



APR 13 1995

Ms. Jennifer O'Connor
Special Assistant to the President
for Cabinet Affairs
Room 160
Old Executive Building
Washington, D.C. 20500

Dear Ms. O'Connor:

This is in response to your request for information on activities relative to the National Voter Registration Act of 1993 (NVRA). Staff from the Administration for Children and Families (ACF), Office of Family Assistance (OFA) engaged in the following initiatives:

- o In 1993, ACF initiated an interagency work group on NVRA implementation which included staff from the Health Care Financing Administration (HCFA) and the Food and Consumer Service (FCS). We also consulted with the Federal Election Commission (FEC) and the Department of Justice (DOJ) on the technical aspects of the statute.
- o OFA staff attended/participated in five regional conferences in 1993 held by the FEC to discuss the provisions of the NVRA. The purpose of these meetings was to provide information to the States on their responsibilities under the law, to discuss the major issues to be considered when developing conforming legislation, and to examine approaches to implementing the various provisions of the law. The schedule and location of the five FEC conferences was as follows:

- | | |
|-------------------------|---------------------|
| 1. Seattle, Washington | September 18 and 19 |
| 2. Dallas, Texas | September 27 and 28 |
| 3. Chicago, Illinois | October 1 and 2 |
| 4. Boston Massachusetts | October 16 and 17 |
| 5. Atlanta, Georgia | October 23 and 24 |

- o On September 7, 1993, the AFDC program released an Information Memorandum (ACF-IM-93-5) to 1400 State agencies and other interested parties. The purpose of the Information Memorandum was to alert State agencies of the NVRA provisions that have a direct impact on public assistance agencies.
- o On February 11, 1994, OFA staff participated on a panel in the League of Women Voters Education Fund Conference at the Capitol Hilton Hotel in Washington, D.C. We discussed the role of public assistance agencies and the implementation of NVRA. The audience was comprised of representatives of 35 State Leagues of Women Voter groups and other organizations.
- o On March 21, 1994, a letter from the Assistant Secretary for ACF was sent to all State Commissioners advising them of the decision to allow Federal Financial Participation (FFP) of costs associated with NVRA activities. An AFDC Action Transmittal (ACF-AT-94-7) was also released giving more detail on Federal matching.
- o On October 22-23, 1994, an OFA representative participated in a panel discussion of NVRA requirements at a HumanServe sponsored conference in New York City. Other panel members included the Commissioner for the Kentucky Department for Social Insurance and a representative from APWA.
- o On November 14-15, 1994, OFA staff participated with the American Public Welfare Association in a Ford Foundation sponsored conference entitled "Assisting Human Services Departments to Implement the National Voter Registration Act." The conference included representatives from each State, voter rights advocates, the FEC, the DOJ, and the FCS. The Federal representatives provided an overview of the NVRA requirements and implementation activities, including instructions, technical assistance and the availability of matching funds.
- o ACF developed a Notice of Proposed Rulemaking (NPRM) to repeal the existing prohibition on distributing voter information in public assistance offices. The NPRM was published on November 22, 1994.
- o Planned future actions include the evaluation of public comments on our NPRM and the publication of the final rule. We will also issue another Action Transmittal in a question and answer format addressing a number of technical issues

Page 3 - Ms. Jennifer O'Connor

that have been raised by State agencies; both HCFA and FCS will be consulted on our answers. Another planned initiative is to have a discussion of NVRA issues during an AFDC-JOBS national conference this summer.

I hope this information is responsive to your request.

Sincerely,



Peter Edelman
Counselor to the Secretary

P.S. I will be back to you soon with an elaboration of future plans as mentioned in the last paragraph of this status report.

PBE

FAX TRANSMITTAL SHEETRECEIVER TELECOPIER NUMBER: 456-7929TO: Jennifer O'ConnorFROM: Kris BalderstonDATE: 5/1/95 TIME: 3:30PAGE NUMBER ONE OF 1 PAGES

TRANSMITTER TELECOPIER: (202) 219-7971

ADDITIONAL COMMENTS:

IF YOU HAVE QUESTIONS REGARDING THIS FAX CALL: 219-8271

Rec'd 4/19/95

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

APR 7 1995

PURPOSE: DECISION

MEMORANDUM FOR THE DEPUTY SECRETARY

DECISION REQUESTED BY:

FROM:

THOMAS S. WILLIAMSON, JR.
Solicitor

Date: ASAP

Time: N/A

for DOUG ROSS *RGH*
Assistant Secretary for
Employment and Training

SUBJECT:

DOL Funding of State Employment Security Agency
(SESA) Voter Registration Activities

This memorandum sets forth the options for addressing an issue regarding the possible use of unemployment compensation (UC) administrative grants, Reed Act funds and Employment Service (ES) administrative grants by the States to fund voter registration activities in State UC offices under the National Voter Registration Act (NVRA) of 1993, P.L. 103-31. The NVRA permits, but does not mandate, States to designate State UC offices as voter registration agencies. White House officials, U.S. Department of Justice (DOJ) officials, State agencies, and public interest organizations have raised concerns about whether Federal funding would be available for voter registration activities in State UC offices, and have requested the Department of Labor to address this issue.¹

BACKGROUND

This issue was raised in separate inquiries from the New York organization Human SERVE, and Joe Velasquez, formerly of the White House Office of Political Affairs. The issue of whether Social Security Act (SSA) UC administrative grants may be used for voter registration activities came to our attention in May 1994 when SOL received a copy of an opinion rendered to Human SERVE by the Community Service Society of New York (CSSNY). The opinion took the position that the NVRA permitted States to use UC administrative grants for voter registration activities. Contrary to CSSNY's view, we believe that because the NVRA did not expressly authorize States to use UC grants to administer voter registration activities, States may not use UC grants to

¹ I am forwarding with this decision memorandum a copy of the underlying legal memorandum that was prepared by my staff. The legal analysis provides a detailed discussion of each of the issues summarized in the decision memorandum.

administer such activities.

SSA provisions limit the uses of UC administrative grants to only those activities necessary for the proper and efficient administration of a State's UC law. SSA §§ 302(a); 303(a)(8); 901(c)(1)(A)(i). Because voter registration activities do not appear to be necessary for the proper and efficient administration of a State's UC law, SSA Title III restrictions prohibit States from using UC administrative grants for these activities, absent a statutory amendment.

However, due to the Administration's strong support of the NVRA, we anticipate that you might want to maximize the States' flexibility to carry out voter registration activities in their UC offices. Thus, we have identified for your consideration two options, one of which involves the limited use of UC funds and one of which involves the use of a combination of other available DOL funds and State funds.

The first is reflected in the following policy statement (hereafter "no-chargeable-costs option") that we believe would provide as much flexibility as the law would permit for the use of UC administrative grants:

Although Congress authorized States to designate unemployment compensation (UC) offices as voter registration agencies, this authorization was not accompanied by an amendment to the Social Security Act (SSA) Title III prohibitions against the expenditure of grant monies for purposes other than the proper and efficient administration of the State's UC law. Thus, Title III grant monies may not be expended to carry out the purposes of the National Voter Registration Act. However, in the event a State chooses to so designate a State UC office, the Department has determined that it will not disallow costs or raise conformity or substantial compliance issues under SSA §§ 303(a)(1) and 303(a)(8) unless the designation of such an agency or the performance of such voter registration functions: (1) results in any additional charges to UC grant funds, or (2) otherwise impedes the operations of that UC office.

This no-chargeable-costs option would allow some voter registration activities to be conducted in State UC offices to the extent that States incur no additional chargeable costs in the use of existing UC-funded resources. (Basically, this option would permit States to perform at least some voter registration activities to the extent that they could be performed within the limits of existing, legitimate UC expenditures.) To the extent additional costs are incurred (even if they appear to be de minimis costs), it is important to inform the States that they

must fund such additional costs from non-UC administrative grant sources. Failure to do so could result in disallowed costs and other remedies.

In the event you wish to consider having DOL pay for SESAs' (the agencies that operate the UC and ES programs within a State) NVRA activities with funds other than UC administrative grants, there are arguments that can be made to authorize the use of Reed Act funds (certain excess funds from the Unemployment Trust fund occasionally made available to the States for certain broadly defined purposes) and Wagner-Peyser Act funds (which fund State Employment Service (ES) grants) for voter registration activities in ES (public employment) and, perhaps, even UC offices. The first argument flows from the fact that neither the Reed Act nor the Wagner-Peyser Act has the express statutory limitations on the expenditure of administrative grant funds that are imposed on UC administrative grants. Because both the Reed Act (assuming appropriate authorization by the State legislature) and the Wagner-Peyser Act permit such funds to be used to operate State "public employment offices," funds under either Act may be used to fund any legitimate ES office administrative expense. Since the NVRA authorizes States to designate any of a variety of public offices to conduct voter registration activities, States might elect to designate their ES offices. If so, the conduct of such voter registration activities could be said to be a legitimate ES administrative expense. Further, we believe that this would be true even if the ES activity were conducted at an "off-site" location (e.g., in a UC office in which ES staff are co-located to assist UC claimants to register with the ES) or even if UC staff performs voter registration activities. It would simply be necessary for the SESA, which is responsible for both the State's UC and ES programs, to fairly allocate costs between the two programs, in other words, to assure that funds attributable to voter registration activities were charged to either the Reed Act account or to the ES grant. This interpretation of federal law is consistent with Congress' recognition in the NVRA that voter registration is an important federal priority and that federal agencies are to cooperate with the States as much as possible regarding the designation of voter registration agencies.

The second argument would be that the Wagner-Peyser Act authorizes SESAs to use ES grant monies for "developing linkages between services funded under this Act and related Federal or State legislation...." 29 U.S.C. § 49f(a)(3)(B). It can be argued that Congress' intent in the NVRA that States use public agencies to make access to voter registration widely available provides a sufficient relation to ES services so that a linkage can be developed between the two laws, permitting ES grants to be used to provide those services.

The Department met with CSSNY staff attorney Jonathan Feldman on January 13, 1995 to discuss this matter. Attending for the Department were officials from the Unemployment Insurance Service, the Employment Service, and SOL. John Tanner, Voting Rights Section Chief for DOJ, attended for informational purposes. Although nothing was resolved at the meeting, the Department and Mr. Feldman benefitted from a better understanding of each other's position.

We note that the Department of Health and Human Services (HHS) is also concerned with the issue of whether Federal grant monies may be used for voter registration activities. Informal discussions with an HHS official have revealed that HHS allows States to use Federal matching funds for voter registration activities in State public assistance offices administering the Aid to Families with Dependent Children (AFDC) program, but it prohibits the use of SSA trust funds for voter registration activities in the Federal Social Security offices.

Also, the Office of Management and Budget (OMB) has requested that we coordinate with them prior to a public issuance of our position. To the extent that the no-chargeable-costs option may be more flexible than HHS' policy, it would be especially appropriate to allow OMB to coordinate a uniform Federal policy.

The two options set out below provide at least some support for funding for voter registration activities. The options are not mutually exclusive--it is possible to decide to adopt both.

OPTIONS

1. The Department may adopt the no-chargeable-costs option. This is a potentially legally defensible option that would still allow States at least a little flexibility to use UC-funded resources for voter registration activities. However, there are some risks associated with adopting this option. First, the Office of Inspector General may criticize the Department for allowing even an indirect allocation of UC administrative grant funds for voter registration activities absent an explicit statutory authorization which could lead to criticism from NVRA opponents. Second, it may be very difficult, if not impossible, to detect abuses of the policy. Third, the policy would set a precedent that might make it more difficult for the Department to challenge other uses of UC administrative grant resources for non-UC purposes. Fourth, adoption of the policy may not satisfy proponents of full federal funding for voter registration.

2. The Department may permit the States to use Wagner-Peyser Act funds and Reed Act funds for voter registration activities in designated State ES agencies, including voter

registration activities in UC offices to the extent costs are appropriately allocated to the ES grant or Reed Act account. (While it is possible that the Department might wish, for policy reasons, to authorize the use of one source of funds and not the other, the legal basis for authorizing the use of both funding sources is the same and it would be hard to enforce any ban on the use of only one of the two funding sources.)

This option has the advantage of providing DOL funding for voter registration activities, albeit not in the preferred manner. Thus, the Department should be seen as making a serious effort to promote Administration policy. To the extent that ES grant funds or Reed Act funds are used by co-located or UC staff to provide voter registration services in UC offices, the Department will have gone some way toward meeting the desires of NVRA proponents to provide voter registration services in UC offices.

On the other hand, the legal arguments in support of this option, while reasonably-based, are not clearly persuasive. This could subject the Department to criticism. Also, given that ES grant funds are scarce, the States may not be interested in using these resources for voter registration activities. Similarly, the Department may wish to assure that the resources available to ES agencies for implementation of the one-stop initiative are maximized and may not wish to authorize the use of significant amounts of such resources for voter registration purposes.

Other considerations also may make the use of Reed Act funds under this option impractical. First, States usually prefer to use these limited funds for long-term assets such as buildings, and not on transitory costs such as staff salaries.² Second, only 35 States currently have Reed Act funds, totaling only \$34.4 million. Third, Reed Act money is State money. Authorizing the use of that funding source might not be seen as a Federal contribution to the administration of the NVRA.

² When Reed Act funds are used to purchase a building or other tangible asset, the cost of the asset can be amortized over time using UC grant funds. Thus, the Reed Act funds can be recycled and used again. Thus, the \$34.4 million currently available in the States represents money that has been expended and recycled. If Reed Act funds are used to pay benefits or for administrative costs, like voter registration activities, the expenditure is not recoverable.

Please advise me if you have any questions or if you would like to have a meeting.

APPROVED OPTION(S):

No. 1 ☒

No. 2 ☒


THOMAS P. GLYNN

April 28, 1995

Mr. Richard A. Cloward, Executive Director
Ms. Jo-Anne Chasnow, Associate Director
Human Serve
622 West 113 Street
Suite 410
New York, New York 10025

Dear Mr. ~~Cloward~~ and Ms. Chasnow,

Thank you for your memo to Doug and your updates and ideas. We are continuing to work with our federal departments to make sure that Motor Voter is implemented as effectively as possible, and the information you have been providing has been helpful in this regard.

I wanted to share with you a chronology of activities that the Administration for Children and Families has engaged in to implement Motor Voter. I understand that Motor Voter implementation will be one of the subjects of an AFDC obs national conference this summer. If you have particular ideas for that forum, I encourage you to discuss them with Peter Edelman, Counselor to the Secretary of HHS at (202) 690-8157.

- In 1993, ACF initiated an interagency work group on NVRA implementation which included staff from Health Care Financing Administration (HCFA) and the Food and Consumer Service (FCS). We also consulted with the Federal Election Commission (FEC) and the Department of Justice (DOJ) on the technical aspects of the statute.
- OFA staff attended /participated in five regional conferences in 1993 held by the FEC to discuss the provisions of the NVRA. The purpose of these meetings was to provide information to the States on their responsibilities under the law, to discuss the major issues to be considered when developing conforming legislation, and to examine approaches to implementing the law. The schedule and location of the five FEC conferences was as follows.:

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- ACF developed a Notice of Proposed Rulemaking (NPRM) to repeal the existing prohibition on distributing voter information in public assistance offices. The NPRM was published on November 22, 1994.

We're following up on your other proposals. Please let me know of other ways that we can work with you.

Sincerely,

Jennifer O'Connor



4/25/95

To: Jennifer O'Connor, Special Assistance to the President
for Cabinet Affairs
From: Jo-Anne Chasnow, Associate Director 

3 pages via fax: 202-456-6704

I regret that I neglected to give you the attached memorandum when Richard Cloward and I said hello to you today. Greg is Greg Moore at the DNC, Doug is Doug Sosnick.

I would also like to bring another matter to your immediate attention. Doug Hess, NVRA Implementation Director for ACORN (Association of Community Organizations for Reform Now), has begun investigating possibilities of encouraging the INS to integrate offering voter registration to applicants during their final citizenship ceremonies. They could use national mail-in forms. Doug has begun discussions with INS and various community groups, all of whom are interested. The question is: HOW BEST CAN THE INS GET THE AUTHORIZATION TO BEGIN? Doug's telephone number is: 202-547-2500. He would welcome talking with you about this.

Thank you for your ongoing attention and assistance.

622 West 113 Street • Suite 410 • New York, New York 10025 • 212 854 4053 • fax 212 854 8727

National Staff: Richard A. Cloward, Executive Director • Jo-Anne Chasnow, Associate Director • Louise Altman, Associate Director
David Plotkin, State Programs Director • Rebekah Evenson, Program Associate • Deborah Karpatkin, General Counsel

Board of Directors: Juan Cartagena, President • Frances Fox Piven, Secretary • Richard A. Cloward, Treasurer • Roger Alcaly • Calvin Butts • Margaret Carey • Blair Clark
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Paul Anders Ogren • Basil Patterson • Cheryl Patterson Artis • Jan Pierce • Anthony Robbins • Baldemar Velazquez • George Wallerstein • Juanita White

April 21, 1995

TO: Greg/Doug

FR: Richard

Human SERVE is nonpartisan. We are always subject to IRS investigation. Please use this memo discretely.

Here are the projects which we think MUST be conducted.

Monitoring

Counties throughout the nation with the highest poor/minority populations must be identified and monitored. If statistical monitoring shows low registration increases, we will arrange for members of civil rights and other cooperating groups to go into public assistance centers to determine whether voter registration is actually going on, and how effectively. Local advocacy groups will then be mobilized to bring pressure on officials to comply with the NVRA, including threats of law suits.

Registering More Women

Thousands of day care centers, family planning agencies, community health care centers and other agencies serving mainly women (and children) could register millions. Human SERVE is prepared to mobilize them to begin offering voter registration at their reception/intake desks. We say to them, "Are the Bible Churches registering their congregants? Yes. Are the day care centers registering their clients? No." They get the point. With DNC guidance, we can target particular states and counties.

Registering the Elderly

Ditto the above, but this time with senior centers as the target. We'll get the AARP to help get the word out to agencies serving the elderly. We've already talked to the senior center coalition leaders in New York City, and they are running wild with the idea.

New York State is a Sure Loser for Clinton Unless...

Clinton is going to lose this state. No question about it. There are between 1.5 and 2 million unregistered in New York City. Dinkins lost by 40,000 and Cuomo by 185,000. Incredible. The Democratic party has no capacity to get them mobilized. Hands-on registration campaigns won't make a dent in the problem.

The NVRA -- which is being effectively implemented in this state -- is already making the problem worse. Because of the excellent New York City transportation system, only 50% of the VAP drives. On Long Island and upstate, 90% drive. Registration in PA agencies, which is just starting and which we monitor daily, will reduce but not eliminate this disparity.

No one will listen to us about this 90/50 problem, although there is a solution. The solution is the NVRA enabling legislation which Human SERVE got through the legislature last June after a bitter fight with Senate Republicans. It requires the 10,000 not-for-profit agencies with state funding -- day care centers, family planning clinics, community health centers, child welfare centers, settlement houses, senior centers, and kindred agencies -- to conduct voter registration at their reception/intake desks. But they do not know of this new obligation. We

can tell them, activate them. Believe us about one thing: these agencies will act -- they know that the Pataki/Guilliani/Contract with America cuts put them at peril.

The NY law also includes CUNY/SUNY -- voter registration at course registration in September and February. CUNY has 225,000 very angry students. Frances (Distinguished Professor at CUNY) will see that the system gets set up to register them. NYPIRG will handle SUNY.

Americans with Disabilities

The NVRA says all agencies (both public and not-for-profit agencies serving the disabled) must offer to register their clients (which could also include relatives). I asked Stan Greenberg whether this would be an appropriate constituency to focus on. He didn't answer my letter. I asked Celinda Lake what poll data showed; she didn't know. Human SERVE can easily include these agencies in both New York and in other targeted states. Should we, or shouldn't we? I need guidance. My sense is that this community is already disturbed about Republican plans to cut Medicaid, etc.

Unemployment Agencies

The working poor who neither drive nor receive social benefits can be registered in unemployment agencies. The federal Labor Department is still refusing to authorize use of federal dollars for administrative costs (unlike HHS). I can't understand why the White House is not raising pure hell with Labor about this. The NY State law includes unemployment, but Pataki is using the lack of authorization to use federal funds as grounds for not implementing registration in this network of agencies. Speaking more generally, the Republicans are fighting NVRA implementation much more vigorously than the Democrats are pushing it.

Law Suits

We continue to be a primary resource for voting rights attorneys taking suits against recalcitrant Republican governors (e.g., we provide expert affidavits, etc.). The Justice Department has been good on this. We're winning the suits. After losing at trial, Pennsylvania has thrown in the towel, and we will monitor NVRA start-up in that state.

