For example, several states have not been offering voter registration at all of the required points of contact, including interactions conducted via mail, telephone or Internet.

"Regardless of how we analyze the data, the conclusion is the same: There has been a very clear and marked decline in the number of voter registrations coming from state public assistance agencies."

Later in the report, to control for the possible impact of poor reporting by the states, we analyze agency registration declines for only those states providing complete data for both periods being compared. Regardless of how we analyze the data, the conclusion is the same: There has been a very clear and marked decline in most states in the number of voter registrations coming from state public assistance agencies.

The Potential of Public Assistance Registration

Millions of low-income citizens are currently excluded from the electorate, and public assistance agencies are well suited to help register these citizens to vote. These agencies are in regular contact with low-income citizens, often helping them to complete government forms. Clients also frequently contact agencies when they change addresses, one of the most common circumstances in which a previously registered voter must re-register. Additionally, voter registration is compatible with many agencies' core mission of empowering economically disadvantaged citizens to participate fully in society. In crafting the NVRA, Congress recognized the potential of public assistance agency-based registration and, to this day, the NVRA remains the only federal law requiring the government to affirmatively offer voter registration to low-income citizens.

Data in Table 2 provide an approximate indication of both the magnitude of the need for voter registration programs in public assistance agencies and the potential of such agencies to help register significant numbers of Americans.

[10] The pre-litigation "notice letters" sent to Arizona, Florida, Missouri, New Mexico and Ohio provide a summary of the investigations in those states. These letters are available at http://www.demos.org.

For each state, Table 2 presents (for 2006):

- The number of adult citizens from low-income households
- The number of unregistered adult citizens from low-income households
- The number of all citizens from low-income households who had resided at their address for two years or less
- The average monthly number of adult citizens participating in the Food Stamp Program

As shown in Table 2, more than 13 million low-income adult Americans are not registered to vote. In addition, more than 12 million have moved within the previous two years, providing an indication of the need for frequent updates to voter registration records.

As a conservative estimate of the flow of traffic through public assistance agencies, the table also lists for each state the average monthly number of adult citizens participating in the Food Stamp Program. Nationwide, nearly 12 million low-income adult citizens participate in the Food Stamp Program in a given month. Average monthly Food Stamp participation reflects just one, albeit the largest, program covered by Section 7's registration requirements and thus likely understates the number of persons interacting with NVRA-covered agencies.

Moreover, the experience of states that have adopted reforms underscores the enormous potential of the NVRA:

North Carolina: After working with Dēmos, Project Vote and the Lawyers' Committee for Civil Rights Under Law to implement an improved voter registration program, North Carolina's public assistance agencies have experienced a five-fold increase in the average number of voters registering in agencies each month, from 484 to 2,529. *Between January and August 2007, North Carolina's agencies have registered more than 20,000 low-income voters — more than these agencies registered in the entire preceding two years.*[11]

Iowa: After adopting plans in 2004 to improve agency-based registration, Iowa experienced an increase in the number of voter registrations by 700 percent over the previous presidential election cycle and an astounding 3,000 percent over the previous year. *In November of 2007, nearly one in five clients who were offered voter registration in Iowa's Department of Human Services agencies took advantage of the opportunity to register.* Iowa already had one of the highest voter registration rates in the nation before implementing these improvements. Thus, its ability to register still more citizens in agencies suggests just how great the potential for the NVRA is in states with lower registration rates. (Table 2 shows that only 33 percent of low-income Iowans are unregistered, compared to a national average of 40 percent.)

> ***"In November of 2007, nearly one in five clients who were offered voter registration in Iowa's Department of Human Services agencies took advantage of the opportunity to register."***

Tennessee: After being placed under a court order in 2002 for failure to provide voter registration in its public assistance agencies, Tennessee improved its procedures and is now a national leader in public assistance registration. *During 2005 and 2006, Tennessee's public assistance agencies generated more than 120,000 voter registration applications.* This is more than twice as many registrations as the next highest performing state. Indeed, for 2005 and 2006, one in five registrations from assistance agencies in the nation occurred in Tennessee (see Table 1a).

[11] See Lisa J. Danetz and Scott Novakowski, Dēmos, A Network for Ideas & Action, "Expanding Voter Registration for Low-Income Citizens" (updated November 2007), available at http://demos.org/generatePub.cfm?pubID=1446. Also note that improved procedures were not implemented in North Carolina until January 2007, so the state's increase in voter registrations is not reflected in Table 1a.