Money

I need a modest amount of money -- \$250,000 -- preferably from donors (who can take tax deductions), rather than directly from the DNC (which might put our tax-exempt status in question). Jo-Anne Chasnow would coordinate the mobilization of not-for-profit agencies nationally (Greg can vouch for her: the agencies won't know what hit them!), and in New York, but she needs organizing assistance. We need a full-time organizer in New York, and we should probably put on an organizer in California, and in Michigan/Illinois to organize the not-for-profit agencies, since the Republican governors will continue to try to stall in the courts, and at best public agencies will get a late start. But we would be guided by Doug, or the DNC, or by whomever makes these strategic decisions, on where to put our organizing focus.

U.S. DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY



DATE:

3/27

SENT TO:

Jennifer O'Connor

PHONE #:

FAX #:

NUMBER OF PAGES SENT:
(excluding cover sheet)

2

FROM:

Charlie Rawls/Billy Cox

PHONE #: 202-720-3631

FAX #: 202-720-5437

COMMENTS:



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park Center Drive
Alexandria, VA 22302

INFORMATIONAL MEMORANDUM FOR THE EXECUTIVE ASSISTANT TO THE
DEPUTY SECRETARY

MAR 21 1995

FROM: William Ludwig *Bill*
Administrator
Food and Consumer Service

SUBJECT: Status of WIC Program Implementation of the
National Voter Registration Act (NVRA)

ISSUE:

What is the status of implementation of the NVRA by WIC State agencies?

DISCUSSION:

The NVRA

The NVRA requires States to expand voter registration services to public assistance offices, including WIC Program sites. By law, at a minimum, the following services are required to be made available to public assistance applicants:

- (1) distribution of mail voter registration application forms;
- (2) assistance in completing the form; and,
- (3) acceptance and transmittal of completed registration forms to State election officials.

State-level elections officials are responsible for taking the lead in the implementation plans for the NVRA in their State. As such, State agencies that administer public assistance programs receive their specific directives for implementation from their State election officials.

FCS Actions to Implement in WIC

Although WIC State agencies must adhere to the specific directives of their own State election officials, the Food and Consumer Service has played a prominent role in educating WIC agencies about the NVRA requirements and has taken aggressive steps to facilitate implementation of the NVRA by WIC State agencies. For example, FCS has issued at least four policy memoranda which aggressively promote implementation and provide detailed guidance and technical assistance to State WIC agencies. One of these clearly establishes that costs associated with implementation in WIC clinics are allowable WIC costs. In addition, FCS WIC staff have attended meetings throughout the country to provide training and additional technical assistance to State agency representatives on implementation.

FNCS #
20

**INFORMATIONAL MEMORANDUM FOR THE EXECUTIVE ASSISTANT TO THE
DEPUTY SECRETARY**

2

CURRENT STATUS:

With the exception of four States, all WIC State agencies governed by the NVRA have implemented the NVRA. Illinois, Pennsylvania, South Carolina, and Michigan have not implemented the NVRA in WIC or any other public assistance programs because they were directed by State governors or other high ranking State officials to cease all efforts consistent with their State's overall opposition to the Act. Since States, not WIC State agencies, are responsible for implementation of the NVRA, WIC State agencies generally have no independent discretion to implement the law in WIC without support and guidance from their State officials. However, in California, the WIC State agency independently and solely implemented the Act in WIC, despite the fact that the State itself is otherwise noncompliant and in disagreement with the NVRA.

The Department of Justice (DOJ) filed suit against four States -- California, Illinois, Pennsylvania, and South Carolina -- for failing to implement the NVRA. DOJ is reviewing whether to file suit against Michigan.

On March 2, the U.S. District Court for the Northern District of California ruled that the State of California must implement the NVRA. On March 8, the State of California appealed the ruling by the District Court and is seeking a motion to stay the order to implement.

NEXT STEPS:

As noted above, all WIC State agencies have implemented the NVRA, with the exception of four States where the WIC State agency was asked to cease implementation by State officials. Given that WIC State agencies generally acted promptly and responsibly to the extent of their jurisdiction in implementing the Act, one possible next step is to write letters to State WIC agencies acknowledging their support and thanking them for their good faith efforts to comply with the Act. Pending an upholding of the California appeal, FCS may wish also to write to the four noncompliant WIC State agencies sharing the results and suggesting that they re-approach their election officials with the court conclusions.

21 April 1995

MOTOR VOTER UPDATE

We know what the press is saying.
We know what the pundits are saying.
Here are the facts.



Reporters and pundits are publishing a good deal of misinformation about the National Voter Registration Act, which got underway in January of this year. Early press/pundit analyses were based on fragmentary data from a few states (especially Georgia) and **THEY WERE WRONG.**

It is not true that voter registration is only rising in Republican counties. The press reported, for example, that "Republican strongholds" in Georgia were benefiting most from DMV registration. William Schneider treated these claims as factual in a National Journal article. Since people do not register by party in Georgia, we can only compare rates of registration for traditionally Democratic and Republican counties.

We look first at DMV figures. Drivers are being registered in every Georgia county, and at relatively equal rates (although the highest relative registration is in Fulton county, which is both Democratic and the most populous county in the state). Here are comparisons of DMV registration figures with the 1992 VAP for the four most populous counties (2 are Democratic and 2 Republican) at the end of the January-March quarter.

Fulton (1992 Democratic vote = 57%)

DMV registration: 15,849
VAP: 496,000
DMV/VAP ratio: 3.2%

DeKalb (1992 Democratic Vote = 58%)

DMV registration: 11,530
VAP: 424,000
DMV/VAP ratio: 2.7%

Cobb (1992 Democratic vote = 32%)

DMV registration: 11,208
VAP: 370,000
DMV/VAP ratio: 3.0%

Gwinnett (1992 Democratic vote = 29%)

DMV registration: 9,067
VAP: 310,000
DMV/VAP ratio: 2.9%

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Furthermore, registration in Georgia's public assistance agencies, which started more slowly than in DMVs, has been climbing rapidly. January figures showed that PA registrations were only 10% of driver registrations.

But by the end of March, the PA/DMV ratio increased to 25%. Even so, a civil rights observer who visited a public assistance center in Atlanta in early April at Human SERVE's request reported back that no registration was being conducted. This suggests that PA registration throughout the state may still not be fully implemented, despite what we know to be vigorous efforts by the Secretary of State to make the system work effectively. In any event, Human SERVE is presently urging civil rights groups to observe all PA agencies throughout Georgia (as we will be doing in other states as well).

Other Southern states where current data are available generally show high PA/DMV ratios:

Oklahoma: PA/DMV ratio = 16% (1,567/9,601, March only)

Florida: PA/DMV ratio = 25% (49,848/202,720, January-March)

Kentucky: PA/DMV ratio = 50% (16,830/33,465, January-March)

Texas: PA/DMV ratio = 53% (56,583/107,483 January-March)

The reason why these ratios are so high is that the NVRA requires PA agencies to offer to register recipients both at application interviews and at 6 month recertification interviews. This means that once a state has fully started-up PA registration, all recipients will be afforded the opportunity to register within 6 months (a point that reporters, pundits, and political strategists do not understand).

By contrast, only 44% of drivers will have the chance to register in DMVs before the '96 election. The reason is that only 21 months of the 48 month drivers' license renewal cycle will be completed before the registration cut-off ahead of the '96 election (January 1995 through September 1996 = 21 months = 44% of 48 months).

It is difficult to obtain a national unduplicated count of PA recipients. A rough estimate might be the more than 13 million people of voting age (not including those 75 and older) who currently receive Medicaid; over a four year presidential election cycle, this figure would be much larger, as different people circulate on and off the rolls. In a word, PA agencies can register a good many people.

We do not know the sex breakdown for PA registration, but it is probably 75% female, including elderly women on Medicaid.

With less-well-off citizens, people of color, and women being registered at proportionally higher rates than better-off white males, the political party that wants their votes will have to talk about

full-time jobs, livable wages, health and day care benefits, and inequalities in wealth and income (the US is now the most income/wealth stratified Western industrial society). Currently, the Republicans, with the collaboration of many Democrats, are mostly talking about cutting social benefits, which will hurt these groups badly

Finally, **6 million young people** will reach voting age during the 21 months between January 1995 and the '96 election. About 80% will apply for drivers' licenses, and will likely register to vote. They, too, have reason to be concerned about jobs, wages, benefits, and the growing concentration of income and wealth; they are also likely to react if student benefits are slashed or if environmental regulations are eviscerated.

Information on the 30 states that permit registration by party is still too fragmentary to warrant analysis. We should have more adequate data by the end of April when quarterly reports will be available from many states. We are working with national organizations in the 'motor voter coalition' to issue a comprehensive quarterly report. There is some preliminary evidence that more people are registering as Independents, and that would confirm what we already know -- that this is a period of dealignment. One possibility is that people prefer to register Independent rather than to reveal their party preferences to case workers and to other agency officials. In sum, the parties are going to have to compete for the growing number of registered voters.

A final word. The NVRA voter registration system is new. It will take time for kinks to get worked out state-by-state. Analyses based on fragmentary information are often wrong. We are reminded of the report by the prestigious Congressional Research Service which concluded in 1990, based on equally fragmentary data, that motor voter programs would not raise voter registration rates at all.

More than 500,000 were registered in January 1995; we expect that 20 million will be added to the rolls by the '96 election (and 20 million more by the '98 midterm election when the full drivers' license renewal cycle will be completed).

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Media Advisory

First Month in 1995 With "Motor Voter" Registers Hundreds of Thousands

**Briefing on State-by-State Success by National Motor Voter Coalition Wednesday,
March 29, 1995, at 10 AM at National Press Club, Lisagor Room**

**For Immediate Release
March 24, 1995**

**Contact: Tracy Warren or Doug Hess
202/429-1965 X290 or 202/547-2500**

Washington, DC--The National Motor Voter Coalition, a network of over 60 civic organizations and voter registration advocacy groups, will hold a briefing at the National Press Club's Lisagor room at 10 AM on Wednesday, March 29 to release new data demonstrating the enormous success of the first month of the national "motor voter" program. Many states have added tens of thousands of new voters to the rolls in the first month of motor voter. Observers note the potential for millions of new voters to be registered in time for the 1996 elections.

Official state or county registration figures, compiled state-by-state for the first time by HumanSERVE, League of Women Voters, ACORN and Rock the Vote (all members of the National Motor Voter Coalition), will be distributed at the briefing.

Under the National Voter Registration Act (NVRA) of 1993, also known as Motor Voter, states provide each applicant for driver's licenses, public assistance and disability services with the opportunity to register to vote, institute registration by mail and follow other reforms. Citizens are taking advantage of these new opportunities to register to vote and update their old registrations. Legislation to repeal the NVRA has been introduced to Congress.

#

Would be very grateful
for any help on this.
Thanks so much for everything.




March 15, 1995

TO Jennifer O'Connor

FROM Richard A. Cloward, Exec. Dir.
(Professor, Columbia University)

Frances Fox Piven, Board Secretary
(Distinguished Professor, Graduate School, CUNY)

SUBJ: **THE GREATEST INCREASE IN VOTER REGISTRATION
IN AMERICAN HISTORY**

Attached please find an analysis and update of the National Voter Registration Act, which most states began implementing in January 1995.

The figures coming in from the states are stunning -- between 20 and 30 million will be registered by the '96 election. It's incredible.

Republican opposition to the NVRA is intensifying.

We urge that you give attention to the situation in New York, as described in the attached document.

We also recommend a national campaign to mobilize the 100,000 day care, family planning, and other social service agencies to conduct voter registration at their reception/intake desks. This is especially needed in New York to remedy the voter registration disaster developing there.

We will be out of money by summer. Foundations that once supported voter registration have moved on to new areas. Others have time limits on support -- 4 or 5 years -- and we exceeded them during our 13 year effort to obtain the National Voter Registration Act. We do not know what to do.

Human SERVE needs \$250,000 between now and the 1996 election to maintain its current level of operations, and to undertake the private agency mobilization.

We can receive tax-deductible contributions.

It would be a shame if we had to close. No other national organization will fill the void.

Help !!!


622 West 113 Street • Suite 410 • New York, New York 10025 • 212 854 4053 • fax 212 854 8727

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Piven

Cloward



NVRA Signing, May 20, 1993

March 1995



WAR AGAINST THE NATIONAL VOTER REGISTRATION ACT

A Bulletin from the Front

MORE THAN 20 MILLION PEOPLE WILL BE ADDED TO THE VOTER REGISTRATION ROLLS BY ELECTION '96, THE LARGEST RISE IN AMERICAN HISTORY.

They will be disproportionately poorer, minorities, and disabled Americans. Youth registration rates will double.

In Georgia, the Secretary of State issued a press release reporting that so many people are registering -- 52,000 the first month, compared to 85,000 in all of the preceding year -- that he expects a rise of one million in his state alone by '96.

Most states are complying with the NVRA. They started voter registration in DMVs, AFDC, Food Stamps, Medicaid, and WIC agencies in January 1995.

But congressional Republicans have introduced 6 bills to delay or repeal the NVRA.

And Republican governors in key industrial states are refusing to comply with the NVRA; were it not for that, 30 million might be registered by '96. Voting rights groups and the U.S. Department of Justice are suing.

Governor Pataki and Mayor Giuliani are moving administratively to eviscerate the NVRA in New York State in order to marginalize New York City's poorer and minority voters. By obstructing the NVRA, they intend to cement the state in the Republican column permanently, and they could well succeed.

Nationally, there are more than 100,000 private social service agencies (providing day care, family planning, services to persons with disabilities, and so on) are encouraged by the NVRA to register clients at their reception/intake desks. Many are actually required to do so -- those receiving state-funding for services to the disabled. But they do not know it. They could register millions. In New York, they could offset the Pataki/Giuliani manipulation of voter registration. There's a war against voter registration, but private agencies have still not joined up.

Churches affiliated with the Christian Right are intensifying registration drives. A substantial increase in registration and voting among their congregants probably decided the outcome of the '94 election. The National Voter Registration Act will register all groups.

A memorandum with more details and fuller analysis is attached.

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March 1995

WAR AGAINST THE NATIONAL VOTER REGISTRATION ACT

Analysis and Recommendations

by

Richard A. Cloward, Exec. Dir.
(Professor, Columbia University School of Social Work)

and

Frances Fox Piven, Board Secretary
(Distinguished Professor,
Graduate Center, City University of New York)

together with the staff of
Human SERVE

Jo-Anne Chasnow, Associate Director
Louise Altman, Associate Director
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Introduction

The war against the National Voter Registration Act of 1993 is intensifying. This war is a continuation of a century-long struggle over equal access to voter registration for every adult citizen. The United States is the only western industrial democracy where this principle is still being contested.

Human SERVE is nonpartisan.¹ We have one goal: providing opportunities for all citizens to participate in the democratic process, independent of age, gender, race, or income. However, the war over voter registration is intensely partisan. Consequently, it is impossible to analyze this war without reference to the stakes of the political parties in either promoting or defeating registration reform. The remarks which follow are an analysis of partisan stakes, as we see them.

We also describe ways that Human SERVE and other groups in the national voting rights coalition are trying to defend the National Voter Registration Act, and to secure its full implementation. Human SERVE is the only national organization which is devoted exclusively to implementing the NVRA. The voting rights community depends on Human SERVE to monitor, assess, and give advice about actions needed to facilitate the registration of all Americans under this Act.

It is a measure of Human SERVE's effectiveness in performing these tasks that it won the 1994 Jim Waltermire Voter Participation Award of the National Association of Secretaries of State "in recognition of dedication and outstanding contributions to increase voter participation."

An Overview of Implementation

The National Voter Registration Act requires that citizens be offered an opportunity to register to vote in drivers' license bureaus, in public assistance agencies (AFDC, Food Stamps, Medicaid, and WIC), and in thousands of agencies serving Americans with disabilities. In addition, the NVRA encourages the more than 100,000 social service agencies in the private sector (whether day care, family planning, or settlement houses) to conduct voter registration. If all of these programs are fully implemented during a four-year drivers' license cycle, the voter registration rate

¹ Human SERVE is an acronym for Human Service Employees Registration and Voter Education.

will rise from 63% to 95%. Roughly 88-90% of the electorate will be signed up in DMVs, and 5-7% in public and private social service agencies.

If the NVRA is fully implemented, poorer people will be registered equally with richer ones. Virtually every union member will be registered. Minority persons will be registered equally with whites. Far more minority persons drive or use social service programs than are registered. In the Southwest, where just about everyone drives, Hispanic registration rates will rise more than other groups. Mississippi has a driver rate of 95%, which will raise black registration sharply.

In addition, registration rates will double among 18 to 21-year-olds. Fewer than 40% of those 18 and 19 years of age are registered to vote, but 80% have drivers' licenses; by age 21, 89% drive. Stanley Greenberg, President Clinton's personal pollster, reported that the group who voted least in 1994 were "mostly younger and non-college educated, and they leaned strongly Democratic but remained disengaged largely because of their ambivalence about the President."² One thing is certain: they face a grim future. The young and non-college educated are coming of age to find their employment prospects radically reordered: many jobs have been changed from full-time to part-time, from paying livable wages to less than livable ones, and from paying benefits to no benefits -- in short, many young people can't any longer follow their parents into high-paying jobs in the steel, auto, and rubber factories. With their registration rates doubling under the NVRA, these young people are an electoral wildcard.

Since the NVRA start-up in January 1995, the volume of new registrants has been stunning. In Georgia, the Secretary of State reported that so many people are registering -- 52,000 the first month, compared to 85,000 in all of the preceding year -- that he expects a rise of one million in his state alone by '96 (see attached FACT SHEET for state-by-state figures). For the country as a whole, Human SERVE estimates that there will be at least 20 million net additional registrants. The figure would be closer to 30 million except that Republican governors in a handful of the most

² Stanley Greenberg, "The Revolt Against Politics," Progressive Policy Institute, Washington, D.C., 1994.

populous states are refusing to implement the Act. Over the full four-year drivers' license renewal cycle -- which will only be half-completed by the '96 presidential election -- this figure will double.

These are awesome numbers, considering that registration restrictions were used during much of the 20th century to suppress political participation by blacks and poor whites in the South, and by northern industrial workers. It's a shameful history of fraud, chicanery, police terror, and mob violence. And it's an equally shameful history of legislative and administrative obstacles, from literacy tests to time and place restrictions on opportunities to register, all designed to favor better-off whites over others. Thanks to the Voting Rights Act of 1965, which stopped government from preventing people from registering, and to the National Voter Registration Act of 1993, which requires government to assume an affirmative obligation to enroll citizens to vote, that long chapter in American history is now ending.

DMVs

Drivers are obviously being registered most. Human SERVE began promoting voter registration in drivers' license agencies in 1985. By 1990, roughly 30 states had motor voter programs, thus establishing state precedents for a new federal bill. Then Human SERVE worked with a national coalition of the major civil rights, civic, labor, disability, and religious organizations to win passage of the National Voter Registration Act of 1993, which requires all states to inaugurate motor voter programs.

Most states initiated motor voter programs in early January 1995, and more than 60 million will likely be registered to vote over a full license renewal cycle -- half before November '96 and half after. Most of the motor voter programs are computerized and use single/combined forms -- one part to get or renew licenses, and the other part to register to vote.

The advent of NVRA has spurred many states to upgrade DMV operations electronically. For example, Human SERVE assisted Kentucky in creating a totally paperless system: answers to questions by clerks in DMVs and public human service agencies are entered into computers, and the voter registration information is transmitted electronically to the board of election computers. After

modest start-up costs, states will actually save millions because of these efficiencies, contrary to the Republican claim that the NVRA imposes an expensive unfunded mandate.

Public Assistance Agencies

Registration in AFDC, Food Stamps, Medicaid and WIC is lagging behind DMVs. In general, motor voter is easier to get started because most state DMVs already have computerized systems that can be adapted. Conducting voter registration in the public assistance agencies is more complicated because they are less computerized and more dispersed. Still, it is proceeding in many states, and the numbers being registered are impressive. A total of 112,000 persons were registered in Florida during January 1995, for example, 19,000 of them in public assistance agencies; a total of 95,000 were signed up in Texas during the first month, 19,000 at public assistance sites (see attached FACT SHEET for state-by-state numbers). The point is that although DMV registration reaches pretty far down in the class structure, public assistance registration will reach the rest of the way, eventually eliminating class and racial biases.

To facilitate rapid action by states, Human SERVE prepared a detailed and comprehensive implementation manual in 1993 to aid officials and advocacy organizations. To date, we have received more than 1,000 requests for copies, mainly from state officials. In 1994, the Federal Election Commission, fulfilling its responsibilities under the NVRA, prepared a manual for state officials modelled closely on Human SERVE's. Since 1993, Human SERVE has been working with officials, advocates and litigators in many states to expedite implementation. Human SERVE staff attend many conferences of state officials to participate on "how-to-do-it" panels -- such as the National Association of Secretaries of State; the National Conference of State Legislators; the Elections Center, an influential association of elections officials; regional meetings of state directors of departments of motor vehicles, and so forth. We were also influential in getting a foundation to grant \$175,000 for the American Public Welfare Association (whose membership consists of state public assistance officials) to help its members understand how to get registration started in state agencies. At the same time, Human SERVE works closely with advocates at the state and local levels. Specifically, we have held training sessions and spoken at conferences of Common Cause, the

AFL-CIO, the NAACP, Southern Regional Council, Southern Christian Leadership Conference, and the League of Women Voters. ACORN is a constant ally in this struggle.