Maryland: Maryland registered only 982 public assistance agency clients in the first two years of implementation and was sued for not complying with the NVRA by a private party. While under a settlement agreement imposing a comprehensive implementation plan, the state's agency registrations increased to 32,250 in 1999–2000, only to drop again to 1,151 after the agreement expired in 2001.

As shown in Table 1a and depicted in Figure 1, states once collectively registered more than 2.5 million citizens through public assistance agencies but now register only a fraction of that number. In short, facts such as the large number of low-income citizens that remain unregistered, frequent changes of address among low-income citizens, sizeable participation in public assistance programs, the higher levels of registration achieved during the initial implementation period, and the current results from a few high-performing states all indicate that agencies could be a far more significant source of voter registration. Thousands of eligible low-income voters could be brought into the democratic process *every day* if states fully complied with the NVRA.

"Thousands of eligible low-income voters could be brought into the democratic process every day if states fully complied with the NVRA."

Evaluating Agency Registration: State Reporting Problems

The NVRA requires the Election Assistance Commission to produce a biennial report to Congress on the impact of the law, including a count of voters registered in public assistance agencies. To write the report, the EAC must gather data from each state's chief election official. Beginning with the first report to Congress in 1997, many states have failed to provide the EAC (or the Federal Elections Commission (FEC), which previously was responsible for this data collection) with the required data on NVRA implementation. Table 3 lists those states that either failed to report data or reported data that was incomplete for the election cycles reviewed in this report.[12]

"The number of states reporting incomplete data or no data on agency registrations has reached an all-time high."

The number of states reporting incomplete data or no data on agency registrations has reached an all-time high. For the 2005–2006 reporting period, 13 states failed to provide complete, or even nearly complete, data on public assistance registrations. An additional six states failed to provide <u>any data</u> on such registrations.

Most of the states providing incomplete public assistance data did a better job in reporting motor vehicle department registrations, an indication of the comparative neglect of the NVRA's public assistance provisions. In the 2005-2006 reporting cycle, of the states that provided no data or incomplete data on agency registrations, the majority reported more thoroughly for motor vehicle departments than for public assistance agencies.

[12] Information on the completeness of data provided by the states was derived from the published reports of the U.S. Election Assistance Commission (EAC). In each report, the EAC includes an assessment of the completeness of reporting by the states. Using this data, we calculated the percentage of the total jurisdictions in a state that reported data in any given reporting period. States were then classified as either complete or nearly complete if greater than 90 percent of jurisdictions provided data; incomplete if less than 90 percent of jurisdictions provided data; or as having failed to report if the state provided no data.

Twelve years after the law's implementation, and despite specific instructions from the EAC as to what data to collect and report, it remains unclear why so many states are still failing to meet their federal reporting obligations of the NVRA. Based on the experience and research of Project Vote and Dēmos, however, poor reporting is often an indicator of widespread problems with NVRA compliance.[15]

State Performance and Incomplete Reporting

To ensure that reported declines in public assistance registrations are not the result of erratic or incomplete state reporting, this section examines only those states that have provided complete data for both periods in the comparison.[16] Figures for states with complete data for *both* periods in the comparisons are marked with a dagger (†) in Table 1b.

Even when controlling for poor reporting, we still find dramatic declines in the number of citizens registering in public assistance agencies, both for the nation as a whole and for the vast majority of states (see Table 4).

1995–1996 Compared to 2005–2006. This comparison shows the decline in registrations since the NVRA went into effect:

- Twenty states provided complete information for both the first (1995–1996) and latest (2005–2006) election cycles.
- Over this period, these 20 states collectively experienced a decline of nearly 1.2 million registrations from public assistance agencies. This represents a decline of 76 percent.
- Over this period, only Maryland and Montana have apparent increases, but this is due to very poor performance in the initial period, as reflected in Table 1a.
- Alaska, the District of Columbia, Florida, Indiana and Texas all experienced declines of over 90 percent during this time.

1995–1996 Compared to 2003–2004. Since it may appear unfair to compare registrations in a presidential election cycle (when greater numbers of people typically register) to registrations in a mid-term election cycle, we also compared the first and most recent presidential election cycles:

- Twenty-five states provided complete data for both periods.
- Public assistance registrations for these states declined by nearly 1.2 million, or 60 percent, over these two presidential election cycles.
- Eight states experienced declines of over 80 percent: Alaska, Arkansas, Connecticut, Indiana, Louisiana, Missouri, Texas and Utah.

2001–2002 Compared to 2005–2006. The next comparison includes the two most recent mid-term election cycles:

- Twenty-three states provided complete data in both periods.
- The data show a 25 percent decline between these two midterm elections.