Since human service recipients are recertified for benefits every six months (as distinct from the four-year driver renewal cycle), public assistance agencies that were slow to start can still register their clients before November '96, provided they begin by late this year. This could add 3 or 4 million poorer and minority citizens to the national voter registration rolls in time for the election.

Private Social Service Agencies

There are more than 100,000 private sector social service agencies in the United States. Family planning clinics, day care centers, child welfare agencies, settlement houses, community action agencies, community health centers, and agencies serving Americans with disabilities. By offering to register clients (and relatives) at their application/intake desks between now and '96, such agencies could enroll millions.

Section 7(b) of the NVRA encourages "all nongovernmental entities" (which obviously includes private social agencies) to register voters. In fact, some of these agencies are required by law to do it. Section 7(a) of the NVRA mandates that all agencies that receive state funds for "programs primarily engaged in providing services to persons with disabilities" must offer to register their clients to vote.

How states will define the range of agencies covered by the term "disability" is not yet clear; the term can be limited to the physically disabled, or it can be interpreted more expansively to include mental disability, such as state-funded clinical programs, whether in a mental health agency, a day care center, or a settlement house. So far, the NVRA enabling legislation passed by the states ducks this problem by merely repeating the federal language. That means that chief election officers, state-by-state, will have to define the term's parameters. (New York State is an exception; its law is so expansive that virtually every private agency in the state must register clients).

Unfortunately, private social agencies don't know what's expected of them. To most private agencies, the NVRA simply means "motor voter," or AFDC, Food Stamps, Medicaid, and WIC registration. They do not know that it means them as well. Moreover, state officials will inform

them last (if they get around to informing them at all). State officials are giving first priority to getting motor voter up and running, and second priority to public assistance agencies (AFDC, etc.). Only then will state officials finally begin to notify private agencies that they are either encouraged or required to register voters.

Despite delays so far, these contract agencies can register their clients quickly, once they start. A day care center with 100 children could easily register the parents over several weeks, since staff members see them every working day. In the final section of this document, we will spell out a proposal to activate these agencies well before the '96 election.

Mail-In Registration

The voting rights community fought for mail-in registration as a way of trying to limit the discretion of local election officials to impose time, place, and deputization restrictions. Three states enacted mail-in registration in the late 1960s, 17 in the 1970s, 4 in the 1980s, and 5 in the early 1990s (including South Carolina and Mississippi, the first states to adopt this reform in the Deep South). But now, because of the NVRA, mail-in registration is the law for all states.

The NVRA required the Federal Elections Commission to create a national mail-in registration form that would be available in every state. The FEC mail registration booklet is an historic document. Human SERVE, together with other voting rights organizations, lobbied the FEC hard to keep the national form as simple as possible, despite variations in the information required by states, and the FEC did indeed create a product that is the epitome of readability. The 8 1/2" by 11" packet contains 2 registration forms, and 13 pages of state-by-state instructions written in simple language in large type (copy enclosed). Separate packets are available in Spanish and several other languages. In practice, states are not relying on the FEC forms. They are instead designing their own forms (in many cases after consulting with Human SERVE on questions of design, wording, etc.), and all of them are equally simple. In sum, the historic ability of boards of elections to thwart voter registration has finally been overcome.

However, there is no way of predicting the impact of this new national mail registration system on future elections. In the past, mail-in forms failed to increase registration. Human

SERVE compared registration rates in states with and without mail-in systems in the early 1980s and found no differences (a conclusion that was subsequently confirmed by a Congressional Research Service study). It was obvious why the promise of postcard registration did not materialize: reformers had neglected a crucial matter; mail-in legislation contained no method to get the forms to would-be voters so that they could complete them and mail them back. As a result, most people still had to go to a county seat or downtown office in a big city to obtain a form. Making forms available in public and private agencies is the solution to that.

Once Registered, People will Stay Registered

The address-updating feature of the NVRA requires that people be allowed to re-register to vote at their new address when they renew drivers' licenses or apply for public assistance services. This is a major breakthrough because Americans are extremely mobile -- roughly 17% move annually. In Kentucky, for example, a total of 23,000 people registered in January 1995, but 30,000 more updated their addresses for voting purposes.

Will Voting Also Rise?

Will registrants vote? The U.S. Census says yes. After decades of research, the Census found that roughly 85% of registrants vote nationally, leading to the conclusion that people "overwhelmingly go to the polls" if they are registered.³ In a separate study, Project Vote!, a national voter registration organization, checked election records and verified that 70 percent of those whom its volunteer canvassers had registered on welfare, unemployment, food stamp, and federal surplus-cheese distribution lines had voted in 1984. And Cain and McCue, researchers at the California Institute of Technology, studied elections records in Los Angeles County and also found that slightly more than 70% of the people registered by volunteer canvassers at low-income

³ "Voting and Registration Highlights from the Current Population Survey: 1964 to 1980," U.S. Department of Commerce, Bureau of the Census, Series P.-23, No. 131, February 1984.

sites (e.g., welfare waiting rooms) voted in 1984.⁴ To be sure, that's below the national average of 85% of registrants who vote, but still impressive. Even at 70%, turnout among new poorer and minority registrants could decide close elections, just as we think the Christian Right's new registrants did in '94.

Economic hardship may also spur voting. Despite soaring corporate profits, respectable GDP growth, and low official unemployment, many Americans are not doing well. The old industrial social order is shrinking, leaving many stranded. American elites, by contrast, are doing quite well. The Federal Reserve reports that the share of household wealth owned by the top 1% of families jumped from 33% to 39% between 1983 and 1988, and is no doubt higher now. People know that economic inequalities have widened, that the rich are getting much richer. If substantial cuts are made in the safety-net programs, as seems likely, and if capital gains taxes are cut, a potentially explosive situation could result, both in the streets and at the polls.

Protest is already breaking out in many quarters, although mainly among those in the health, education, and welfare sectors of the society. It is beginning to appear that the welfare state is going to fight back. If so, large numbers of social welfare beneficiaries -- from working mothers dependent on day care to elderly people dependent on Medicaid -- will go to the polls to support candidates who defend government's role in guaranteeing minimum well-being. In a word, ballots and benefits are linked.

In order to get poorer, minority, disabled and elderly people off the social programs, the Republicans need to keep them off the voter rolls. There is no other way to explain why congressional Republicans are so ferociously opposed to registration in public assistance agencies. They mounted one filibuster after another during the four-year debate over the NVRA, and some Republican governors are now refusing to implement the Act.

Republicans fear that registering millions of people in Food Stamps, AFDC, Medicaid, WIC and disability offices at the same time that they plan to put these programs on the chopping block

⁴ See Bruce E. Cain and Ken McCue, "The Efficacy of Voter Registration Drives," Social Science Working Paper 531, Division of Humanities and Social Sciences, California Institute of Technology, Pasadena, 1985.

could produce a dangerous upsurge of voting by irate poorer, minority, and disabled people in '96 -- an upsurge that could even abort Republican hopes for party realignment. In sum, there is every reason to predict that higher registration will produce higher voting.

The War is Over Infrastructure

Since the Voting Rights Act of 1965, which outlawed many literacy tests and many other barriers to equal registration access, the battles in the registration war have been fought on two fronts. One set of battles broke out during Reagan's re-election campaign in '84. Thousands of volunteer and paid canvassers representing many organizations across the political spectrum -- from unions to the Christian Right to social service workers to the political parties -- went out with clipboards to register people in church auditoriums and union halls, and on welfare, unemployment, food stamps, and federal surplus-cheese lines. Measured by money spent, number of canvassers enlisted, and number of people registered, this effort to expand electoral participation was unprecedented in American history. Six million registrants were added to the rolls.

Now, there is a new front: the battles are no longer over which side can recruit more volunteer or paid canvassers; they are over government's affirmative obligation, under the National Voter Registration Act, to ensure that everyone has an equal chance to vote by making voter registration available in government and private agencies. Tens of millions will be registered.

The Republicans understand that the Democratic party supports the NVRA as a way of compensating for the loss of much of its organizational capacity. The old Democratic party infrastructure of unions and big-city political machines, which registered and mobilized poorer and minority voters from the time of the New Deal, is withering. Under the impact of deindustrialization and union-busting by business, union membership has plummeted from 30% to less than 15% of the workforce, and a vast service sector has developed which is composed largely of women and minority workers who are ununionized. As for the big-city machines, they have become mere shells, persisting more to mobilize graft than to mobilize voters.

Not surprisingly, the U.S. Census reports that registration rates have been falling for three decades, and that they fell furthest among lower economic groups.⁵ The cities, where the poor and minorities are concentrated, have growing populations of unregistered citizens. Mayor Dinkins lost re-election in 1993 by 40,000 votes and Governor Cuomo lost in 1994 by 185,000 votes because almost 2 million New York City residents are not registered.

The same paralysis exists in cities across the nation. Because of the withering of the unions and urban party organizations, poorer and minority citizens are becoming increasingly marginalized from the political process. The Republican party doesn't want poorer and minority people to register and vote, and the Democratic party no longer has the organizational capacity to activate them.

As the Democratic party's mobilizing capacity deteriorates, the Republican party's capacity has been revitalized by the growing ability of the Christian Right to register millions of people in church auditoriums and to persuade them to vote through direct mail, televangelism, talk radio, and Sunday sermons. Back in the early 1980s, registration and voting levels among evangelicals were much lower than among nonevangelicals; indeed, 30% of all nonvoters attended church services at least three times a week. Efforts to activate this pool of potential voters by what has come to be called the Christian Right began during the 1964 Goldwater/Johnson election. As it has evolved since then, the Christian Right has become a typical restorative religious movement which intends to put things right culturally by putting things back the way they were before the revolutions in race, gender, and sexual relations. Linked to business and economic conservatives through the Republican party, the Christian Right is a political force of real consequence. Their churches will keep registering their congregations as the '96 election approaches.

However -- and this is what the war is about -- the NVRA will wipe out the Republican party's infrastructure advantage over the Democrats. Signing people up in government and private social agencies will do what the Democratic party cannot do: lessen, and even eliminate, disparities in voter registration by race and income.

⁵ See footnote 3 for source.

In short, out of partisan necessity the Democratic party has become the advocate of universal voter registration. Out of equal but opposite necessity, the Republicans oppose it.

**Infrastructure Decided the '94 Election,
and Could Again in '96**

The '94 election made the importance of infrastructure vividly clear. There was no sea change in American opinion in the 1994 election; there wasn't even an upsurge in voting. Turnout was only 39%, and it was up just slightly more than a single percentage point compared with average turnout during the past four midterm elections. Republicans got a narrow 50.5% of the national vote, and their majorities in the Congress are equally narrow.

What mainly determined the outcome of the '94 election is that one party registered and activated its supporters, and the other did not. In his post-election report, Curtis Gans of the Committee for the Study of the American Electorate says that "Republican turnout was up, Democratic turnout was down."⁶ The headline of Richard L. Berke's article in the New York Times (November 12, 1994) explains why: "Religious Right Candidates Gain as G.O.P. Turnout Rises." Just before the election, 33 million "voter guides" were distributed to 60,000 conservative churches, which Christian Right leaders claim helped Republicans prevail in 50 important races. Roughly 60% of the 600 candidates for national, state and local offices backed by the Christian Right won election. The Gun Lobby is also credited with playing an important role in motivating its constituents to register and vote. In short, differential registration and turnout mainly decided the '94 election.

As the '96 election nears, the Christian Right will again mobilize its forces. At the same time, the Republican party will continue trying to suppress registration and voting levels among poorer and minority people by attacking the NVRA. Taken together, these strategies are intended to help the Republicans hold the Congress and capture the White House, producing a (long-predicted) political realignment.

⁶ Curtis Gans, Committee for the Study of the American Electorate, November 10, 1994, press release.

Republican Strategies to Block the NVRA

The Republican attack on the NVRA has so far taken three main forms. First, Republican governors in big industrial states (California, Illinois, Michigan, and Pennsylvania) are simply refusing to comply with the Act on the ground that it imposes an unfunded mandate and violates the states' rights provisions of the Tenth Amendment. They hope either to overturn the Act in court, or at least to delay implementation until after '96.

Human SERVE saw this problem emerging in early 1994, and joined the Community Service Society and the Puerto Rican Legal Defense Fund to convene the voting rights community in New York City for a two-day meeting in October 1994. Funded by the Ford Foundation, the conference, entitled The NVRA Implementation Conference: A Response from the Voting Rights Community, was attended by 100 voting rights experts, litigators and advocates, as well as by 5 representatives of the Civil Rights Section of the U.S. Department of Justice. After a series of panels and discussions, conferees left with packets containing hundreds of pages of relevant statistics, copies of relevant court decisions, and analyses of linkages between the NVRA and the Voting Rights Act. Indeed, the conference convenors did just about everything for the litigators except file their suits for them.

Just two months later, on Dec. 14, the ACLU of Southern California and the Lawyers' Committee for Civil Rights Under Law filed suit to prevent Governor Wilson from blocking the NVRA. Human SERVE provided statistics, helped in editing the complaint, joined in finding plaintiffs, and filed an expert affidavit showing that California has the lowest registration level in the country. In addition, voting rights litigators filed suit in Illinois and Pennsylvania. The Justice Department subsequently filed suit against California on Jan. 23, 1995, as well as against Illinois and Pennsylvania; DOJ later sued in South Carolina, as did voting rights litigators. Voting rights groups have since filed suit in Louisiana and are preparing to file in Michigan and Mississippi.

On March 3, 1995 a U.S. District Court in California upheld the constitutionality of the NVRA and issued a permanent injunction against Governor Wilson. Wilson will likely appeal, as will some other Republican governors if they also lose at trial. The NVRA is thus unlikely to have much effect in these states by '96.

The Community Service Society is now acting as a clearinghouse for litigation related to the NVRA, under the direction of its General Counsel, Juan Cartagena. Mr. Cartagena is also President of Human SERVE.

The Attorney General and the Civil Rights Section of the Justice Department are working diligently to enforce the NVRA. Human SERVE has been of some help to Justice through regular consultations, since we know the legislative and implementation issues, as well as what's going on around the country. Moreover, Human SERVE submits regular comments to the Civil Rights Section on the NVRA enabling legislation and implementation plans of the 16 states that must "preclear" all changes in registration and voting systems under Section 5 of the Voting Rights Act. Our legislative analyses and criticisms have generally been accepted and incorporated in the Justice Department's decisions and comments to the states, which has resulted in far better compliance with the NVRA, especially in the South, than would otherwise have been the case.

A second line of attack is to undermine reform administratively, as some states are doing. New York State is a prominent example. Because its mass-transit system is extensive compared to other cities, 50% of New York City residents do not drive and will not be registered in DMVs. Outside of the City, 90% drive, and they will be registered. We refer to this as the 90/50 problem. Poor women in New York City are the least likely to drive. Human SERVE asked its contacts in the New York City's Human Resources Administration to conduct a drivers' license survey in several high-volume welfare waiting rooms. They did so on 3/30/93. In the Schermerhorn Center (Brooklyn), which sees 600 clients daily, 500 adults were questioned: only 11 reported that they had drivers' licenses. In the Waverly Center (Manhattan), which sees 900 clients daily, just 8 said they did.

Unless this 90/50 discrepancy is overcome by voter registration in a wide variety of public and private agencies, the poorer and minority population in New York City will have little influence on future statewide races (gubernatorial, U.S. Senate, and presidential). DMV registration is already underway -- 21,288 were registered the first 13 days of this year, mostly upstate.

Human SERVE was acutely aware of this problem in New York State, and made strenuous efforts to win NVRA enabling legislation that would overcome it by greatly expanding the types of agencies that would be required to conduct voter registration. And we succeeded. In June 1994 (after a bitter fight in the Republican-dominated Senate, which did not capitulate until the night before the legislature adjourned), a bill passed that the New York Times said editorially was "significantly better than the one required by the new federal law," and that represented "one of the few noteworthy accomplishments" of the legislative session." For one thing, it included unemployment agencies, as well as the NVRA mandated Food Stamps, AFDC, Medicaid, and WIC agencies. We knew that voter registration in unemployment offices could enroll large numbers of the working poor who neither drive nor are recipients of public assistance programs. We knew that because we had conducted informal surveys in several unemployment offices -- one in Harlem and one in lower Manhattan -- both of which revealed that fewer than half of the unemployed had drivers' licenses. To reach New York City's working poor, in short, unemployment agencies are essential as registration sites.

Governor Pataki is refusing to permit voter registration in unemployment agencies on the grounds that the Solicitor General of the U.S. Department of Labor has so far ruled that the Social Security Act prohibits the use of their funds for voter registration (the federal government pays all state unemployment office administrative costs). Hence state labor departments will not be reimbursed for voter registration costs. By contrast, the U.S. Department of Health and Human Services made the opposite decision: all costs associated with voter registration in AFDC, Food Stamps, Medicaid, and WIC agencies will be reimbursed. Of course, Governor Pataki has the option of using state funds to pay the incidental costs of doing voter registration in unemployment offices. State funds are being used in North Carolina, the only other state whose enabling legislation includes unemployment agencies. (The North Carolina program was the result of Human SERVE's painstaking work with a coalition of advocates in that state.)

Indeed, it appears that Governor Pataki also intends to frustrate voter registration in the mandated social service agencies. His proposed budget eliminates \$300,000 for a team of six state

election board field workers who were slated to facilitate and monitor the process around the state. Other types of election staff positions were not abolished. A surgical budget cut, apparently with the goal of impeding the registration of the state's urban poor and minorities.

In addition, Mayor Giuliani proposes to slash the New York City board of elections staff from 312 to 185, just at a time when it should be helping city agencies implement the NVRA. Another surgical budget cut with the same political goal. The Community Service Society and Human SERVE are presently seeking plaintiffs to join in legal challenges to these changes.

If this struggle is lost in New York State, it means that the urban poor and minorities, especially in New York City where relatively few have drivers' licenses, will be successfully marginalized at the same time that suburban/rural residents are being registered by the hundreds of thousands in DMVs. In other words, just by manipulating voter registration arrangements, the Republicans look well on their way to cementing New York State in their column permanently.

But New York is not the only state where politicians are trying to keep DMV registration up and public assistance registration down. The most common way of doing this is to use single/combined forms in DMVs, and separate forms in other agencies. The advantage of combined forms -- one part for applying for drivers' licenses or public assistance benefits, and the other for voter registration -- is that they insure that every person has an opportunity to register. With separate forms, the process is less routinized, which reduces the likelihood that every applicant for services will be afforded the opportunity to register to vote (for example, when agency staff get tired or overworked). (New York is a welcome exception: state law requires single/combined forms in all agencies.)

Finally, congressional Republicans are trying to delay or repeal the motor voter act. In the first days of the 104th Congress, the Republicans introduced six bills to block motor voter. Repeal bills were introduced in both the House (HR. 370) and Senate (S. 218). Two House bills make state compliance with the Act optional (HR. 60 and 326), which means that states with Republican governors won't implement it. And both S. 91 and HR. 736 would "delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to

implement such Act." Needless to add, if this bill were to become law, Republicans would then vote against funding the Act.

At this writing, there is no way of forecasting the outcome of this renewed effort in the Congress to defeat registration rights. Everything depends on the willingness of the Democrats to use the filibuster and veto.

Recommendations

We concluded with recommendations to facilitate fuller implementation of the NVRA.

Monitoring

Because many states are resisting or delaying action in Food Stamps, Medicaid, AFDC, and WIC agencies, constant monitoring is essential. It is especially important to determine in each state whether voter registration procedures in public assistance agencies are as good as those in DMVs; if not, the system may violate Section 2 of the Voting Rights Act, which prohibits racially discriminatory registration practices.

Human SERVE is planning to launch a national monitoring project, which is likely to include the League of Women Voters, NAACP, AFL-CIO, ACORN, Southern Regional Council, and Rock the Vote. Observers from their local affiliates will visit centers to learn whether people are being registered, and how. Human SERVE is presently preparing a simple monitoring kit with instructions to observers about what they should look for, together with forms to report what they see. Human SERVE will maintain a registry of these forms, evaluate them, inform local advocates of needed changes, work with state officials to correct problems, and, if necessary, recommend that litigation be initiated.

Activating Private Sector Agencies

Human SERVE proposes to mobilize private agencies. (California, Illinois, Louisiana, Michigan, Pennsylvania, and South Carolina would be singled out because they are resisting the NVRA. So would New York State.) This can be done in two related ways. One is to get national associations (of social workers, of public health workers, of day care workers, of family planning

federations, of community health workers) to promote voter registration through their national conferences and national newsletters. The related way is to mobilize the thousands of social work students who intern three-days-a-week in these agencies to agitate for establishing voter registration services at reception/intake desks.