[15] For example, in New Mexico where less than half of the state's jurisdictions provided data for the 2005–2006 reporting period, surveys by New Mexico ACORN found violations in counties throughout the state.

[16] Again, we categorize states with nearly complete reporting (i.e. those with between 90–99 percent of local jurisdictions reporting) as complete for the purpose of this analysis.

2003–2004 Compared to 2005–2006. Finally, we compare the two most recent election cycles:

- Twenty-three states provided complete data for both of these periods.
- The data indicate a 38 percent decline in public assistance registrations between 2003–2004 and 2005–2006, representing a drop from 692,217 registrations to 429,121.
- Notably, the previously mentioned improvements in Iowa in 2004 made the state one of the only to see a significant increase in registrations during this period.

Interpretations of the percent change columns in Table 1b need to be made with caution: a large percentage change may be due to a small change in the absolute number in small states or in states that previously reported few registrations. In addition, states may show a sizable improvement in recent numbers when it is really a small adjustment compared to their performance a decade ago.[14] Finally, dramatically uneven county performance within a state can also mask significant problems when looking only at state-level data.[15] In short, the best evaluation comes not from looking just at recent data, but from looking at the state's performance across several election periods (Tables 1a and 1b), the size of a state's unregistered population (Table 2) and the results achieved in states that have made efforts to improve their performance.

Toward Fulfilling the Promise of the NVRA

As this report documents, low-income citizens in numerous states across the country are being denied their rights under the National Voter Registration Act. A strong democracy requires equal access to voter registration across all segments of the population. Full implementation of the NVRA is an essential step in ensuring that low-income citizens are able to register to vote. States that have improved their compliance with the NVRA have done so through two means:

- Voluntary cooperation and commitment from state election and public assistance officials to implement known "best practices" that bring them into compliance
- Court orders and settlement agreements resulting from litigation brought by the Department of Justice, individual plaintiffs and/or civic organizations

In addition, this report outlines steps that can be taken by local democracy and anti-poverty organizations to help realize the potential of the NVRA. While litigation may be necessary in recalcitrant states, Dēmos and Project Vote are working to encourage states to voluntarily improve their compliance with Section 7 of the NVRA.

State Efforts to Improve NVRA Compliance

States such as North Carolina and Iowa have worked with Dēmos, Project Vote and others to cooperatively improve implementation of NVRA Section 7. In each state, a dramatic increase in voter registrations from public assistance agencies has followed.

[14] For instance, when comparing the last two mid-term elections, Oklahoma appears to have increased registrations by at least one-third (or about 3,000 registrations); however, 3,000 registrations is much less than one-tenth of the total decline in performance since the NVRA first went into effect.

[15] For example, between 2002 and 2004, Department of Job and Family Services offices in 10 Ohio counties did not register a single voter, DJFS offices in another 12 counties registered fewer than 10 clients, and another 32 additional counties registered fewer than 100 clients in the two-year period. See Complaint in *Hankiss v. Brunner*, available at http://www.demos.org/publ025.cfm.

Through our work in these states and others, we have identified a set of best practices, a general outline of which is sketched below:

- **Form an NVRA Improvement Team.** An NVRA Improvement Team consisting of representatives from the chief election official's office, the designated public assistance agencies, other relevant executive offices, and relevant civic organizations should be formed and should meet regularly to develop and coordinate improved NVRA procedures and monitor systematic reporting from agency sites regarding NVRA performance. The chief election official and state-level public assistance agency should each designate a staff member to be responsible for coordinating NVRA responsibilities.

- **Send an Immediate Directive to Agency/Office Personnel.**
  - A memo should be immediately sent to all offices covered by the NVRA from the agency director detailing the responsibilities of staff under the NVRA, including procedures for offering voter registration, how registration materials are to be ordered, how records are to be kept, how and to whom data are to be reported and detailed instructions on when and to whom to transmit completed voter registration applications.
  - In addition, the memo should request that each local office appoint an NVRA Coordinator to be responsible for the day-to-day functioning of the voter registration program.

- **Train Staff.**
  - Election officials and public assistance agencies should review any current NVRA procedural manuals or training materials for accuracy and update or amend if necessary. Specifically, states must make sure they have appropriate procedures for offering voter registration during "remote transactions" with clients (i.e., interactions that are not on-site).
  - All current agency employees should be re-trained in voter registration procedures, and all new employees should be trained as part of their orientation. Refresher training for agency employees should be conducted at least one a year.