Human SERVE undertook such an organizing project during the Reagan re-election campaign in 1984. We warned that massive cuts in social programs were likely, and we urged agencies to register recipients so that they could participate at the polls in decisions about the future of social programs. National human service organizations published hundreds of articles in their national newsletters about the urgency of agency-based voter registration; and thousands of social work and public health students took up this cause in their agency internships. But we were ahead of the curve.

Most human service workers thought that we were unduly alarmist about threats to the social programs. Consequently, only about 500,000 of the 6 million registered in the 1983-84 period were enlisted by social agencies, 100,000 of them in family planning organizations.

The mood is changing as the Contract with America unfolds. Human service agencies are already experiencing federal, state, and local funding cuts, and they are alarmed as never before. Social work and other human services students understand that there will be no jobs, that their potential careers are evaporating before their eyes. Human SERVE's staff has been asking human service workers,

"The Bible Churches are registering their congregations, but what about day care centers? Are they registering their clients?"

Believe us, they get the point. In our opinion, a national campaign aimed at private agencies will succeed. And to encourage voter turnout, Human SERVE will urge agencies to post signs in waiting rooms like this one:

**GOVERNMENT IS CUTTING THE SERVICES YOUR FAMILY RECEIVES
FROM THIS AGENCY**

REGISTER TO VOTE HERE TODAY

VOTE YOUR OPINION ABOUT THESE CUTS IN '96

The Special Case of New York State

Human SERVE is especially concerned about the way the 90/50 problem will marginalize poorer and minority people in New York State. Even if public assistance registration gets underway effectively, that may not be enough to overcome the DMV bias favoring suburban/rural counties. Thousands of private agencies need to be activated as well. New York City has the densest networks of not-for-profit agencies of any city in the nation. Our discussions with key social agency executives indicate that they now understand that they must help their social service clientele to become an electoral force, and that their agencies are required under state law to offer voter registration.

As we said earlier, Human SERVE steered a model bill through the state legislature. It's most outstanding characteristic is that requires private social agencies to conduct voter registration if they receive contract funding, not just from state disability departments, but from virtually every human service department -- public assistance, child welfare, health, mental health, aging, blind and visually handicapped, vocational and educational services for individuals, retardation and developmental disabilities, alcoholism and substance abuse, and so on. Since nearly all social agencies receive funding contracts from these sources, almost the entire private sector is now required by law to make voter registration available to clients. Human SERVE is planning a statewide campaign, with particular focus on New York City, to inform agencies of this legal obligation and to get them activated.

In addition, the New York State enabling legislation requires the City University of New York to register students as part of the course enrollment process each September. The Chancellor could have arranged for voter registration during September, before the 1994 election, but didn't. There are 200,000 CUNY students who are mostly minorities and mostly unregistered. CUNY, the most famous working-class university in the world, is being cut drastically; that is already provoking student teach-ins and demonstrations, and could lead to very high voter turnout among students in '96. Frances Fox Piven, Human SERVE's board secretary, is a Distinguished Professor of Political Science in the CUNY system, and she will work with student and faculty activists and University officials to get an effective voter registration system in operation in September of both 1995 and

1996. NYPIRG will no doubt do the same in the State University system, which is also being slashed to the marrow.



Facts About Motor Voter

(The National Voter Registration Act of 1993)

Motor Voter Saves Millions
It's Fraud Free
Millions Will Register
Most States Are Doing It
Some Republican Governors Are Resisting
US Attorney General Is Suing These Governors
Motor Voter Faces Repeal By Congress

MILLIONS MORE WILL VOTE

*"In the history of this state, there has never been
such a surge in voter registration activity. This is
incredible. It's a great day for Democracy."*

Max Cleland, Georgia Secretary of State

About HUMAN SERVE



Human SERVE was formed in 1983 by Richard A. Cloward and Frances Fox Piven to promote the idea that allowing citizens to register to vote in an array of government agencies could raise registration and voting in the United States, especially among poorer and minority groups. Two out of three of the 65 million unregistered Americans reside in households with incomes below the median.

For the next ten years, Human SERVE staff worked to get states to establish voter registration in drivers' license agencies (commonly called "motor voter"), and in public assistance agencies (commonly called "agency-based" voter registration). By 1990, roughly 30 states had motor voter programs, thus establishing state precedents for a federal bill. Then we worked with a national coalition of the major civil rights, civic, labor, disability, and religious organizations to win passage of the National Voter Registration Act of 1993. The Republicans repeatedly filibustered this bill and President Bush vetoed it in 1992. But Clinton's election in 1992 changed the political calculus, and the Act was finally passed and signed in 1993 after an eleven-day filibuster was broken.

The Act requires that states permit people to register to vote when they get or renew drivers' licenses or when they apply for Food Stamps, AFDC, Medicaid, WIC, or services for persons with disabilities. If vigorously implemented by the states, the Act would boost the low U.S. voter registration rate by 50% -- from 63% to 95%. In the future, roughly 90% of eligible voters would be registered in drivers' agencies, and 5% in public assistance programs. The law took effect Jan. 1, 1995. Early results are dramatic. However, some Republican governors are resisting, and the US Attorney General has filed federal court suits to secure compliance, as have various national voting rights groups.

The National Voter Registration Act represents an historic advance in the struggle to win full enfranchisement of the poor and minorities in the United States. The Voting Rights Act of 1965 stopped government from preventing people from registering. This Act goes further. It embodies the principle that government has an affirmative obligation to enroll the eligible electorate, and it requires that state governments meet this obligation by making voter registration an integral part of the application process for drivers' licenses and other government services.

Human SERVE is the only national organization devoted exclusively to monitoring implementation of the National Voter Registration Act. We work closely with the Federal Elections Commission, the Departments of Justice, Agriculture, and Health and Human Services, and with Governors, Secretaries of State, and various national voting rights advocacy/litigation groups.

Human SERVE has also undertaken a project called ENFRANCHISE AMERICA to encourage social agencies in the private sector -- such as day care and family service/planning agencies -- to establish nonpartisan voter registration services at reception/intake desks. Low registration and voting among social agency clients exists at a time when they will suffer more than any other sector of American society as a result of proposed changes in federal, state, and municipal policies. It is urgent that they be afforded the fullest opportunity to register and vote, especially as the 1996 presidential election approaches.

In 1994, Human SERVE won the Jim Waltermire Voter Participation Award of the National Association of Secretaries of State "in recognition of dedication and outstanding contributions to increase voter participation."

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David Plotkin, *State Programs Director* • Rebekah Evenson, *Program Associate* • Deborah Karpatkin, *General Counsel*

Board of Directors: Juan Cartagena, *President* • Frances Fox Piven, *Secretary* • Richard A. Cloward, *Treasurer* • Roger Alcaly • Calvin Butts • Margaret Carey • Blair Clark
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Paul Anders Ogren • Basil Paterson • Cheryl Patterson Artis • Jan Pierce • Anthony Robbins • Baldemar Velasquez • George Wallerstein • Juanita White



FACTS ABOUT MOTOR VOTER

The National Voter Registration Act of 1993 (NVRA) requires that states offer people the opportunity to register to vote when they get or renew drivers' licenses (commonly called "motor voter"), or when they apply for Food Stamps, AFDC, Medicaid, WIC, or services for persons with disabilities (commonly called "agency-based" voter registration). This law was needed because:

- 37% of eligible citizens -- more than 70 million people -- are unregistered. Roughly two out of three of the unregistered reside in households with incomes below the median.
- The United States has the lowest voter turnout of any Western democracy. However, once they are registered, Americans vote in numbers comparable to other leading democracies. In the 1992 presidential election, for example, almost 90% of registered voters cast ballots.

The NVRA will raise turnout by making registration easier. If every state follows through, national registration will rise from 63% to 95% -- 90% will register in drivers' agencies, and 5% in public assistance agencies, including agencies serving Americans with disabilities.

- The NVRA will register millions of citizens with disabilities.
- The NVRA will double youth registration rates. Fewer than 40% of those 18 and 19 years of age are registered to vote, but 80% have drivers' licenses; by age 21, 89% drive.
- The NVRA will reduce racial differences in registration to the vanishing point because far more minority members drive or receive public assistance than are currently registered to vote.

The NVRA will help create a more complete democracy by equalizing registration rates between rich and poor, between whites and minorities, and between suburbs and cities.

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MOTOR VOTER WILL SAVE MILLIONS

Linking voter registration with public services is the cheapest method of voter registration ever used

As existing motor voter programs show, once started, costs are negligible.

- 18 cents per registrant in Washington, DC driver's agencies
- 41 cents in Washington state
- 40 cents in Oregon

There are modest start-up costs (e.g. re-designing forms, re-programming computers, etc.). Costs vary depending on several factors: size of population, computerization, etc. Here is what some states appropriated:

- Alabama: \$200,000 in 1993-94 (VAP, 3,138,000). Thereafter, costs will be absorbed by agencies.
- Florida: \$1,062,2770 in 1994-95; \$620,340 each year for the following two years (VAP 10,856,000).
- New York: \$2.5 million in 1994-95 (VAP, 13,646,000).
- South Dakota: \$47,000 for 1994-95 (VAP, 522,000).

Although not required, some states are using implementation of the NVRA as an opportunity to computerize. Over time, these technological advances will save states millions of dollars compared to the more labor-intensive voter registration systems now in use.

- Georgia: \$1.9 million in 1995 (VAP 5,159,000). \$4.5 million in bonds for a centralized voter registry.
- New Jersey: \$500,000 in 1994 (VAP 5,974,000). \$3.5 million for a centralized voter registry.

THE NVRA IS THE MOST FRAUD-FREE SYSTEM EVER

Drivers and public assistance recipients are usually photographed. They must produce far more documentation (proof of age and residence, for example) than any state currently requires for voter registration.

The NVRA creates new *federal* penalties for fraud.

The NVRA requires states to keep registration lists current -- by constantly correcting their rolls for people who have died, moved, or been convicted of felonies.

REGISTRATION RAISES VOTING

When Americans are registered, they vote. According to the US Census, 90% of registered voters went to the polls in 1992.

Studies conducted after the 1984 presidential election showed that 70% of people who were registered by volunteer canvassers in Food Stamps and AFDC centers went to the polls.

REGISTRATION IS SKYROCKETING

The totals below are from all NVRA sources, including DMVs, public assistance agencies, and mail-in voter registration, beginning January 1, 1995.

- In New York state, **21,288** registered in the first 13 days.
- In Indiana, with 89% of counties reporting, **20,000** registered in January. In Marion county, 2,700 registered in January, compared to a pre-NVRA average of just 200.
- In Alabama, with just 76% of counties reporting, **16,000** registered in January, compared to 2,000 in January, 1993.
- In Missouri, with just 85% of counties reporting, **22,000** registered.
- In West Virginia, **6,250** registered in the first two months of 1995, compared to 10,000 registrations all of last year.
- In Kentucky, **23,000** registered in January, compared to just 3,500 in January, 1991. An additional **30,000** also updated their registrations in drivers' license agencies.
- In Washington state, **32,000** registered in January.
- In Georgia, **52,000** registered in the first month, compared to 85,000 all of last year. According to Georgia's Secretary of State, the state is on track to register one million *new* voters by the 1996 presidential election.
- In Texas, **95,000** registered in the first month.
- In Florida, **112,000** registered in the first month.

The states above require counties to report registration totals every month, while others states require counties to report totals every three months. More totals will therefore be available by April 1.

POOR WOMEN AND MINORITIES ARE REGISTERING

in AFDC, Medicaid, WIC and Food Stamp agencies

- Kentucky registered **6,700** in public assistance agencies in January.
- Alabama registered over **5,700** in these agencies in January (with just 76% reporting).
- Missouri registered **9,400** in these agencies in January.
- Oregon registered an estimated **2,000** in public assistance agencies in January.
- Indiana registered almost **12,000** in these agencies in January.
- Georgia registered **3,800** in these agencies in January.
- Florida registered over **18,000** in public assistance agencies in January.
- Texas registered over **19,000** in these agencies in January.

WASHINGTON STATE

A model of success

Washington state has had a model motor voter program for three years. In that time, Washington saw an increase in registration of 600,000 people, a remarkable 25%.

Washington's numbers continue to be impressive for 1995. There numbers for January were:

- Over 15,000 new registrations at drivers' license agencies.
 - In addition, 7,000 people updated their address information through these agencies.
 - And over 10,000 Washington residents took advantage of the states' new mail-in and public agency registration programs.
 - In sum, Washington registered 32,000 people in the month of January.
-

The following editorial appeared in *The Seattle Times*, July 23, 1994:

Motor Voter Works

The jury is in on Washington's "motor voter" registration program. Fears that it would be ineffective have been dashed. It is a roaring success. The number of people signing up to vote at driver's licensing offices around the state passed the half-million mark this month. That's been accomplished in 2 1/2 years.

Secretary of State Ralph Munro, an early advocate of motor voter registration, says the program has proven more popular and more effective than all other forms of voter registration combined.

The quick, convenient method of registering while applying for or renewing a driver's license triggered an increase in registrations that is second only to the year the voting age was lowered to 18.

Even more importantly, the program appears to have boosted voter participation. A record 2,325,000 Washington citizens voted in the 1992 presidential election. The turnout equaled 82.6% of registered voters -- the highest percentage since 1944 -- and 60.9% of the estimated eligible population.

The system has been particularly effective in reaching the hard-to-register population -- younger people and newcomers. It has made the ballot more accessible. The registration totals through July 10 provide 509,000 reasons to proclaim the program a success.

MOST STATES ARE IMPLEMENTING THE NVRA

34 states and the District of Columbia have begun implementing the Act.

Some States Are Exempted

- **Three states have constitutional conflicts.** Arkansas, Virginia and Vermont are temporally exempted because they must change provisions in their state constitutions that conflict with the new federal law.
- **Four states are permanently exempted.** North Dakota, Minnesota, Wisconsin, and Wyoming are exempt because they either had no registration requirements or election-day registration in effect as of March 11, 1993.
- **Two states are substituting election day registration.** Rather than enacting implementation plans, New Hampshire and Idaho passed legislation establishing retroactive election day registration. We do not believe that this substitution is legal, and legal action is expected soon.

Only Seven States Are Actively Resisting

- **Victory in California.** On March 2, 1995, a US District Court judge rejected Governor Wilson's argument, and issued a permanent injunction requiring the state to comply with the NVRA. This represents the first time that the NVRA's constitutionality has been tested. The state now has ten days to produce a plan for implementation. Wilson is expected to appeal the decision.
- **Lawsuits filed in four other resistant states.** Voting rights groups have sued state officials in Illinois, Louisiana, Pennsylvania, and South Carolina to force compliance. The US Department of Justice has joined all of these lawsuits, except for Louisiana's.
- **Michigan enacted legislation but refuses to fully implement it.** The administration of Gov. John Engler (R) plans to comply with part of the motor voter act while blocking public-agency registration until that program receives federal funding. Last summer, Engler vetoed \$1.2 million in state funding for registration at public agencies. Legal action against the state is expected soon.
- **Enabling legislation for Mississippi has been tabled.** State Senator Kay Cobb (R), chair of the Elections Committee, tabled the enabling legislation, and it is unlikely that it will be revived. Although the state was starting to implement Motor Voter administratively, it appears that these efforts have been halted. Governor Kirk Fordice (R) is a strong opponent of Motor Voter. Legal action against the state is expected soon.

MOTOR VOTER MAY BE SCUTTLED DESPITE ITS SUCCESS

After the 104th Congress convened in early January 1995, six bills were introduced to block the National Voter Registration Act, even though 34 states had already started programs.

- **Two bills would repeal motor voter.** HR 370 introduced by Representative Stump (R-AZ), with 169 co-sponsors, and S. 218, introduced by Senator Mitch McConnell (R-KY), and co-sponsored by Dole (R-KS) and five other Senate Republicans, are each called "A bill to repeal the National Voter Registration Act of 1993."
- **Two bills would make compliance voluntary.** HR 326, introduced by Representative Manzullo (R-IL) and 31 co-sponsors, and HR 60, introduced by Representative Livingston (R-LA), are each called "A bill to provide that compliance with the National Voter Registration Act of 1993 shall be voluntary."
- **Two bills would delay implementation until federal funds are made available.** S 91, introduced by Senator Coverdell (R-GA), with ten co-sponsors, and HR 736, introduced by Representative Linder (R-GA), with ten co-sponsors, are bills "to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such Act."

Opponents claim that the NVRA is both an "unfunded mandate" and a violation of states' rights. But costs to states will be negligible, and there will actually be savings in the long-run, as explained above. It is odd that a law that would save states money is being singled out as an unfunded mandate when so many earlier laws literally cost states and localities billions.

As for states' rights, the US Constitution clearly refutes any claim that the 10th Amendment, (which leaves powers not granted to Congress to states), invalidates the NVRA. Article 1, Section 4 of the Constitution authorizes states to regulate elections, but allows Congress discretion in altering such regulations. Moreover, since the Civil War, the US Government has recognized its power to regulate elections as a means to enforce voting rights when the states fail to protect them. The 15th Amendment to the Constitution, passed shortly after the Civil War, extended voting rights to African-Americans. However, many state governments circumvented the 15th Amendment by introducing procedural barriers to disenfranchise minorities and many poor whites. A century later, the Congress of the United States overturned the worst of these barriers (e.g. literacy tests) with the passage of the Voting Rights Act of 1965.

The National Voter Registration Act continues this effort to achieve a more complete democracy by assigning government an affirmative obligation to enroll the eligible electorate. And it does so by institutionalizing a precedent which a majority of the states themselves had established -- 30 states had implemented some form of motor voter before the NVRA was passed.

What the Opposition is All About

OP-ED

The Washington Times

★FRIDAY, FEBRUARY 17, 1995

Once the Republican majority finishes with its Contract, it would be well advised to switch over to a repeal mode, and one place it might start is with the Voter Registration Act, also known as the "motor-voter" law. Indeed, if the Republican majority doesn't repeal the motor-voter law, it might well not be a majority much longer — or ever again.

Last month, Attorney General Janet Reno announced that the Justice Department is suing four states for failing to enforce the law, and the partisan political reasons that drive the lawsuit are as transparent as a forged identity card. Unable to persuade the real American electorate to keep them in power, the Democrats are trying to invent a new electorate. That's why the motor-voter

law was passed, and that's why Miss Reno is suing to enforce it.

Enacted in 1993, the law allows people to register to vote at the same time they get their drivers' licenses — as well as when they sign up for welfare benefits, unemployment compensation and disability payments. It was a major accomplishment of the late and unlamented Democratic majority, as Democratic accomplishments go, and despite President Bush's



Samuel Francis

veto in 1992, they passed it again the next year.

The reason the Democrats wanted the bill so much is that it makes it easier for low-income, low-education and low-skill voters to vote —

voters who often don't know or care enough about politics and citizenship to know when the election is, who's running or how to register, let alone what the issues are and what they mean.

These days, such voters just happen to be the backbone of what remains of the Democratic Party, and by facilitating their voting, the Democrats give themselves an edge in elections. These days, the Democrats desperately need an edge, and the law gives it to them by conscripting citizens so indifferent to citizenship they find it bothersome to register.

And if the welfare proletariat isn't enough to give the edge, the motor-voter law also encourages fraudulent voting by non-citizens — namely, immigrants, illegal and legal. That this is a clear purpose of the law is shown by its language that explicitly forbids state officials to verify the address and citizenship of those registering. Two of the states Justice is suing — Cali-

Samuel Francis, a columnist for The Washington Times, is nationally syndicated. His column appears here Tuesday and Friday.

ifornia and Illinois — are high-impact immigration states, and a group of Republican governors, including California's Pete Wilson, has already sued the federal government to overturn the law.

One basis of the Republicans' suit is that the motor-voter law enhances the likelihood of voter fraud. Fraudulent voting by illegal aliens or legal immigrants not yet citizens has been documented in a number of elections in the past — in Florida in 1989, in Los Angeles in 1988 and in some nine California counties in 1982, to mention only a few — and Republican Michael Huffington claims alien voting helped him lose last year's California Senate race to Diane Feinstein. That was all before the motor-voter law went into effect, and Republicans should meditate, in the tranquility of their congressional suites, what will happen once the law kicks into high gear.

What will happen, even aside from voter fraud, is that the current

high levels of immigration will reinforce the Democrats, rip the guts out of the Republican majority and move the political culture of this

The Democrats desperately need an edge, and the law gives it to them by conscripting citizens so indifferent to citizenship they find it bothersome to register.

country well to the left. In a major study of immigration to be published next month by Random House, Forbes senior editor Peter Brimelow argues that "current immigration policy is inexorably

reinforcing Jesse Jackson's Rainbow Coalition."

His argument is that immigrants who entered the United States since the 1965 immigration reform "are overwhelmingly visible minorities" who benefit the Democrats. While the Republican Party retains its "WASP foundation," "the brutal truth," Mr. Brimelow writes, "is this: the Clinton administration is a black-Hispanic-Jewish-minority white (Southerners used to call them 'scalawags') coalition."