- **Report and Monitor Performance Data.** Frequent reporting and monitoring of the numbers of voter registration applications and declination forms completed at each office is critical to a successful NVRA plan. All agency offices should be directed to begin tracking and reporting to the chief election official's office the following information on a weekly basis:
  - The number of declination forms marked yes
  - The number of declination forms marked no
  - The number of declination forms left blank
  - The number of completed voter registration applications transmitted to the appropriate election official

  We have found that submitting these details via e-mail or a Web-based tracking system is easy for staff and helps with accuracy in reporting and monitoring. Data on the number of applications and declination forms should be made available for review by all NVRA Improvement Team members.

- **Explore New Technologies.** In addition to the procedural enhancements discussed above, states are also encouraged to explore new technologies to enhance and streamline voter registration procedures in agencies. One such technology, used by many motor vehicle departments, is simultaneous electronic registration (SER). SER electronically transfers information from the client's application for benefits to a voter registration application, which is then printed out, signed by the client and transmitted to election officials. The client no

longer needs to manually complete the voter registration form, saving time while also reducing language and literacy barriers. Furthermore, problems with legibility and incomplete voter registration forms are largely eliminated.

Dēmos and Project Vote have extensive experience in assisting states with NVRA compliance. States, agencies or local jurisdictions seeking to improve their NVRA programs are encouraged to contact us for *pro bono* technical assistance, including more detailed and situation-specific recommendations than those outlined above.

Legal Enforcement to Improve NVRA Compliance

For states refusing to implement effective NVRA procedures, litigation is the only option to secure compliance. The NVRA provides for the right of private individuals or groups and the U.S. Department of Justice to file litigation in federal court against noncompliant states.

Since the NVRA went into effect, private individuals and organizations have used the right to private action in the NVRA. ACORN is currently a plaintiff, along with individuals denied their rights under the NVRA, in a lawsuit against the Ohio Secretary of State and the Director of the Department of Job and Family Services. Letters informing officials of NVRA violations — a required first step for the initiation of litigation under the NVRA — have been sent to Arizona, Florida, New Mexico and Missouri at the time of this writing.

In the 1990s the Justice Department was an active participant in litigation forcing resistant states to comply with the law. More recently, however, the Department has largely ignored violations of the public assistance provisions of the NVRA; it has filed only one lawsuit to enforce the NVRA's public assistance registration requirements in the past seven years.[17] Dēmos and Project Vote provided officials from the Justice Department's Voting Section with significant evidence of states' noncompliance in a face-to-face meeting in 2004 and several follow-up memos. The Department showed little interest in pursuing enforcement despite the recommendation of career attorneys in the Voting Section.[18] Moreover, a 2005 letter from 30 members of Congress to then-Attorney General Alberto Gonzalez requesting an investigation into NVRA Section 7 non-compliance went unanswered.[19]

In August 2007, however, under intense scrutiny by the newly elected 110th Congress for its selective enforcement of voting rights laws, the Justice Department issued 13 letters to states requesting that they explain their low performance in public assistance registration. These recent actions are encouraging, but the Department's rationale for selecting states is somewhat confusing. For example, seven states received letters because they were "among the ten states with the lowest percentage of voter registration applications received from offices providing public assistance." Why only seven of the ten worst states received letters is unclear. Under the Department's stated criteria, at least Florida, Texas and Virginia should have also received letters.[20]

As analyses and investigations by Project Vote and Dēmos indicate, noncompliance is by no means confined to the states that received letters from the Justice Department, and the omission of other states from this round of letters should not be taken to mean that all other states are in compliance. Indeed, even within states that perform generally well, there are many counties, and individual agencies, that do not.

[17] That lawsuit was filed in Tennessee in 2002. The enormous increase in voter registration applications at Tennessee public assistance agencies resulting from that lawsuit makes it all the more disappointing that the Department has failed to follow up with additional enforcement actions since that time.

[18] See Pam Fessler, National Public Radio, "Justice Dept. Accused of Partisan Voter Roll Purge," (October 11, 2007), available at http://www.npr.org/templates/story/story.php?storyId=15108501&w=, omitted

[19] The letter is available at http://projectvote.org/fileadmin/ProjectVote/DOJ_Correspondences/Conyers_Letter_to_DOJ.pdf.

One final encouraging sign that the Justice Department may once again be serious about enforcing the NVRA is their recent submission of an *amicus* (friend-of-the-court) brief supporting plaintiffs in the *Harkless v. Brunner*[4] case currently on appeal before the Sixth Circuit U.S. Court of Appeals.