Maybe it shouldn't be that way; maybe Republicans should seek more minority voters and Democrats address the real interests of whites who have defected to the Republicans, but Mr. Brimelow's point is that that's the way it is.

If the Democrats are going to play blatant partisan hopscotch by inventing a fake electorate and exploiting an apathetic urban underclass to bail them out of their forthcoming political extinction, the Republicans can and should feel free to play the same game — not just to preserve their own majority but also to protect real democracy and the rights of real voters by repealing the motor-voter law as soon as possible.

US Attorney General Sues States to Enforce Motor Voter

USA TODAY • THURSDAY, FEBRUARY 9, 1995 • 11A

OPINION USA

Guess what? Motor voter law is working

Attorney general says this new law saves time, money and helps all citizens exercise their right to vote.

In Florida, 3,000 people have registered to vote in motor vehicle offices each day since the National Voter Registration Act became law Jan. 1.

In Kentucky, 10,000 people registered in the first 10 days, compared to 55,000 in all of last year.

In Georgia, 52,000 people registered in the first month, compared to 85,000 all last year.

State election officials, Republicans and Democrats alike, have recognized the need for this law to make voter registration easier. Now they are witnessing its success. The law simply asks states to provide registration at motor vehicle offices, hand out registration forms at state agencies and make them available by mail.

While many Americans fail to vote, most say it's because they are not registered. In fact, among registered voters, nearly 80% cast ballots in presidential elections. But about one-third of all eligible Americans, or about 70 million people, are not registered.



By Mark Wilson, AP
By Janet Reno, U.S. attorney general.

One-third of all adult Americans move during each two-year congressional election cycle. Voters who move shortly before registration deadlines frequently find it difficult to re-register in time at their new address. Registration offices are often inaccessible or closed. As a result, many eligible, willing voters are unable to exercise their right to vote.

The new law, known as "motor voter," strikes at the heart of this problem.

It allows people to register to vote at the same time they get their driver's licenses. By adding a few questions to license application forms and assisting those who need it, motor voter reaches 90% of eligible voters.

Although most states are complying with the law, a handful are dragging their heels. Monday, we were forced to sue the governor of South Carolina — the fourth such suit to ensure compliance with the law.

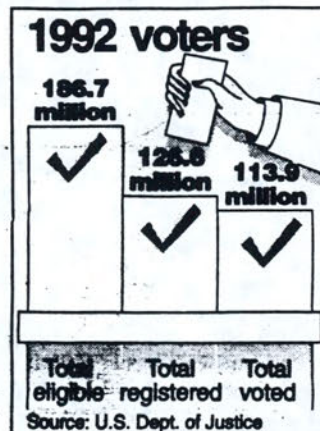
In states resisting change, politicians try to portray this law as an unfunded mandate. They claim Congress exceeded its constitutional powers, or they cite inflated cost estimates. In one case, they claimed that citizens will spend time waiting in longer lines.

They are wrong.

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By Julie Stacey, USA TODAY

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► In many cases, savings will result from the new law. By allowing voters to register when they get their driver's licenses — which occurs all year round — the law will smooth the inefficient peaks and valleys in registration-office volume, with their resultant waste in personnel and overtime costs. Even the Republican secretary of state of Washington insists that motor-voter registration costs less per person than any other method.

► Finally, citizens will, in fact, save time by not being forced to renew a driver's license in one office while having to register to vote someplace else. It's one-stop shopping — government made easy.

The National Voter Registration Act is a constitutional law and a good law. We have worked with the states to ensure compliance. Virtually every state has taken significant steps to comply. The law will help ensure that all eligible Americans have an opportunity to exercise their right to vote. It's just common sense.

Other views on motor-voter law:

"Is it fair for Californians to wait in longer lines to get a driver's license or file an application for welfare because the federal government is imposing a new unfunded responsibility on the states? I believe it is not. ... California is willing to agree to implement a national voter registration program as soon as Washington comes up with the money to pay for the additional burden foisted upon state workers."

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— Pennsylvania Gov. Thomas J. Ridge

"A classic example of a bullying government placing an extreme financial burden on our states."

— Sen. Paul Coverdell, R-Ga.



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VOTE**

Campaign for
Universal
Voter Registration

Suite 410
622 West 113 Street
New York, New York 10025
212 854 4053

Jennifer O'Connor
Special Asst to the President
for Cabinet Affairs
OEOB 111 1/2
Washington, D.C. 20009

**Humanity
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CAMPAIGN FOR
UNIVERSAL VOTER
REGISTRATION



622 W. 113 Street, Rm. 410
New York, NY 10025
(212) 854-4053
(212) 854-8727 fax

JO-ANNE CHASNOW
Associate Director

Clinton Presidential Records Digital Records Marker

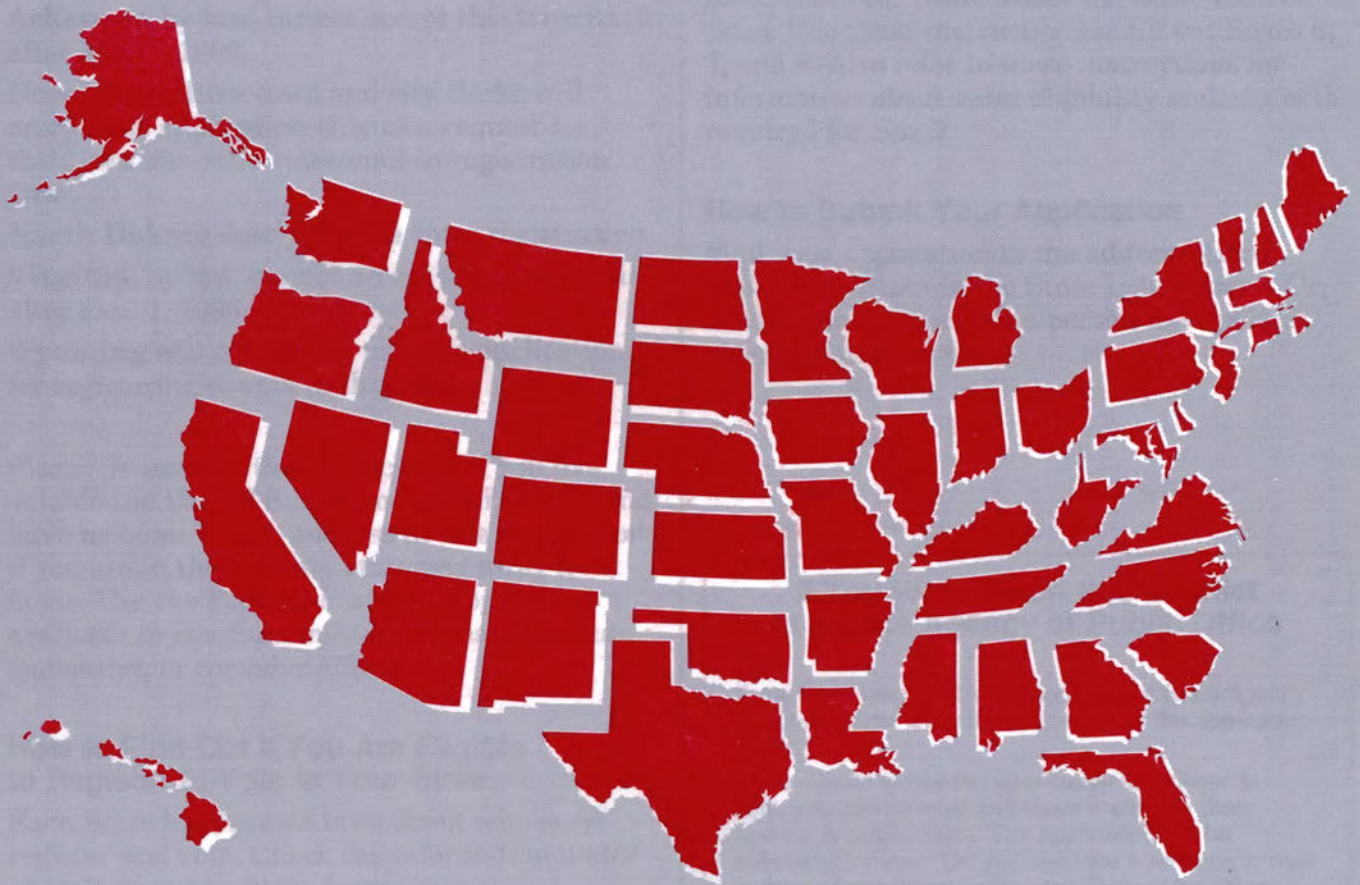
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General Instructions

Register To Vote In Your State By Using This Postcard Form and Guide



For U.S. Citizens

Clinton Presidential Records Digital Records Marker

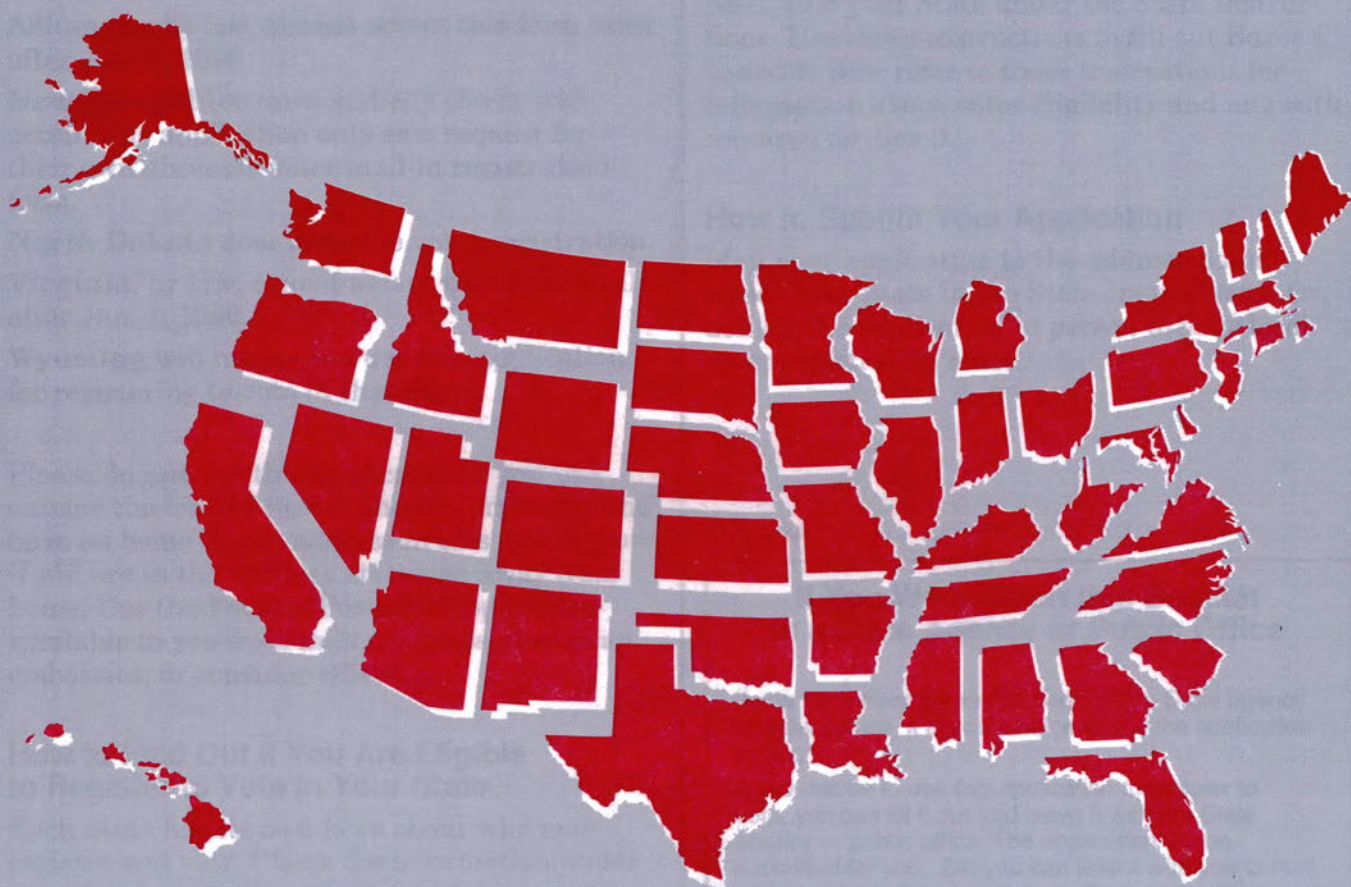
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General Instructions

Register To Vote In Your State By Using This Postcard Form and Guide



For U.S. Citizens

THE WHITE HOUSE
WASHINGTON

Jason
Settles
WP

February 22, 1995

MEMORANDUM FOR ABNER MIKVA
JOEL KLEIN
ALEXIS HERMAN
MARCIA HALE

FROM: KITTY HIGGINS
JENNIFER O'CONNOR

CC: HAROLD ICKES

The Department of Justice is currently in litigation with four states to force compliance with the National Voter Registration Act ("Motor Voter"). The White House has expressed interest in the Department being as activist as possible.

Nancy McFadden would like to assemble some of the staff to discuss the status of Motor Voter compliance as well as our media/constituency plans.

I will call to set up a meeting.



U.S. Department of Justice
Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

FACSIMILE TRANSMITTAL COVER SHEET

DATE:

2-14-95

TO:

Jennifer O'Connor

FACSIMILE NO.

456-6704

TELEPHONE NO.

FROM:

Nancy E. McFadden

Deputy Associate Attorney General

FACSIMILE NO.

202--514-0238

TELEPHONE NO.

202--514-9700

NUMBER OF PAGES (INCLUDING COVER SHEET):

3

COMMENTS:

Re: National Voter Registration Act

1) Ask
2) meet

Nok:

TO: Abner
Mikva
bet Klein
Alexis
Herman

Nadia
Hale

CC: Harold
Ickes

From:
Kitty
me

The Dept of Justice is
wrestling it was a good first
step for us to take
changes. I'll call
to set up
a meeting



U.S. Department of Justice

Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

February 10, 1995

By Fax

MEMORANDUM

TO: Kitty Higgins
Cabinet Secretary

Jennifer O'Connor
Special Assistant to the President

FROM: Nancy E. McFadden
Principal Deputy Associate Attorney General

SUBJECT: National Voter Registration Act

The Justice Department is currently in litigation with four states to force compliance with the National Voter Registration Act (unfortunately referred to as "Motor Voter"). The White House has expressed interest in the Department being as activist as possible on this issue and we agree. As you know, the Attorney General and Assistant Attorney General Patrick held a press conference to announce our first two lawsuits. In addition, an op ed by the Attorney General recently ran in USA Today (see attached) and we are continuing to implement a media plan. We are continuing to closely monitor compliance or non-compliance by all states. Finally, we have done some low-key constituency outreach.

If there is interest, I would offer to bring some of our staff over to brief the appropriate White House staff on the status of Motor Voter compliance and our media/constituency plans. We would be interested in your thoughts as well.

Please let me know what would be most helpful. Thanks.

Attachment



'Guess what? Motor voter law is working

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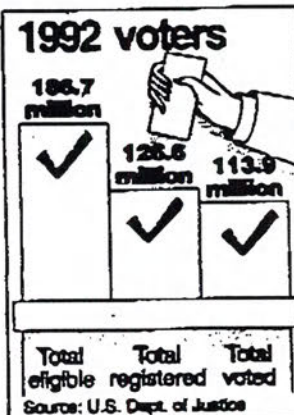
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By Julie Stacey, USA TODAY

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— Sen. Paul Coverdell, R-Ga.

80

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

23-Feb-1995 10:34am

TO: Kathryn Higgins
TO: Jennifer M. O'Connor

FROM: Douglas N. Letter
 Office of the Counsel

SUBJECT: Motor Voter cases

Kitty Higgins and Jennifer O'Connor: You had sent to Ab Mikva and Joel Klein copies of the memo from Nancy McFadden offering to provide a briefing to appropriate people here about the status of the motor voter cases and DOJ efforts. Ab and Joel have asked me to stay involved on this matter, so please let me know when and where such a briefing will occur, and any future developments. Thank you. Doug Letter

February 8, 1995

MEMORANDUM FOR SENATOR DODD
CHAIRMAN FOWLER
HAROLD ICKES

FROM: MINYON MOORE
GREG MOORE
JOE SANDLER

SUBJECT: GOP ATTACK ON MOTOR VOTER

The Administration and the Party should be launching a much more aggressive counter-offensive against current Republican efforts to repeal the motor voter law and/or block its implementation. Such a counter-offensive should reach beyond the current Department of Justice enforcement actions to include:

- A strong statement by the President, in an appropriate forum in the next few weeks, to the effect that he will veto any legislation that includes a repeal of motor voter.

- Having Senator Dodd and Chairman Fowler hit this issue in their speeches and media appearances. The central message can be that the Republican campaign to stall and kill motor voter is nothing less than an effort to block millions of people from participating in our democracy and belies the GOP's supposed commitment to making government more efficient.

- Activating the DNC's office of voter registration to coordinate grassroots opposition to the GOP campaign and take related steps as outlined below.

1. Significance and Value of Motor Voter

Enactment of the motor voter bill was one of the key achievements of the President's first year. As you know, the law required states, by January 1, 1995, to establish procedures to allow people to register to vote automatically when they apply for a drivers' license; to register by mail; and to register at state offices administering AFDC, WIC, Food Stamps and Medicaid benefits. The law also prohibits states from purging voters from the rolls for not voting. Generally states must pass implementing legislation and/or take administrative steps in order to put the required procedures in place.

The direct political value of the motor voter law lies in the prospect for registering millions of new voters, in time for the 1996 race, who will come disproportionately from the ranks of our

base groups--specifically, African-Americans, Hispanics and lower-income persons (especially under \$15,000/year). Each group voted over 60% Democratic in 1994. Persons with incomes between \$15k and 30k voted 52% Democratic. Both the under-15 and 15-30 groups were underrepresented among actual voters, i.e., they account for a higher proportion of VAP than '94 voters.

About two thirds of the unregistered live in households with income below the median. While about 70% of the total white VAP is registered, roughly 60% of the African-American and Latino VAP is registered.

The motor voter law, if fully and properly implemented, will register the unregistered across the board, result in disproportionate increases in registration of Democratic base groups and thus could in and of itself significantly increase the numbers of base Democratic voters voting in 1996--and their proportion of the electorate--even if there is no change in turnout rate among these base groups.

In this regard, the political value of motor voter critically depends on fully implementing the agency-based registration procedures, and doing so in a way that maximizes the number registered through those means (e.g., using combined application forms). Agency-based registration disproportionately reaches minority and lower-income persons. By contrast, registration in connection with drivers' license applications disproportionately reaches white and middle/upper income voters. To comply with the federal law, states are required to undertake agency-based registration as well as registration in connection with drivers' license applications, so enforcing full compliance with the law's requirements is essential. In addition, state officials must be pressed to use combined application forms and take the other steps needed to reach the maximum number of people through the agency-based procedures.

Initial results hint at the potential impact. In Florida 5,000 new voters were registered on the first day; and in Kentucky, the state has been averaging 1,000 new registrants per day at motor vehicle agencies and 1,000 per day at social service agencies.

2. Republican Efforts to Block and Repeal Motor Voter

A. States

At this point 34 states and D.C. have passed implementing legislation largely complying with the federal law and have begun to implement it. Of the remaining 16 states, 4 are exempt by law; 3 have legitimate state constitutional conflicts which extend the time for compliance under the federal law; two have passed same-day registration laws retroactively and claim that gets them out of compliance (which is questionable); and 7 states are resisting in

one way or another, as explained below. Of those 7, 4 are likely top-tier target swing states for 1996.

California, Illinois and Pennsylvania have not passed any legislation, are actively resisting and have been sued by the Justice Department and voting rights groups. California Gov. Pete Wilson has filed his own counter-suit against the law on grounds that it is an interference with states' rights and an unfunded mandate in violation of the Tenth Amendment. He has taken a leading role in speaking out against motor voter and in encouraging resistance among other Republican governors.

South Carolina's legislature passed an implementing bill but then-Gov. Carroll A. Campbell Jr. (R) vetoed it; new Gov. David Beasley (R), following Gov. Wilson's lead, then filed a suit challenging the federal law. On February 6, DOJ filed its own suit against South Carolina for failure to comply with the federal law.

Michigan enacted legislation but, after signing the law, Gov. John Engler (R) blocked implementation of agency-based registration on grounds that it was an unfunded mandate. DOJ has warned Michigan it will sue if the motor voter law is not fully implemented.

Mississippi failed to pass implementing legislation last year. Democratic Secretary of State (and gubernatorial challenger) Dick Molpus began to implement part of the law administratively, and in the first three weeks registered 40,000 new voters, but Gov. Kirk Fordice (R) then ordered a halt to that activity. Pending implementing legislation was then pulled from the floor of the state legislature by a GOP committee chairman.