Demos and Project Vote recommend that the Department of Justice follow up on their recent letters with full investigations and, where necessary, initiate enforcement actions in states that are failing to comply with the NVRA's requirements for voter registration in public assistance offices.

Recommendations for Advocacy Groups

National and state-based advocacy groups, especially those working to empower women, low-income communities and communities of color, should have a particular interest in ensuring that the NVRA is fully implemented. There are various measures advocacy organizations can take to improve NVRA compliance, including conducting compliance investigations at local public assistance agencies and informing officials of violations, informing community members of their right to be offered registration at assistance agencies and urging state legislative leaders to hold oversight hearings on their agencies' compliance with the law.

Conclusion

As this report documents, states across the country have failed to comply with the public assistance voter registration requirements of the National Voter Registration Act. The number of voter registration applications from these agencies has declined by 79 percent since implementation of the law in 1995. Analysis of available data suggests that these declines cannot be explained by reductions in public assistance caseloads or the greater availability of voter registration in general. Site visits to agency offices in many states confirm noncompliance with the law.

As a result, a large gap in registration rates remains between our wealthiest and our poorest citizens. A healthy and vibrant democracy can be achieved only when all eligible citizens, regardless of income, are given an opportunity to participate. Full implementation of the NVRA is a proven and effective way to ensure low-income citizens are provided with the opportunity to register to vote. Thirteen years after it was first to be implemented, the time has come to realize the full promise of the National Voter Registration Act.

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[3] For more information and analysis of the Department's letters, see Demos and Project Vote's October 25, 2007, letter to the Chair and Ranking Member of the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties, available at http://www.demos.org/pub/HouseOversightStatement_-_4.12.2007.pdf and Testimony of J. Gerald Hebert, Executive Director and Director of Litigation, Campaign Legal Center, Before the House Administration Committee's Subcommittee on Elections, November 16, 2007.

[4] Nos. 07-3879, 07-4165 (6th Cir).

Table 1a: Voter Registration Applications from Public Assistance Agencies

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Table 1b: Percent Change in Voter Registration Applications from Public Assistance Agencies

State	1995-1996 compared to 2005-2006	1995-1996 compared to 2003-2004	2001-2002 compared to 2005-2006	2003-2004 compared to 2005-2006
Alabama				
Alaska	-97%†	-96%†	17%†	-21%†
Arizona	-70%	-36%	-43%†	-53%†
Arkansas	-83%†	-88%†	-45%	45%†
California	-84%	-57%	-56%	-64%
Colorado	-17%	72%	50%†	-52%†
Connecticut		-82%†		
Delaware	-70%†	-80%	46%†	46%
District of Columbia	-92%†	-79%†	-73%†	-60%†
Florida	-92%†	-47%†	-77%†	-84%†
Georgia	-66%†	-50%	-0%†	-31%
Hawaii	-67%†	-100%	24%†	
Illinois	-74%	-69%	-36%	-14%
Indiana	-93%†	-82%†	-55%†	-60%†
Iowa	-57%	-82%	17%†	136%†
Kansas	-4%	-39%	74%	57%
Kentucky	-60%†	-57%†	-7%†	-7%†
Louisiana	-84%†	-90%†	17%	66%†
Maine		-61%		
Maryland	795%†	90%†	664%†	371%†
Massachusetts		-35%		
Michigan	-24%	-27%	100%	3%†
Mississippi	-90%	-99%	-84%	1251%
Missouri	-89%†	-88%†	-55%†	-12%†
Montana	642%	-4754%	9%	-85%†
Nebraska	-84%	15%†	-39%	-86%
Nevada	-75%	-52%	-92%	-48%
New Jersey	-90%	-55%†	-53%	-78%
New Mexico	-93%		-67%	
New York		-56%†		
North Carolina	-85%†	-74%†	-51%†	-41%†
Ohio	-58%†	-61%†	75%†	10%†
Oklahoma	-78%†	-74%†	32%†	-18%†
Oregon	-50%†	-33%†	-64%†	-25%†
Pennsylvania	-88%†	-48%†	-55%†	-76%†
Rhode Island	-76%		-58%†	
South Carolina	-40%†	-49%†	-24%†	18%†
South Dakota	-69%	-49%†	-52%	-38%
Tennessee	-18%†	18%†	131%†	-91%†
Texas	-95%†	-81%†	-83%†	-75%†
Utah	-98%	-87%†	-84%	-82%
Vermont			-69%	
Virginia	-87%	-84%	-56%†	-20%†
Washington	-69%	-35%†	-46%	-52%
West Virginia	-69%	-37%†		-50%
Total (all states)	**-79%**	**-60%**	**-43%**	**-49%**

† The state provided complete data or nearly complete data for both election cycles used in the comparison.
States not required to the implement the NVRA are excluded from this table.