In Louisiana, DOJ refused to pre-clear the state's implementing law under the Voting Rights Act because it requires photo identification for new voters. It is unlikely the legislature will pass implementing legislation without this provision.

B. Congress

Sen. Mitch McConnell (R-Ky) has introduced a bill to repeal the motor voter law and Sen. Paul Coverdell (R-Ga) has introduced a bill to delay implementation until federal funding is provided to the states. Two hearings have been scheduled by Senate Rules but they were cancelled. McConnell planned to attach his measure as an amendment to the unfunded mandates bill but the Republican Senate leadership demurred, fearing that attaching the motor voter repeal would draw increased resistance and possibly even a filibuster from Sen. Wendell Ford (D-Ky).

On the House side, Appropriations Committee Chairman Bob Livingston (R-La) and Rep. Donald Manzullo (R-Ill.) have sponsored

bills to make state compliance with motor voter voluntary, effectively repealing it. A proposal introduced by Rep. Bob Stump (R-Ariz)--which now has 136 co-sponsors--would outright repeal the law.

At this juncture, the greatest danger is that--in the absence of a strong signal from the Administration--McConnell and/or Livingston, or others, will attach repeal amendments to legislation they believe the President must sign. Repeal would not only kill the benefits of motor voter in the target states noted above that have not yet complied with the federal law, but would encourage other states that have started to comply--and who have new Republican Governors and/or GOP-controlled legislatures--to stop implementation of the federal law.

Meanwhile, again in the absence of a strong signal from the White House, the pendency of repeal bills sponsored by leading GOP Members of Congress is only encouraging the recalcitrant GOP governors to hold out as long as possible and hope to be rescued by the Congress.

3. Actions Needed

Three steps should be taken at this point, in our view:

(i) There should be a strong statement by the President, in an appropriate forum in the next few weeks, to the effect that he will veto any legislation that includes a repeal of motor voter. It is hoped that such a statement would discourage Republican Members from attaching repeal bills to other legislation and help persuade Republican governors and state legislatures that they are not ultimately going to be saved by the Congress from being required to implement the motor voter bill. To the extent they are so persuaded, the chances are increased for earlier and more favorable settlements of pending and future DOJ lawsuits.

(ii) Senator Dodd and Chairman Fowler should begin to hit on this issue in their media appearances and remarks. Wilson, his GOP allies and other opponents have had the field to themselves, driving home the message that motor voter is a classic example of big federal government interfering with the states' traditional prerogatives and imposing unfunded mandates. Key elements of our counter-message could include:

- The Republican campaign to stall and kill motor voter is nothing less than an effort to block millions of people from participating in our democracy. Why do Republicans want to make it more difficult for people to register to vote?

- Motor voter is an example of improving government efficiency and serving people better. As AG Reno pointed out, why should people have to stand in two lines to apply for a drivers'

license and to register to vote when it can all be done at once? If the GOP really wanted to cut bureaucracy and waste they would be all for this.

- The supposed "costs" being imposed on the states are a joke. The real cost for California will be about \$5 million--about 1/7 what Wilson is disingenuously claiming. For New York it will be only \$2.5 million. Having federal elections at all costs money too--a lot more. The GOP line makes no more sense than suggesting that we just cancel all the elections on the ground that they, too, are "unfunded mandates".

- The GOP effort to block and stall motor voter is just one part of their efforts over the years to disenfranchise people--from programs to intimidate and harass minority voters throughout the 80's to the latest phony election challenges in California and Maryland.

(iii) The DNC office of voter registration should be activated to --

- continue to coordinate grassroots activity in the non-complying states, including finding opportunities for outside groups to take press hits at the GOP governors and generate grassroots opposition to repeal efforts. (Attached is a letter from Members of Congress to Attorney General Reno, a letter which the DNC office helped to organize, supporting DOJ's strong enforcement posture);

- find local officials in the non-complying states willing to refrain from purging voters for non-voting--which will keep hundreds of thousands of minority voters on the rolls for 1996--and help find them legal and political cover;

- assist state parties in attacking GOP efforts to block/stall motor voter in their states and in finding ways to track the new registered voters so we can determine how they are breaking out by party and how we can most easily identify and turn out the new Democratic voters;

- work with advocacy groups to continue to press state officials, in complying states, to use combined application forms for agency-based registration.

We would welcome the opportunity to discuss the above further at your convenience.

Congress of the United States
House of Representatives
Washington, DC 20515

February 3, 1995

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
Washington, D.C. 20530

Dear Madam Attorney General:

We are writing to express our strong support for recent actions taken by the Justice Department concerning the 1993 National Voter Registration Act or 'motor voter' law. We commend you for bringing suit against states defying the implementation of the law and actively moving to intercede in regions where violations are evident. Together, these actions send a clear and constructive message to the states that the federal government is determined to see the 'motor voter' law fully and fairly implemented.

Many of us fought long and hard to ensure that individuals have the right to register to the vote through driver-licensing, mail and at social service offices. It is disappointing that even though 'motor voter' was signed into law in 1993, at least five states would deny extension of the vote to the disenfranchised.

The potential impact of not implementing this law is serious. According to the Democratic National Committee, 74 local elections will be affected by this law this year including three governors races. In 1992, less than 40% of low income people were registered to vote, but with the National Voter Registration Act, over 90% will be empowered by 1998. This amounts to an increase of over 5 million new voters by 1996 and double that number to 10 million by 1998.

We urge you to continue your vigorous pursuit of these violators and encourage you not to limit your investigations to the three states currently named in the law suit. States are using the unfunded mandate debate as a smokescreen to mask their unwillingness to register the disenfranchised, traditionally low income and minority individuals. States like Michigan, which has prevented agencies from using state funds to enforce the law, also deserve attention. We urge the use of every available measure to ensure compliance.

Your actions in Pennsylvania should also be applauded. It is essential that people who are currently, legally registered to vote not be purged from the voting rolls as a penalty for not voting in the past, an action which is illegal under the 'motor voter' law. We encourage you to take comparable actions in every jurisdiction where there is any hint of a failure to comply with this provision.

Honorable Janet Reno
February 2, 1995
page 2

Strong legal actions will go far towards ensuring that the disenfranchised are given access to the vote. You and the department have sent a clear message to the states that you expect the state's full cooperation in monitoring and securing compliance with the law. We share the hope that firm action by the administration will lead to the earliest possible conformity to the 'motor voter' law.

Sincerely,

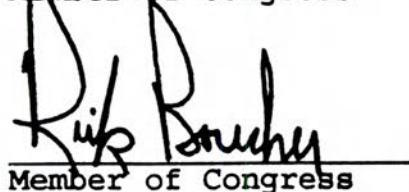

Member of Congress


Member of Congress


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Honorable Janet Reno
February 2, 1995
page 3

Tom V. Sullivan
Member of Congress

Corrine Brown
Member of Congress

William H. Clay
Member of Congress

Bob Rangel
Member of Congress

Glenn H. Norton
Member of Congress

Tra M. Clayton
Member of Congress

Jim Cooper
Member of Congress

Earl J. Hilliard
Member of Congress

Melvin L. West
Member of Congress

James H. Jones
Member of Congress

Pat Schroeder
Member of Congress

Cynthia McKinney
Member of Congress

Charles Stenholm
Member of Congress

Harold Ford
Member of Congress

Sanford D. Bishop Jr.
Member of Congress

Cardis Collins
Member of Congress

cc: Duval Patrick

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

25-Jan-1995 11:17am

TO: Joel I. Klein
TO: Abner J. Mikva
TO: Cheri Sweitzer
TO: Jennifer M. O'Connor

FROM: Douglas N. Letter
 Office of the Counsel

SUBJECT: Full Democracy Act developments

Ab and Joel: I just got an update from the Associate Attorney General's Office regarding various developments on the Full Democracy Act (is that better than Motor Voter?).

First, the US has now been sued by South Carolina, which is making the same types of constitutional arguments that California has made. DOJ will be responding.

Second, DOJ expects to file a motion for a preliminary injunction this Friday in the California case. DOJ will send us the papers when they are filed (which will include a brief addressing the 10th Amendment arguments).

Third, Walter Dellinger is planning to testify before the Senate on 1/31 regarding proposals to repeal or delay enforcement of the statute. DOJ has apparently been asked in particular to address the relationship between the 10th Amendment and Congress' power to set election rules. Because the Senate wants to focus on this constitutional issue, it was decided that Walter would testify instead of Deval Patrick. Deputy Asst Atty Gen Richard Shiffrin in OLC is working on the testimony. Should I get in touch with Richard (I have worked closely with him on a number of things) so that we can look in advance at what Walter is going to say?

From talking with DOJ in the past, I think our constitutional argument is quite strong, but do note one possible monkey wrench that might throw off our argument: in the term limits case, we argued that there were some restrictions on the power of the states and Congress under the Time, Place, and Manner of Elections Clause. However, I don't think our arguments in that case undermine our contention here that the Tenth Amendment does not trump whatever power Congress has under the Elections Clause. Also, in the term limits case, a Tenth Amendment claim was raised, which the Solicitor General treated as almost frivolous. At the oral argument in the Supreme Court, some Justices showed some interest in it however. So, when the term limits decision is handed down, it might require some changes in our analysis in these voter cases.

cc: Jennifer O'Connor



U.S. Department of Justice

Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

SPECIAL

FACSIMILE TRANSMITTAL COVER SHEET

DATE:

1-20-95

TO:

Jennifer O'Connor (Fax: 456-6704)
Doug Latta (Fax: 456-1647)

FACSIMILE NO.

TELEPHONE NO.

FROM:

Nancy E. McFadden

Deputy Associate Attorney General

FACSIMILE NO.

202--514-0238

TELEPHONE NO.

202--514-9700

NUMBER OF PAGES (INCLUDING COVER SHEET):

12

COMMENTS:

DRAFT materials for Jan. 23
NUPA press conference



U.S. Department of Justice

Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

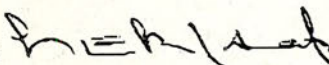
January 20, 1995

BY FAX

MEMORANDUM

TO: Jennifer O'Connor
Office of Cabinet Affairs
The White House

Doug Letter
Office of Counsel to the President
The White House

FROM: Nancy E. McFadden 
Principal Deputy Associate Attorney General

SUBJECT: **DRAFT** Materials for January 23 National Voter Registration Act Press
Conference

Attached are **WORKING DRAFTS** of the Department of Justice press release
and background materials for Monday's press conference on the National Voter
Registration Act.

Attachments

FROM THE OFFICE OF CABINET SECRETARY

202-456-2572

Date: 1-20-95

Response Needed by: ASAP

☐ Erskine Bowles	☐ Mack McLarty
☐ Rahm Emanuel	☐ Abner Mikva
☒ Mark Gearan	☐ Jack Quinn
☒ Pat Griffen	☒ Leon Panetta
☒ Marcia Hale	☐ John Podesta
☒ Alexis Herman	☐ Political Affairs
☐ N. Hernreich	☐ Carol Rasco
☒ Harold Ickes	☐ Bob Rubin
☐ Anthony Lake	☐ Alice Rivlin
☒ Bruce Lindsey	☒ G. Stephanopoulos
☒ Mike McCurry	☐ Billy Webster
☐ Katie McGinty	☐ M. Williams

Remarks:

Attached are draft press release materials for the ATTORNEY GENERAL'S PRESS CONFERENCE ON LAWSUITS FILED AGAINST STATES FOR VIOLATING THE MOTOR VOTER ACT.

The press conference is THIS MONDAY, JANUARY 23. The statements are straightforward and demonstrate an aggressive posture towards states that don't comply. The Attorney General will be announcing that she is suing California, Illinois and Pennsylvania.

Please call me at 456-2572 or page me if you have any comments on the press materials.

-- Jennifer O'Connor

Response:

1/20/95

JUSTICE DEPARTMENT SUES THREE STATES FOR REFUSING
TO COMPLY WITH THE NATIONAL VOTER REGISTRATION ACT

WASHINGTON, D.C. -- The Justice Department today sued the states of California, Illinois, and Pennsylvania for refusing to comply with a new law that makes it easier for Americans to register to vote.

Under the National Voter Registration Act of 1993 (NVRA), most states were required by January 1, 1995, to provide voter registration for federal elections at motor vehicle locations and other state agencies as well as through the mail. President Clinton signed the Act in May, 1993.

"This is a common sense law that is already making voting more available to all Americans," said Attorney General Janet Reno. "States have already seen tremendous increases in the number of people registering to vote in the 23 days since the law has been in effect."

Last May, the Justice Department notified all the states of their obligations under the law and since that time has been

working with state officials to ensure that they voluntarily comply.

"We cannot understand why any elected official would stand in the way of making it easier to register to vote," said Assistant Attorney General Deval L. Patrick.

Neither Illinois nor Pennsylvania passed legislation or took any administrative action to comply with the law.

In California, where registration forms already have been printed, Governor Wilson vetoed legislation. In December, California filed suit against the federal government challenging the constitutionality of the law. In addition to countersuing the state for its refusal to comply, the Justice Department today also responded to the California suit by asserting that Congress has the constitutional authority to regulate federal elections.

Three states -- Arkansas, Virginia and Vermont -- have been provided additional time to comply in order to amend their state constitutions. Four states -- Minnesota, North Dakota, Wisconsin and Wyoming -- are exempt from the law because they already had same day or no registration prior to the enactment of the law.

Earlier this month Reno indicated that South Carolina also was resisting the law. At the time, the state had passed legislation which the former Governor vetoed. A new Governor has taken office, and it appears that the state's election commission may be trying to comply with the NVRA. The Justice Department is closely monitoring the situation to determine if litigation is needed to ensure compliance.

Additionally, Michigan passed legislation which was signed into law on January 10. On that same day, however, the Governor signed an Executive Order which effectively prevents agencies from providing the voter registration services. The Justice Department is also monitoring activity in that state.

"With the exception of a handful of states, every state is complying or working towards complying with the law," stated Reno. However, she added, "We are monitoring every state to ensure full compliance and will not hesitate to file additional suits against other states that resist implementation."

#

95-

National Voter Registration Act
Lawsuits Against States In Non-Compliance

Questions And Answers

Q: What are you doing today?

A: Today we are suing the states of California, Illinois and Pennsylvania for failing to simplify the registration process as required under the National Voter Registration Act.

Neither Illinois nor Pennsylvania has passed legislation or taken administrative action to comply with the law.

California passed legislation, but its Governor vetoed the measure even though registration forms were already printed. Additionally, in December of last year, California filed a lawsuit challenging the constitutionality of the NVRA. So, in addition to countersuing the state for refusing to comply, the Justice Department today answers California's challenge by defending the constitutional authority of Congress to regulate federal elections.

Q: What does the law require?

The NVRA requires all states (except Minnesota, North Dakota, Wisconsin, and Wyoming, which are exempt) and the District of Columbia to provide voter registration opportunities for federal elections

- * through the driver licensing process,
- * through the mail,
- * and through state agencies, such as welfare and disability agencies,

It also prohibits states from purging voters from registration lists for failure to vote. [They can still be removed under a state program if they have been convicted of a felony, died, moved to another jurisdiction, or are mentally disabled.]

Q: Won't the NVRA make vote fraud easier?

A: No. Congress debated this issue extensively before passing the law. The NVRA provides for civil and criminal enforcement and heavy penalties. The Justice Department will have ample authority to combat vote fraud. Each state also has its own laws.

Q: You seem to be saying that you can react to fraud. But does this mean you agree there will be more fraud?

A: No. Based on the experience of states which have used mail-in or DMV registration for years -- California, for example, already uses mail-in registration -- we don't expect more vote fraud.

[NVRA actually adds safeguards against fraud. People applying for driver licenses must present additional information, such as birth certificates, that are otherwise unavailable to voter registrars.]

[Also, NVRA gives states the option to require first-time voters to register in person rather than through the mail.]

Q: Some states call the NVRA an "unfunded mandate" and refuse to implement it without federal funding. Do they have a right to do this?

A: No, and I think it's a false argument. California is using that theory in their lawsuit.

The NVRA is not a new expense. This is simply a different way of providing an existing service. States have always borne the cost of registering voters for state and federal elections, and for holding federal elections. The law only provides new opportunities for voters to register.

[Registering more voters for federal elections also helps increase voters for state elections, since most states have a unitary registration system. So there is a benefit to the states as well.]

[Cost estimates advanced by states using the unfunded mandate argument are not uncontested. For example, although the Governor of California claims that NVRA implementation will cost that state \$30-35 million, the former California Secretary of State, whose office designed the program, estimated the cost at \$5 million.]

[Even Congress, which is considering the issue of unfunded mandates, recognizes that most laws impose some costs on states. The current proposal bans only those laws that will cost more than \$50 million. The NVRA would not meet this criteria.]

[Finally, the proof is in the deed. Most states are complying with this law. The unfunded mandate theory is only being advanced by the holdouts.]

Q: How much is it costing the states to implement the NVRA?

A: The Congressional Budget Office (CBO) estimates the average cost to each state and locality would be about \$20,000 per year for the first five years of the program. CBO estimates

all the states combined would have to spend no more than \$20-25 million.

All the law requires is that state agencies provide voter registration forms with their other applications and accept mail-in registration. Most of the costs, according to the CBO, are directly related to the increase in persons who will register to vote.

Q: Do we know whether the law is producing results?

A: The preliminary reports are very positive. For example

* all last year, Georgia registered 85,000 people to vote. In just the first two weeks of this year, they've already registered 18,000,

* Florida reports 3,000 people a day are registering at DMV's,

* And in the first ten days of implementation, Kentucky registered over 10,000 voters and completed 15,000 change of addresses at motor vehicle and public assistance agencies.

Before this law, it is estimated that 1/3 of the eligible electorate was not registered to vote. The main reason most people gave for not voting was that they were not registered.

Q: Can states require voters to present I.D. to register?

A: While states are not prevented from asking for I.D., we are very concerned about the potential for discrimination in this practice. Voters already sign a statement under penalty of perjury and this can be enforced.

Q: Does the NVRA require that voters be citizens?

A: No, the NVRA doesn't change voter eligibility requirements.

The question is based on faulty assumptions. Under the U.S. Constitution, the states, not the federal government, set qualifications for their voters. And it's a moot issue since all states require that voters be citizens.

Q: Voter groups claim more states have failed to comply with the NVRA than those mentioned today. If so, why isn't the Justice Department suing them?

A: The Department's first enforcement actions are targeted at states which have not taken even the initial step of having laws in place by January 1, 1995.

Three states, Arkansas, Virginia, Vermont, have time extensions due to the need to pass a constitutional

amendment. Four states -- Minnesota, North Dakota, Wisconsin and Wyoming -- are exempt from the law because they already had same day or no registration prior to the enactment of the law.

Our investigation indicates that other states are working towards compliance. However, we are monitoring all states closely and may bring further lawsuits.

Q: What about South Carolina and Michigan? Didn't the Attorney General accuse them of failing to comply?

A: Earlier this month we indicated South Carolina also was resisting the law. At the time, the state had passed legislation which the former Governor vetoed. A new Governor has since taken office, and it appears that the state's election commission is trying to comply with the law. We are monitoring the situation to determine if a lawsuit is necessary.

Michigan passed legislation which was signed into law on January 10, 1995. That same day, however, the Governor signed an Executive Order which effectively prevents agencies from providing the required voter registration services. We are closely monitoring this state as well.

Q: Has the Justice Department taken a position on legislation in Congress to delay NVRA enforcement?

A: We will vigorously oppose any efforts to roll-back this law.

NATIONAL VOTER REGISTRATION ACT OF 1993

The National Voter Registration Act of 1993 greatly expands opportunities for individuals to register to vote in federal elections. The major requirements of the Act, which became effective in most states on January 1, 1995, include:

- Mail-in registration States must accept mail-in registration forms developed by each state and by the Federal Election Commission.
- Motor-voter registration States must make voter registration available at motor vehicle agencies by making it part of the motor vehicle driver's license application or renewal process.
- Agency-based voter registration States must make voter registration available at agencies which provide public assistance or primarily serve persons with disabilities. At these agencies, they must have voter registration applications available for distribution, assist applicants in completing the forms and forward the completed applications to the appropriate state official. States are also required to designate other discretionary agencies to conduct voter registration.
- Limitation on voter purges States may only remove voters from the registration rolls at the request of the voter, because of criminal convictions, death or mental incapacity, or due to a change of address. Additionally, no voter may be purged merely because they failed to vote.
- Additional safeguards States must allow voters who move within the same precinct to vote even if they have not re-registered or notified the registrar of the change.

Three states--Arkansas, Virginia and Vermont--have been provided additional time to comply in order to amend their state constitutions. Four states--Minnesota, North Dakota, Wisconsin and Wyoming--are exempt from the law because they already had same day or no registration prior to the enactment of the law.

1/20/95

NATIONAL VOTER REGISTRATION ACT

Who Registers/Who Votes

- It is estimated that between 30 and 40 percent of the eligible electorate cannot vote because they are not registered.
- Nearly half of the eligible electorate fails to vote in presidential elections. The main reason cited for not voting is non-registration.
- According to the Federal Election Commission, 90 percent of voting age individuals have driver licenses - a little over 60 percent of which are registered to vote.
- 80 percent of people between 18 and 19 years of age have driver licenses - only 30 percent are registered to vote.
- Census figures show that while only about half of the eligible population votes at presidential elections, 85 to 90 percent of registered voters turnout.
- Human SERVE, a New York based research organization, recently studied states that substantively complied with NVRA's motor vehicle licensing requirements between 1988 and 1992. It showed that voter turnout increased 12.5% between 1988 and 1992 as compared to 5.5% in states without motor voter programs.

NVRA Already Benefiting Americans

Although all states have not yet tabulated the number of voters who have registered using NVRA procedures, those that have reveal dramatic results:

Florida	Averaging over 3,000 new voter registrations per day through driver licensing (Florida did not previously register voters through licensing).
Georgia	Over 18,000 people have been registered since January 1, 1995, through the Department of Public Safety (vehicle licensing), mail in registration, and from other agencies. 85,426 people registered in all of last year.
Washington	Approximately 3,700 voters were registered in the first week of operation through the combined use of "motor voter," registration by mail, and agency based registration.
Kentucky	In the first ten days of implementation, Kentucky registered over 10,000 voters and completed over 15,000 changes in address through the motor vehicle services and public assistance agencies. Additional voters were registered through disability services, military recruitment, the WIC program, and mail in applications.
Oregon	Using procedures substantially equivalent to that required by the NVRA, Oregon registered an average of over 9,000 voters a month, through motor voter services alone, in 1994. New voter registrations were achieved in 19 percent of all license transactions.
Washington DC	Implemented a motor voter program in 1989. Registrations through the department of vehicles now make up 42.8 percent of the new registrations in the District.
Mississippi	Nearly 12 percent of people getting driver's licenses registered to vote at the Jackson Department of Public Safety.

(1) Danner & Tanner
from DAT thinks
there is room for
Labor

find out where Tanner

(2) Super
- to spec marking w/ model farms
- training

New on Motor Voter

1. Amendments to Kempthorne Glenn -- there will be one to repeal Motor Voter or call it an unfunded mandate and not allow it unless funded. Our leg office says the strategy is no amendments. This is all to happen this Tuesday/Wednesday. Should there be public statements by the President/ encouraged by other Dems, to veto if this is on it or that sort of thing?
2. Suits: two, next week, IL and PA. Speak to Ab.
3. Labor issue -- next Fri -- need to speak with Ab.

1. do encourage shift
2. H1 → will talk to Joel
3. what

December 23, 1994

MEMORANDUM FOR HAROLD ICKES

FROM: Jennifer O'Connor

SUBJECT: National Voter Registration Act (Motor Voter)

I have spoken with the Departments of Justice, Health and Human Service, Labor and Agriculture to follow up on our meeting with Richard Cloward and Linda Davidoff. Below I have summarized the departmental responses to the issues raised at the meeting.

1. Lawsuits

At the moment, six states are likely to face lawsuits due to noncompliance.

Illinois and Pennsylvania have not taken appropriate legislative or administrative action to comply with the Act and are likely to face suits by the Department. Two states covered by Section 5 of the Voting Rights Act, Georgia and Louisiana, have had their submissions pre-cleared in part and rejected in part. Joel Klein thinks that based on their current status, these states, will also be sued by the Department.

There are many other states still in some level of review. Some of them may also be candidates for lawsuits. For instance, the Department was aiming to finish its review of California by today. Joel expects the California plan to be a problem, and anticipates a suit. In addition, South Carolina may be a problem. It has not submitted a Section 5 plan as required; the Department is investigating.

The status of these states is changing rapidly. I recommend you discuss these potential suits with Ab Mikva. It is Joel's assessment that the Department will sue where appropriate, for example in these six states. Ron Klain told me, however, that the Attorney General would rather avoid suits if possible.

2. Forms

Cloward and Davidoff raised the issue with us of having the Departments of Agriculture and HHS mandate or encourage the use of combined public assistance/ voter registration applications. They claim the departments have not done so.

Both departments face the same problem: the Act is administered by state agencies. This means that to mandate the use of certain forms, they would have to issue regulations to the states to use certain forms. Both departments think the result of such regulations would be a huge backlash from the states; they would claim that the Act is an unfunded mandate and that micromanaging the forms from the federal level is unwieldy and costly. Many states have already developed their materials and to make them reprint their forms would likely be viewed as heavy handed.

So, while it is possible to order the departments to issue regulations mandating the use of the combined forms, both departments think it is politically foolish and could cause a state and ultimately congressional backlash that would hurt out ultimate goals.

The departments can, however, do more to encourage the use of the forms.

- Agriculture has already passed along to its regional offices to distribute to the states the District of Columbia model form that Cloward showed us. And it has discussed motor voter implementation at regional meetings with state WIC directors. The Department could go further and develop and disseminate its own model forms and conduct trainings in how to use them. It could set up regional meetings with Food Stamp state program directors to train them, much as it has trained the WIC directors.
- Some states have not yet passed their motor voter implementation legislation. These states may be behind in preparing materials and the departments could be influential if they step in now.
- Agriculture thinks it could publish stricter guidelines for motor voter implementation. These would not have the force of regulations but could be a lesser measure to encourage use of combined forms.
- HHS, according to Peter Edelman, has already strongly encouraged the states to use the Humanserve forms. He thinks the department could go further by reaching out to each state to ask how it is implementing the Act and ask what forms are being used. Edelman is also exploring the idea of developing eye-catching materials to be sent to states for posting in AFDC offices.
- Although both departments have disseminated the model District of Columbia form, it appears to have been in the form of training sessions. We could ask both departments to send a special mailing with the model forms and a letter encouraging their use to regional and state agency directors.

3. Agency Issues

Cloward and Davidoff raised legal program implementation questions about two departments: HHS and Labor

- HHS - HHS has done what Cloward and Davidoff recommended. The

recommendation was that the Office of Community Service at HHS should be legally allowed to participate in motor voter activities. They understood there to be a legal barrier to this. According to Peter Edelman, the department has recently issued a legal opinion that supports the position advocated by Cloward and Davidoff. The Director of the Office of Community Service has since then distributed a memo to his programs to let them know they are legally allowed to participate in motor voter activities when asked by a governor.

- Labor -- The Labor Department has not done what Cloward and Davidoff recommended. They recommended two things: first, that the Social Security Act be interpreted such that unemployment insurance offices could be used for voter registration; second, that Employment Service grants be used for motor voter activities. The Labor Department believes a legislative fix is needed for either recommendation to be possible.

Humanserve has one set of legal opinions on this issue and the Labor Department has another set. My non-lawyer read of the memos suggests the Labor Department view is conservative. I recommend you ask Ab Mikva to take a look at the issue and determine whether it is appropriate for any part of the White House to engage in a debate on the legal interpretation of the Labor Department's Solicitor. I have included the duelling legal memos for your convenience.

4. Promotion of Motor Voter

I have asked each department to brainstorm ways to better promote the implementation of the motor voter bill. When I return from vacation, I will raise the issue with David Dreyer and others here as well. None of the departments has engaged in promotional activities yet, and none of them have funds set aside for such activities at the moment.

January 9, 1995

MEMORANDUM FOR LEON PANETTA
GEORGE STEPHANOPOULOS
PAT GRIFFIN

FROM: HAROLD ICKES
JENNIFER O'CONNOR

SUBJECT: AMENDMENT TO REPEAL/GUT NATIONAL VOTER REGISTRATION
ACT

I understand that the Kempthorne-Glenn unfunded mandates bill is being marked up today and may be on the floor as early as Wednesday. Senator Coverdell has circulated a draft amendment which he may offer Wednesday that basically brands the National Voter Registration Act (Motor Voter) as an unfunded mandate and would keep it from being enforced unless the Justice Department provides funds to states for implementation.

I understand we are hopeful that the leadership will follow a "no amendments" approach to the Kempthorne-Glenn bill, which would keep this amendment from passing. But there has not been agreement to the "no amendments" approach. We need to decide how to proceed when this issue arises on Wednesday.

Barbara
Chow

10-14-58
4 PM
11:00 AM

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5-6374

Dankowski

Chasnow

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a - solicitor -
v. privacy
ve f

b - other grants
→ exp. to ... / Raymond
- DOJ took interest
by trying to ...

4 Next Fri.
Jonathan Feldman

Apparently Kenneth Klein cont.
Mendota = up for making floor on 10/2, McInnell
= a. after an audit - 2 things - repeat NARA of delay, see & a
care at funding; → Peter's message that under it

(10/15)
cont. 2/10/10
cont. 2/10/10
cont. 2/10/10

TX
(212)
11/4
5339

DNC - Voter League
League of Voters
Leadership Conf on Civil Rights this
Jesse → Rainbow Conf
who will call and
well Senators
to filibuster
Wells for
Duke
Daseke
Jennifer O'Connor
Room 111.5
Human
some
newsletter
→ couple hundred

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

OFFICIAL BUSINESS

Field

FAX



202 - 456 -

6704

DATE: 1/6/95TO: Jennifer O'ConnorFROM: ChasnowNUMBER OF PAGES INCLUDING THIS PAGE 3

COMMENTS:

As we discussed
This will become the NVRA
amendment next week onto
the unfunded mandates
legislation. Coverdell is the
sponsor.

622 West 113 Street • Suite 410 • New York, New York 10025 • 212 854 4053 • fax 212 854 8727

National Staff: Richard A. Cloward, Executive Director • Jo-Ann Chasnow, Associate Director • Louise Altman, Associate Director • David Plotkin, State Programs Director • Rebekah Ewenson, Program Associate

Board of Directors: Juan Cartagena, President • Frances Fox Piven, Secretary • Richard A. Cloward, Treasurer • Roger Alcalá • Calvin Butts • Margaret Carey • Blair Clark
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OFFICE OF CABINET AFFAIRS

THE WHITE HOUSE

WASHINGTON

FAX

TO:

Tracy Thornton

Barbara Chou

DATE:

1-6-95

PHONE:

FAX:

NO. OF PAGES
(Including cover)

4

PRIORITY:

Y

N

FROM:

Jennifer O'Connor

PHONE:

(202) 456-2572

FAX:

(202) 456-6704

MESSAGE:

Here is a draft of the amendment

to the unfunded mandates bill on the

Motor Voter Act. Coverdell is the

Sponsor.

O:\FLA\FLA95.027

DISCUSSION DRAFT

S.L.C.

104TH CONGRESS
1ST SESSION**S.** 91

IN THE SENATE OF THE UNITED STATES

Mr. COVERDELL introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. NATIONAL VOTER REGISTRATION ACT IMPLE-**
4 **MENTATION.**

5 The National Voter Registration Act of 1993 (42
6 U.S.C. 1973gg et seq.) is amended—

7 (1) by redesignating section 13 as section 14;

8 (2) by inserting after section 12, the following
9 new section 13:

O:\FLA\FLA95.027

DISCUSSION DRAFT

S.L.C.

2

1 "SEC. 13. FEDERAL FUNDING.

2 "(a) IN GENERAL.—The Attorney General shall
3 make grants to the States sufficient to implement this Act.

4 "(b) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as are nec-
6 essary to carry out this section."; and

7 (3) by amending section 14—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 "or";

11 (ii) by striking "and" at the end of
12 subparagraph (B), and inserting "or"; and

13 (iii) by adding the following new sub-
14 paragraph:

15 "(C) 180 days after the date on which
16 Congress appropriates funds pursuant to sec-
17 tion 13(b); and"; and

18 (B) by amending paragraph (2) to read as
19 follows:

20 "(2) with respect to any State not described in
21 paragraph (1), the later of—

22 "(A) January 1, 1995; or

23 "(B) 180 days after the date on which
24 Congress appropriates funds pursuant to sec-
25 tion 13(b)."

JO

Joann Chasnow,

Jan. 4, 1995 11pm

↓ regarding Dept of Labor NURA Typewriter
↓ 212-854-4053

anxious to speak w/you

MEMORANDUM
OF CALL

Previous editions usable

TO:

Jennifer
☒ YOU WERE CALLED BY-- ☐ YOU WERE VISITED BY--
Nancy Mc Fadden
OF (Organization)

☐ PLEASE PHONE ► ☐ ~~ETS~~ ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU
☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

*PA & IL } mail
CA SC } see next week*

RECEIVED BY	DATE	TIME

63-110 NSN 7540-00-634-4018

STANDARD FORM 63 (Rev. 8-81)
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U.S. GOVERNMENT PRINTING OFFICE: 1991 281-781/40014



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D. C. 20201

FACSIMILE

**PLEASE NOTIFY OR HAND-CARRY
THIS TRANSMISSION TO THE
FOLLOWING PERSON AS SOON AS
POSSIBLE:**

DATE: Jan. 5, 1995

TIME: 10:23

TO : Jennifer O'Connor

COMPANY : _____

FAX NUMBER: 456-6704 TELEPHONE NUMBER _____

FROM: Peter Edelman

OFFICE OF THE SECRETARY
200 INDEPENDENCE AVENUE, S.W.
WASHINGTON, D.C. 20201

(202) 690-~~7595~~ 8157 FAX NO. (202) 690-7595

COMMENTS: _____

January 5

Jennifer --

Here are some current materials on what HHS has done to implement Motor Voter. I have asked Lavinia Limon to discuss with her staff the possibility of some of the additional activities we discussed on the phone: surveying the states, making PR materials available, doing more training and publicizing. She will get back to me and I will get back to you.

Peter



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the General Counsel
Washington, D.C. 20201

November 29, 1994

NOTE TO: Claudia Cooley

This note provides background on the department's activities with respect to implementation of the National Voter Registration Act of 1993.

Since the summer of 1993, Peter Edelman and I have been responsible for coordinating the Department's activities mandated by the Act and the President's Executive Order 12926, regarding implementation of the Act. We have been working with representatives of ACF, HCFA, and SSA, the operating divisions with primary responsibility for implementing parts of the Act, as well as with other divisions that might be affected.

Under the Act, both AFDC and Medicaid offices are required to provide voter registration material to people eligible for those programs and to help them fill-out those forms. ACF has issued both an Information Memorandum and an Action Transmittal to the states informing state welfare directors of the obligations under the Act and indicated that ACF would be providing matching funds for required activities. ACF-IM-93-5, September 7, 1993 and ACF-AT-94-7, March 22, 1994. ACF also has been providing technical assistance to the states. HCFA also has sent out a letter to state Medicaid directors regarding implementation of the Act.

In addition to requiring AFDC and Medicaid offices to serve as voter registration agencies (VRAs), the Act provides that the Governor of a state may request other federal agencies to serve as VRAs. At least one state, California, has made this request of Social Security offices. We have determined that the SSA does not have legal authority to expend trust fund money for this activity. Therefore, SSA offices will not engage in voter registration activities; they will have registration forms available in SSA offices.

The Associate General Counsels for each of the operating divisions have reviewed the requirements of the Act and the Executive Order as they apply to each of the programs within the division. They will continue to advise the divisions as questions arise regarding implementation.

A handwritten signature in dark ink, appearing to read "Michael S. Wald", is written above the printed name.

Michael S. Wald

cc: Peter Edelman ✓

Aid To Families with Dependent Children (AFDC) Action Transmittal

U.S. Department of
Health and Human Services
Administration for Children & Families
Office of Family Assistance
Washington, D.C. 20447

Transmittal No. ACF-AT-94-7

Date March 22, 1994

TO: STATE AGENCIES RESPONSIBLE FOR ADMINISTERING THE AFDC PROGRAM UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED ORGANIZATIONS, AGENCIES AND INDIVIDUALS

SUBJECT: Availability of Federal Funding to Implement Provisions of the National Voter Registration Act (NVRA) of 1993

REFERENCES: Sections 402(a)(9) and 403(a)(3) of the Social Security Act; 45 CFR 205.50 and 205.150; and the NVRA P.L.103-31, and IM-93-5.

PURPOSE: This memorandum is to advise Title IV-A State agencies of the availability of Federal financial participation (FFP) for voter registration assistance provided under authority of P.L.103-31.

BACKGROUND: The NVRA became law on May 20, 1993. It contains provisions that will make it easier for individuals to register to vote in elections for Federal office. It requires States to designate as voter registration agencies, among others, all offices that provide "public assistance" and "State-funded programs primarily engaged in providing services to persons with disabilities".

The Conference Report defines "public assistance" agencies as those that administer the food stamp, medicaid, the Women, Infants and Children (WIC) and the Aid to Families with Dependent Children (AFDC). States at their option may designate offices as voter registration agencies as well.

These offices shall: distribute mail voter registration forms; provide assistance in forms completion; and provide a service to accept completed forms and to transmit them to appropriate authorities. At present AFDC regulations prohibit such activities, although, as indicated earlier in IM-93-5, 45 CFR 205.50 is being amended to eliminate this prohibition. The

party affiliated materials; discourage registration; or imply in any way that the availability of services or benefits is dependent upon voter registration.

DISCUSSION:

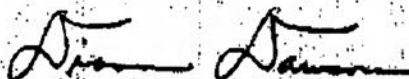
Federal funding for these activities is not authorized in title IV-A of the Social Security Act. However, the House and Senate reports to NVRA note, "Costs for registration application assistance for these offices should be considered matchable under the current Federal match rate for these programs". Consequently, under authority of the NVRA, 50% Federal match will be available under section 403(a)(3) of the Act for voter registration assistance provided by Title IV-A staff under the normal reimbursement procedures. Shared program costs will be subject to reimbursement in accordance with approved cost allocation plans as described in 45 CFR 205.150. Additional information will be provided as it becomes available.

EFFECTIVE:

The provisions take effect January 1, 1995 or, for States requiring an amendment to the State constitution, the later of January 1, 1996 or 120 days after the date it would be legally possible to put into effect an amendment to the State's constitution without a special election.

INQUIRIES:

Direct inquiries to the appropriate ACF Regional Administrator.



Diann Dawson
Acting Director
Office of Family Assistance

Aid To Families with Dependent Children (AFDC) Information Memorandum

U.S. Department of
Health and Human Services
Administration for Children & Families
Office of Family Assistance
Washington, D.C. 20447

No. ACF-IM-93-5

Date September 7, 1993

TO: STATE AGENCIES ADMINISTERING APPROVED PUBLIC ASSISTANCE PROGRAMS AND OTHER INTERESTED PARTIES

SUBJECT: National Voter Registration Act of 1993

RELATED REFERENCES: Section 402(a)(9) of the Social Security Act; 45 CFR 205.50; and P.L. 103-31

ATTACHMENTS: P.L. 103-31; Schedule and Location of Federal Election Commission Regional Conferences

PURPOSE: This memorandum is to alert State agencies of the provisions found in the National Voter Registration Act of 1993 which will have a direct impact on public assistance agencies.

BACKGROUND: The National Voter Registration Act (NVRA) of 1993, PL 103-31, also known as the "motor voter bill", was signed into law on May 20, 1993. This law is intended to encourage individuals to register to vote by requiring States to provide voter registration services at designated government agencies.

DISCUSSION: The NVRA contains three provisions which will make it easier for individuals to register to vote in elections for Federal office. These include: (1) the simultaneous application for or renewal of drivers licenses and voter registration (the motor voter part of the bill); (2) the adoption and use of a "mail" application form for voter registration; and (3) the designation of State voter registration agencies, including among others all offices in a State that provide "public assistance" and "State-funded programs primarily engaged in providing services to persons with disabilities".

States that continuously since March 11, 1993 have had voter registration requirements for any voter in the State with respect to an election for Federal office are exempt from this legislation. It appears that four States and the District of Columbia will be exempt from provisions of the Act. The States are Wyoming, Wisconsin, North Dakota and Minnesota. In addition, the requirements of the NVRA are not applicable to the territories, including Guam, Puerto Rico and the Virgin Islands.

Legal Opinion

MAY 13 1994

Mr. David Bradley
Executive Director
National Community Action Foundation
2100 M Street, N.W.
Washington, D.C. 20037

Dear Mr. Bradley:

This is in response to your memorandum of February 3 requesting a legal opinion as to whether community action agencies (CAAs) may be permitted to conduct voter registration activities under Community Services Block Grant (CSBG) Act and the National Voter Registration Act of 1993, (Pub. L. 103-31).

We have reviewed the CSBG Act and the Voter Registration Act and we believe some support does exist for the proposition that the use of CSBG funds to conduct voter registration activities falls within the state purposes and assurances set forth in section 675(c) of the CSBG Act. In particular the registration of voters may serve to assist the poor in achieving "greater participation in the affairs of the community." (See section 675(c)(1)(B)(vii) of the CSBG Act.) As a matter of policy, OCS believes that CSBG funds may be used for voter registration activities conducted by CAAs.