Table 2: Residential Mobility, Voter Registration and Food Stamp Participation of Low Income Adult Citizens, 2006*

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Table 3: States Reporting Incomplete or No Data

	1995-1996	2001-2002	2003-2004	2005-2006
States Required to Implement the NVRA but Provided Incomplete Data*	Arizona, Colorado, Iowa, Kansas, Maine, Massachusetts, Michigan, Mississippi, Montana, Nevada, Rhode Island, Virginia	Alabama, Arkansas, California, Louisiana, Michigan, Mississippi, Montana, South Dakota, Utah, Vermont	California, Delaware, Georgia, Illinois, Maine, Mississippi	California, Illinois, Kansas, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, South Dakota, Utah, Vermont, Washington, West Virginia
States Required to Implement the NVRA, but Provided No Data		West Virginia	Alabama, Hawaii, New Mexico, Rhode Island, Vermont	Alabama, Connecticut, Maine, Massachusetts, New York, South Carolina

* For the purposes of this report we treat states that provided data from less than 90 percent of their local election jurisdictions as having provided incomplete data.

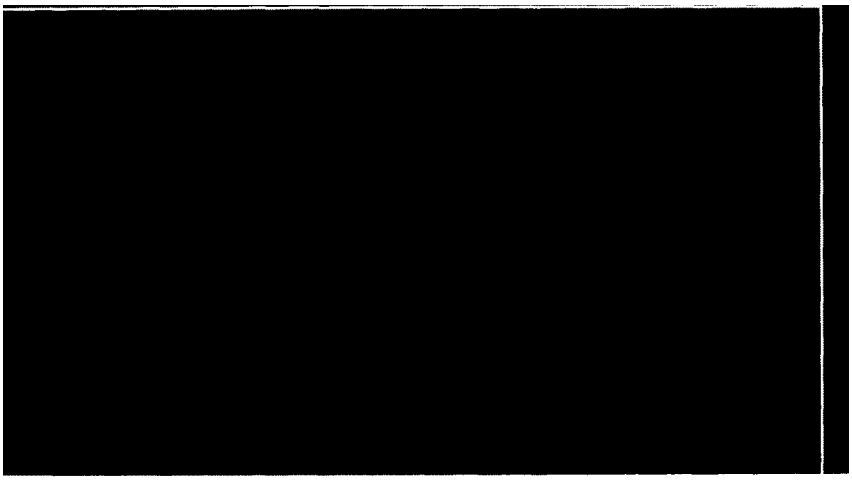
Table 4: Voter Registration Applications from Public Assistance Agencies and Percent Change, States with Complete Data

States included	Initial Implementation Period 1995-1996	Most Recent Reporting Period 2001-2004	1995-1996 compared to 2001-2004
[illegible]	[illegible]	[illegible]	[illegible]
States included	**Presidential Cycle 1995-1996**	**Presidential Cycle 2001-2004**	**1995-1996 compared to 2001-2004**
[illegible]	[illegible]	[illegible]	[illegible]
States included	**Midterm Cycle 1997-1998**	**Midterm Cycle 2003-2004**	**1997-1998 compared to 2003-2004**
[illegible]	[illegible]	[illegible]	[illegible]
States included	**Presidential Cycle 1999-2000**	**Midterm Cycle 2003-2004**	**1999-2000 compared to 2003-2004**
[illegible]	[illegible]	[illegible]	[illegible]

About the Organizations

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in low-income and minority communities. Through community-based voter registration drives, voter education programs and voting rights advocacy, Project Vote works towards a vision of full participation by all Americans in the democratic process. Project Vote has offices in Washington, DC, and Little Rock, AR.

Dēmos is a national, non-partisan public policy, research and advocacy organization committed to helping America achieve its highest democratic ideals. Through publishing books, reports and articles; hosting debates and forums on key issues; and serving as a resource to policymakers and advocacy campaigns, Dēmos works across the country in pursuit of three overarching goals: a more equitable economy; a vibrant and inclusive democracy; and a public sector capable of addressing shared challenges and working for the common good.



About the Authors

Douglas Hess first worked for Project Vote in 1994, directing for three years an effort to secure fair and effective implementation of the NVRA. In 2004, and starting again in 2007, he has worked as a consultant on the NVRA at Project Vote. He is a Ph.D. candidate in Public Policy at George Washington University, and earned his M.A. in Policy Studies at Johns Hopkins University. In addition to voting rights, he has worked in other areas of civil and human rights, on children's food and nutrition policy, and with grassroots community organizations in the U.S. and Haiti.

Scott Novakowski joined Dēmos in September 2005. He holds a Master of Social Work degree with a concentration in Policy Practice from the University of Connecticut School of Social Work and a B.A. in Sociology, also from the University of Connecticut. In 2005, Scott was selected as Connecticut's Student Social Worker of the Year by the National Association of Social Workers. At Dēmos, Scott works primarily on securing state compliance with the public assistance provisions of the National Voter Registration Act and other reforms to ensure historically marginalized populations have access to the democratic process. Scott has spoken at various conferences and testified before the Election Assistance Commission on democracy issues and has had articles published in the Professional Development: The International Journal of Continuing Social Work Education and Tompaine.com among others.

Ms. LOFGREN. I also recognize Mr. Davis for his 5 minutes.

Mr. DAVIS of Alabama. Thank you, Madam Chairwoman.

Dr. Muhlhausen, I am reluctant to engage in too long a colloquy with you. A veteran Member of Congress told me one time, if you ever get in an argument with a statistician, if you ever catch him in an error, he will just say something incomprehensible, and nobody will understand.

Mr. MUHLHAUSEN. I will try my best not to do that.

Mr. DAVIS of Alabama. Well, ignoring my own advice, let me try to work through a hypothesis here, and maybe you or someone else can tell me why I am wrong.

You would agree with me that people who are working are more likely to register to vote than people who are unemployed, wouldn't you? As a statistical matter, would you expect that to be the case?

Mr. MUHLHAUSEN. Well, you would expect that, but it's not what I found in my research. I found that unemployment rates were unassociated with registering to vote at public assistance offices. People who are unemployed but still in the labor force may, in fact, register to vote at other places besides——

Mr. DAVIS of Alabama. Well, I am not just focusing my narrow question on where people register or even on the narrow questions you identify in your report but just as a general proposition. If someone is working, it would seem to me that there would probably be a variety of statistical evidence showing that they are more likely to be registered to vote than someone who is unemployed.

Are you telling me that you disagree with that?

Mr. MUHLHAUSEN. No, I do not.

Mr. DAVIS of Alabama. Okay. Well, then——

Mr. MUHLHAUSEN. That is not the hypothesis.

Mr. DAVIS of Alabama. But you would not challenge that?

Mr. MUHLHAUSEN. No, I would not. I think that is a reasonable expectation.

Mr. DAVIS of Alabama. Okay. Another reasonable expectation: People who are not eligible for public assistance, meaning they make too much money for it, are probably more likely to register to vote than people who are eligible for public assistance.

Does that sound like a reasonable proposition to you?

Mr. MUHLHAUSEN. I think that is borne out just by people with higher incomes are more likely to vote.

Mr. DAVIS of Alabama. Okay. So it would seem that, if one wanted to really push your hypothesis, the best thing to do—and perhaps Ms. Danetz or Mr. Slater could weigh in on this—it would seem to me the best way to test your hypothesis would be to look at people who have left TANF because their income levels have gone up or people who have left TANF because they are employed to see if you see a rise in the voting population among those groups.

Have you done any of that analysis?

Mr. MUHLHAUSEN. I am not aware of any data available that could be used for that, though I think that is a worthy research topic.

Mr. DAVIS of Alabama. Well, let me tell you why that is significant for us policymakers and not just a worthy research topic. We have a dispute here. We have Ms. Danetz and Mr. Slater who are

saying the reason that the voter registration levels at these public assistance agencies has fallen down is because of institutional resistance, given agencies not doing enough. You are telling us that maybe we shouldn't jump to that conclusion, and you are telling us that it may simply be that, if fewer people are eligible for the public assistance rolls, fewer of them can take advantage of voter registration activities.

So I guess, if I can really sum it up in a nutshell, I have heard welfare reform blamed for a lot of things; it would seem that, today, we are hearing it blamed for less people getting registered to vote.

Now, if that is the case, it would seem to me that we need a lot more statistical rigor than, frankly, what we are hearing. I am not necessarily faulting you as a person, but there is something about your methodology that seems to me, frankly, flawed.

Ms. Danetz, do you follow my point?

Ms. DANETZ. I am not a statistician, but I believe so.

I would simply say that, in the same time that voter registration has declined at public assistance agencies, TANF may have gone down but other public assistance programs' caseloads and, more specifically, applications, redeterminations and changes of address, which is the relevant point at which the opportunity to register to vote must be offered, have increased.

So my understanding—I was only able to glance briefly at Dr. Muhlhausen's testimony. My understanding is that there are some methodology issues there.

Mr. DAVIS of Alabama. Well, the point I would make is it just seems, Dr. Muhlhausen, the flaw in what you do is that it is descriptive, but for you to be prescriptive, for you to give us something that we can use as policymakers, you would need to measure people who have left the rolls. If the situation is that these people are registering to vote but that they are registering to vote on their own as they move to a higher strata in society, I do not know that we would be as troubled by that, frankly. I do not think we care how people get registered, as long as they get registered.

I think the concern that we would have, especially on this side of the aisle, would be if for whatever reason people are not getting registered through public assistance and they are still not getting registered even as they move up the economic strata. It would seem that that is the point worthy of being tested.

Mr. Slater, you are wanting to jump in.

Mr. SLATER. No, I would agree with that. To add to what Ms. Danetz pointed out, I think what we are missing from Mr. Muhlhausen's model, food stamps, the largest program.

Mr. MUHLHAUSEN. That is not true. My model controls for food stamps and for WIC.

Mr. SLATER. Well, I stand corrected then.

Also, it looks at registrations. It does not look at all of the covered transactions, which I think is probably the appropriate point to look at. We need to know how many people are applying, how many people are recertifying and how many people changed their addresses in order to understand the total volume of transactions and the relationships.

Mr. DAVIS of Alabama. Well, I would just end, Madam Chairwoman, by saying this much. I would go back to what I said to the previous panel. The gap between people eligible to vote and those who are registered in low-income communities and minority communities appears to be as acute today as it was 10 or 15 years ago. I doubt anyone would dispute that. In fact, it may have worsened in many States.

So it seems to at least one person in this room who is not a statistician that the larger public policy problem is that we have targeted one way to get more people registered; that way no longer seems to be yielding the results that we want. And I think that that is the broader problem.

Ms. LOFGREN. The gentleman's time has expired. I do want to let Dr. Muhlhausen respond just briefly before we adjourn.

Mr. MUHLHAUSEN. Sure.

Congressman Davis, I think your questions were very thoughtful, but I would like to add that the methodology that I used was not descriptive. The method I used by the organization and by my colleagues here was descriptive, and it does not control for factors that influence changes in voter registrations, which my methodology uses. It is commonly accepted. It is called a regression analysis. It looks at the changes in various variables and how it influences others.

As far as I know, mine is the first study to actually be sophisticated enough to draw inferential conclusions about the relationship between registrations and welfare and other factors that are going on in the States.

Ms. LOFGREN. Thank you very much to all of the witnesses for your—oh, Mr. Ehlers has just walked in.

I would like to recognize Mr. Ehlers, if you want to engage in questions. I do not know if you have been listening to the hearing on C–SPAN or the Web. You are not required to ask a question.

Mr. EHLERS. First of all, my apologies for being late. I was in a very distressing meeting, learning all the weaknesses of our security system for airplanes. But I will not get into that now. Let me just say the best thing to do is just walk. [Laughter.]

Ms. LOFGREN. It is a long walk home from here.

Mr. EHLERS. I know.

Thank you for having the hearing. I think it is a very worthwhile issue and something that has to be addressed.

As you know from my concerns before, my chief concern was trying to make it as fraud-proof as possible, not so much out of fear that individuals would try to game the system but that this may lend itself to various operatives to develop ways to use it for fraudulent purposes. And I think, whatever we do in this, we have to make sure to keep in mind the potentialities for fraud by various groups.

With that, I will yield back. Thank you.

Ms. LOFGREN. Thank you, Congressman Ehlers.

At this point, we will thank all of the witnesses for their testimony.

Note that the record will be open for 5 days. If members have additional questions that they would like to submit to you, we will forward them to you. If that occurs, we would ask that you try and

respond as promptly as possible so we can get the responses as part of the hearing record.

I do believe that this is an important topic. There has been a decline in registration rates among low-income individuals. Clearly, our North Carolina and Michigan witnesses have told us it is possible to do better, and I think we will be exploring ways to make that happen.

One of the things that people do not realize is that our witnesses are volunteers. They are here to help this committee do a better job and to help the Congress move the country forward. So we do appreciate your willingness to help in that way.

With that, this hearing is adjourned.

[Whereupon, at 3:27 p.m., the subcommittee was adjourned.]