There is no Federal prohibition against CAAs carrying out voter registration activities, as long as the voter registration is accomplished in a non-partisan fashion. The CSBG Act does prohibit any activities to provide voters and prospective voters with transportation to the polls. Additionally, the block grant regulation at 45 CFR part 96.30 which provide that, "a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds." As such the CAA should check to determine what are the State regulations on voter registration activities.

If we can be of any further assistance in this matter, please do not hesitate to call me.

Sincerely,

DS
Donald Sykes
Director

ACF/OCS/DSA/MBROOKS: crb 5/6/94

FILE
COPY

OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
KGB	MBROOKS	5/10	KGB	PLUSHNITZER	5/11/94	KGA	DSYKES	5/13

THE WHITE HOUSE
WASHINGTON

December 23, 1994

MEMORANDUM FOR HAROLD ICKES

FROM: Jennifer O'Connor

SUBJECT: National Voter Registration Act (Motor Voter)

I have spoken with the Departments of Justice, Health and Human Service, Labor and Agriculture to follow up on our meeting with Richard Cloward and Linda Davidoff. Below I have summarized the departmental responses to the issues raised at the meeting.

1. Lawsuits

At the moment, six states are likely to face lawsuits due to noncompliance.

Illinois and Pennsylvania have not taken appropriate legislative or administrative action to comply with the Act and are likely to face suits by the Department. Two states covered by Section 5 of the Voting Rights Act, Georgia and Louisiana, have had their submissions pre-cleared in part and rejected in part. Joel Klein thinks that based on their current status, these states, will also be sued by the Department.

There are many other states still in some level of review. Some of them may also be candidates for lawsuits. For instance, the Department was aiming to finish its review of California by today. Joel expects the California plan to be a problem, and anticipates a suit. In addition, South Carolina may be a problem. It has not submitted a Section 5 plan as required; the Department is investigating.

The status of these states is changing rapidly. I recommend you discuss these potential suits with Ab Mikva. It is Joel's assessment that the Department will sue where appropriate, for example in these six states. Ron Klain told me, however, that the Attorney General would rather avoid suits if possible.

2. Forms

Cloward and Davidoff raised the issue with us of having the Departments of Agriculture and HHS mandate or encourage the use of combined public assistance/ voter registration applications. They claim the departments have not done so.

Both departments face the same problem: the Act is administered by state agencies. This means that to mandate the use of certain forms, they would have to issue regulations to the states to use certain forms. Both departments think the result of such regulations would be a huge backlash from the states; they would claim that the Act is an unfunded mandate and that micromanaging the forms from the federal level is unwieldy and costly. Many states have already developed their materials and to make them reprint their forms would likely be viewed as heavy handed.

So, while it is possible to order the departments to issue regulations mandating the use of the combined forms, both departments think it is politically foolish and could cause a state and ultimately congressional backlash that would hurt out ultimate goals.

The departments can, however, do more to encourage the use of the forms.

- Agriculture has already passed along to its regional offices to distribute to the states the District of Columbia model form that Cloward showed us. And it has discussed motor voter implementation at regional meetings with state WIC directors. The Department could go further and develop and disseminate its own model forms and conduct trainings in how to use them. It could set up regional meetings with Food Stamp state program directors to train them, much as it has trained the WIC directors.
- Some states have not yet passed their motor voter implementation legislation. These states may be behind in preparing materials and the departments could be influential if they step in now.
- Agriculture thinks it could publish stricter guidelines for motor voter implementation. These would not have the force of regulations but could be a lesser measure to encourage use of combined forms.
- HHS, according to Peter Edelman, has already strongly encouraged the states to use the Humanserve forms. He thinks the department could go further by reaching out to each state to ask how it is implementing the Act and ask what forms are being used. Edelman is also exploring the idea of developing eye-catching materials to be sent to states for posting in AFDC offices.
- Although both departments have disseminated the model District of Columbia form, it appears to have been in the form of training sessions. We could ask both departments to send a special mailing with the model forms and a letter encouraging their use to regional and state agency directors.

3. Agency Issues

Cloward and Davidoff raised legal program implementation questions about two departments: HHS and Labor

- HHS - HHS has done what Cloward and Davidoff recommended. The

recommendation was that the Office of Community Service at HHS should be legally allowed to participate in motor voter activities. They understood there to be a legal barrier to this. According to Peter Edelman, the department has recently issued a legal opinion that supports the position advocated by Cloward and Davidoff. The Director of the Office of Community Service has since then distributed a memo to his programs to let them know they are legally allowed to participate in motor voter activities when asked by a governor.

- Labor -- The Labor Department has not done what Cloward and Davidoff recommended. They recommended two things: first, that the Social Security Act be interpreted such that unemployment insurance offices could be used for voter registration; second, that Employment Service grants be used for motor voter activities. The Labor Department believes a legislative fix is needed for either recommendation to be possible.

Humanserve has one set of legal opinions on this issue and the Labor Department has another set. My non-lawyer read of the memos suggests the Labor Department view is conservative. I recommend you ask Ab Mikva to take a look at the issue and determine whether it is appropriate for any part of the White House to engage in a debate on the legal interpretation of the Labor Department's Solicitor. I have included the duelling legal memos for your convenience.

4. Promotion of Motor Voter

I have asked each department to brainstorm ways to better promote the implementation of the motor voter bill. When I return from vacation, I will raise the issue with David Dreyer and others here as well. None of the departments has engaged in promotional activities yet, and none of them have funds set aside for such activities at the moment.

OFFICE OF CABINET AFFAIRS

THE WHITE HOUSE

WASHINGTON

FAX

TO:

Joel Klein

DATE:

1-5-94

PHONE:

NO. OF PAGES

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(Including cover)

FAX:

PRIORITY:

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N

FROM:

Jennifer O'Connor

PHONE:

(202) 456-2572

FAX:

(202) 456-6704

MESSAGE:

Joel - Humanserve, a non-profit, has a meeting next week with
the Dept of Labor about their differing interpretations of certain elements
of the law governing Motor Voter. They (Humanserve) asked us (Harold)
to intercede with Labor. There are 2 different legal
interpretations attached. The first, from the Labor Dept Solicitor,
does not allow for unemployment insurance offices to participate in
Motor Voter or for certain funds to be used to support Motor
Voter Activities. The second (actually it's 2 memos) takes a more
permissive approach. Should we get involved & what should we say?

Labor Dept. Solicitor's opinion

DOL MOTOR VOTER FUNDING ISSUE

1. We have preliminarily determined that DOL lacks the authority to authorize State unemployment insurance (UI) offices to expend Social Security Act (SSA) Title III administrative grant funds for "Motor Voter" activities. Rationale:

a. SSA Sec. 302(a) authorizes UI administrative grants only in such amounts as the Secretary of Labor determines are "necessary for the proper and efficient administration" of the State's UI law (as opposed to its offices or activities). Motor voter activities are not part of any State's UI law.

b. SSA Sec. 303(a)(8) authorizes Title III grant monies to be spent "solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law." (Underlining added).

c. SSA Sec. 901(c)(1)(A)(i) limits the States' uses of Unemployment Trust Fund (UTF) administrative funds (the source of the Title III grants) to the administration of the States' UI laws.

d. Motor Voter activities, since not authorized by State UI laws, can't reasonably be construed as being "necessary and proper for the administration" of such UI laws.

e. The National Voter Registration Act (NVRA) of 1993, which authorizes (but does not mandate) States to designate UI offices as voter registration agencies, is silent on the funding issue.

- The legislative history to NVRA is also not helpful. The only discussion of funding that is arguably supportive of the use of Federal funds relates to Sec. 7 (which provides for the designation of State and Federal agencies as voter registration sites) and pertains only to Federal matching funds. Unlike the Department of Health and Human Services' AFDC program, there are no Federal matching funds associated with the funding of UI offices.
- Other legislative history (H.R. Rep. No. 9 & S. Rep. No. 6) to an earlier version of the bill suggests Congress intended the States to absorb the costs of complying with the NVRA.
- The NVRA Sec. 4(a) "... notwithstanding any other Federal or State law..." language does not override the above SSA restrictions on UI administrative grant funds. Sec. 4(a) serves an objective unrelated to funding: it mandates minimum procedures which States must follow to register individuals to vote. (Note its title "NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR

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FEDERAL OFFICE"). Sec. 4(a) simply eliminates any State or Federal prohibitions against designated agencies using the procedures specified in Sec. 4(a)(1)-(3) to register voters in accordance with the NVRA (e.g., any law that might prohibit registration by mail or the use of a particular office for voter registration activities).

2. We have also preliminarily determined that neither Employment Service (ES) grants nor Reed Act moneys (certain excess moneys in the UTF) may be used to fund Motor Voter activities. Rationale:

a. A cost may be charged to a grant only if it is necessary and reasonable for the proper and efficient administration of the grant program. (OMB Circular No. A-87, Attachment A, section C.1.a.). Since voter registration activities are not necessary for the administration of the ES program, these activities may not be properly charged to an ES grant.

b. The Reed Act (Social Security Act, Section 903(c)) permits Reed Act funds to be used only for "the administration of [a State's] unemployment compensation law and public employment offices" Voter registration activities may not be funded with Reed Act moneys because these activities are unrelated to either of these two purposes.

3. We believe that a legislative fix is required in order to utilize SSA Title III, ES or Reed Act funding for Motor Voter activities.



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STEVEN L. KRAUSE
EXECUTIVE VICE PRESIDENT & CHIEF OPERATING OFFICER
JUAN CARTAGENA
GENERAL COUNSEL

10 May 1994

Ms. Jo-Anne Chasnow
Associate Director
Human SERVE
622 West 113th Street, Rm. 410
New York, New York 10025

Dear Ms. Chasnow:

As part of your work on behalf of Human SERVE, you have sought our legal opinion regarding issues arising from implementation of the National Voter Registration Act of 1993, 42 U.S.C. §1973gg, et seq. ("NVRA"). Specifically, you have inquired of us whether an amendment to the Social Security Act, 42 U.S.C. §501, et seq., or to OMB Circular No. 87 would be required to allow state unemployment offices to use federal money to fund voter registration activities. Based on the discussion that follows, we conclude that, in order to achieve compliance with the NVRA, state unemployment offices may use federal funds to conduct voter registration and that no amendments to the Social Security Act or revisions to the OMB Circular would be needed.

Discussion

The NVRA mandates that, in addition to designating public assistance agencies and agencies which serve persons with disabilities as voter registration agencies, each State designate additional agencies to serve as voter registration agencies. 42 U.S.C. §1973gg-5(a)(3). In listing examples of agencies which would fall within this category, the Act explicitly includes "unemployment compensation offices." 42 U.S.C. §1973gg-5(a)(3)(B). The question has arisen whether a State which wishes to designate such an office as a voter registration agency, pursuant to the NVRA, may use federal funds to offset voter registration costs.

In order to answer this question, the Social Security Act must be consulted. Title III of the Social Security Act, 42 U.S.C. §§ 501-503 (together with Title IV, Employment Security Administrative Financing, 42 U.S.C. §1101(c)(1)(a)) authorizes the allocation of money to the States, and governs the utilization of funds provided, so that States may properly administer their unemployment compensation laws. In enforcing the Social Security Act, the Secretary of Labor must allocate to each State the amount of money "necessary for the proper and efficient administration of such [unemployment compensation] law." 42 U.S.C. §502(a) (emphasis added). A State may draw upon these funds, through a state appropriation, "for the administration of its unemployment

Cartagena & Feldman to Chasnow
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10 May 1994

compensation law and public employment offices." 42 U.S.C. §1103(c)(2) (emphasis added). If the Secretary of Labor finds that the state appropriation was properly intended for administrative purposes, the Secretary must approve the State's action. 26 U.S.C. §3304(a)(4)(B). Finally, in contrast with other federal laws, see, e.g., Legal Services Corporation Act, 42 U.S.C. §2996e(e), the Social Security Act contains no explicit prohibition barring federal funds from being used for nonpartisan political activities.

When one reads the NVRA and the Social Security Act together, it becomes apparent that no amendment to the Social Security Act is needed to permit state unemployment offices to use federal funds to conduct voter registration activities. By including unemployment offices among the agencies which are authorized to conduct voter registration activities under the NVRA, Congress intended, in essence, that voter registration activities be viewed as a legitimate "administrative" function of state unemployment offices. Therefore, when a State designates such an office as a voter registration agency in order to comply with the mandate of the NVRA, it may properly apply for federal funds which cover administrative costs, and the Secretary of Labor must approve its funding request.

Under the same rationale, a State which proceeds in this manner satisfies the Secretary of Labor's cost regulations, as expressed in OMB Circular No. 87. See 29 C.F.R. §97.22(b) (adopting the OMB Circular for matters falling within the Secretary of Labor's jurisdiction). As a preliminary matter, it is questionable whether the Circular even speaks to the issue of whether federal funds may be used for voter registration activities. The Circular provides that "[t]he[se] principles are for determining costs only and are not intended to identify the circumstances nor to dictate the extent of Federal and State or local participation in the funding of a particular project" (Para. 4, "Policy intent") (emphasis added).

Even assuming that the Circular does speak to the question posed, it does not appear that any revisions to the Circular would be needed in order for state unemployment offices to use federal funds for voter registration activities. In the same manner as the Social Security Act, the Circular authorizes states to use federal funds for costs which are "necessary and reasonable for proper and efficient administration of the grant programs" (Para. C.2, "Basic guidelines") (emphasis added). As explained above, Congress in the NVRA has, for all intents and purposes, classified voter registration activities as a proper administrative function of state unemployment offices. Therefore, States which apply for federal funds to finance such activities within unemployment

Cartagena & Feldman to Chasnow
NVRA Opinion Letter
10 May 1994

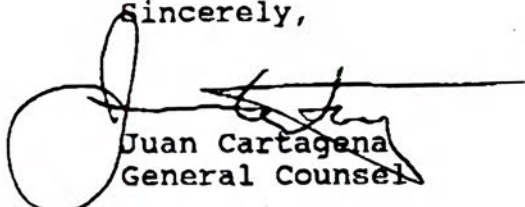
offices meet the test imposed by the OMB Circular.¹

Conclusion

To repeat, we conclude that no amendment to either the Social Security Act nor the OMB Circular No. 87 is needed in order for States to use federal funds to conduct voter registration activities within state unemployment offices. Designating such offices would comply both with the letter and the spirit of the NVRA.

This opinion is being delivered to you in your capacity as a representative of Human SERVE and is issued solely for your benefit. It is based on our knowledge of the law and our review of the facts described above as of the date hereof only. If you deem it necessary to discuss this any further please let us know.

Sincerely,



Juan Cartagena
General Counsel



Jonathan Feldman
Staff Attorney

¹ If the Secretary of Labor nevertheless maintained that the OMB Circular poses an obstacle, he would be obliged under the NVRA to seek appropriate revision of the Circular. The NVRA states, "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" agency-based registration. 42 U.S.C. §1973gg-5(b) (emphasis added). Since Congress has authorized the States to conduct voter registration activities within unemployment offices, the Secretary of Labor would be required to cooperate by revising any regulations perceived to pose an obstacle.



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JUAN CARTAGENA
GENERAL COUNSEL

26 October 1994

Ms. Jo-Anne Chasnow
Associate Director
Human SERVE
622 West 113th Street, Rm. 410
New York, New York 10025

Dear Ms. Chasnow:

As part of your work on behalf of Human SERVE, you have sought our legal opinion regarding issues arising from implementation of the National Voter Registration Act of 1993, 42 U.S.C. §1973gg, et seq. ("NVRA"). Specifically, you previously have inquired of us whether an amendment to the Social Security Act, 42 U.S.C. §501, et seq. would be required to allow state unemployment offices to use federal money to fund voter registration activities. In our opinion letter of May 10, 1994, we answered that question in the negative. Since that time, we have learned of the Department of Labor's views on this issue, as well as the Department of Health and Human Services' views on the analogous issue of whether state public assistance agencies may use federal money to fund voter registration activities. Based on the discussion that follows, we continue to conclude, consistent with our original opinion letter, that state unemployment offices may use federal funds to conduct voter registration and that no amendments to the Social Security Act would be needed.

Discussion

In our opinion letter of May 10, 1994, we took the approach that the NVRA and the Social Security Act could be read together, consistent with the principle that "[w]hen two statutes are capable of co-existence, it is the duty of the courts to regard each as effective." In re Ionosphere Clubs, Inc., 922 F.2d 984, 991 (2nd Cir. 1990) (citations omitted). In so doing, we reasoned that, since the Social Security Act permits federal funds be allocated for the "administration" of unemployment offices, see, e.g., 42 U.S.C. §502(a), and since the NVRA Congress included unemployment offices among the agencies which are authorized to conduct voter registration, Congress intended, in essence, that voter registration activities be viewed as a legitimate "administrative" function of state unemployment offices.

The Department of Labor, however, has pointed out that the Social Security Act provision which speaks to "administration" of unemployment offices requires that federal funds be used "solely"

Cartagena & Feldman to Chasnow
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Page 2

for the administration of these offices. Assuming arguendo that the word "solely" evinces a legislative intent to restrict the use of federal funds in unemployment offices, there might exist a conflict between the Social Security Act and the NVRA. Specifically, if the NVRA authorized the use of federal funds to pay for voter registration activities in unemployment offices, and the Social Security Act did not, the laws would be in conflict.

In such an event, the NVRA would be controlling, under two principles of statutory interpretation. The first principle holds that "when two statutes are in irreconcilable conflict, we must give effect to the most recently enacted statute since it is the most recent indication of congressional intent." In re Ionosphere Clubs, Inc., 922 F.2d 984, 991 (2nd Cir. 1990). Accord, Boudette v. Barnette, 923 F.2d 754, 757 (9th Cir. 1991). Since the NVRA was enacted more recently than the Social Security Act, any conflict between the two would be resolved in favor of the NVRA.

Under the second principle of statutory construction, "where two statutes conflict, the statute that addresses the matter under consideration in specific terms controls over one that does so in a general manner" American Land Title Ass'n v. Clarke, 968 F.2d 150, 157 (2nd Cir. 1992). See also Morales v. Trans World Airlines, Inc., -- U.S. --, 112 S. Ct. 2031, 2037 (1992) ("it is a commonplace of statutory interpretation that the specific governs the general"). Here, the Department of Labor does not argue that the Social Security Act contains a specific prohibition against using federal funds for voter registration purposes (such as can be found, for example, in the Legal Services Corporation Act, 42 U.S.C. §2996e(e)). Rather, the Department essentially maintains that the Social Security Act provision which requires that federal funds be used "solely . . . for the proper and efficient administration" of the unemployment law, 42 U.S.C. § 503(a)(8), establishes a general prohibition against using federal funds for any "non-unemployment-related" purpose.

If the NVRA specifically authorized the use of federal funds for voter registration activities within state offices, therefore, the greater specificity of the authorization would take precedence over the more general prohibition arguably present under the Social Security Act. The question remaining, of course, is whether the NVRA does contain such an authorization.

The Department of Labor recognizes that § 4(a) of the NVRA (42 U.S.C. §1973gg-2(a)) supersedes any other laws which would preclude agency-based registration at State offices. See id. (" . . . notwithstanding any other Federal or State law, . . . each State

Cartagena & Feldman to Chasnow
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26 October 1994
Page 3

shall establish procedures to register to vote in elections for Federal office . . . at a Federal, State, or nongovernmental office designated under section 7.") (emphasis added). Clearly, § 4(a) requires, at a minimum, that the Department of Labor permit State unemployment offices to conduct voter registration, and the Department appears to agree. On its face, § 4(a) does not answer the related question of whether the Department is required to facilitate such registration through reimbursement of voter registration costs. The section does, however, refer to section 7 (Voter registration agencies, 42 U.S.C. §1973gg-5). Although this section, as well, does not speak to the question of cost reimbursement, the congressional reports pertaining to this section do, and it is appropriate to consult them to discern legislative intent. See, e.g., Guaranty Financial Services, Inc. v. Ryan, 928 F.2d 994, 1004 (11th Cir. 1991) ("When considering the legislative history of enacted legislation, an authoritative source is the official congressional reports on the bill" [referring to House Report]). Both the House and Senate Reports contain this statement:

Costs for registration application assistance for these offices should be considered matchable under the current Federal match rate for these programs.

House Report (Section 7, Voter registration agencies), p. 11;
Senate Report (Section 7, Voter registration agencies), p. 28.

It is this statement upon which the U.S. Department of Health and Human Services explicitly relied in its decision to reimburse voter registration costs in public assistance offices which administer the AFDC program. AFDC Action Transmittal, No. ACF-AT-94-7, at p. 2 (March 22, 1994). The statement would appear to dictate a similar response from all federal agencies which oversee state agencies engaged in voter registration activities. Although the Department of Labor might advance two reasons why it is not covered under the congressional report language, these reasons, as explained below, are unpersuasive, with the result that the Department could be required under the NVRA to reimburse voter registration costs in state unemployment offices.

The first argument which the Department might raise would assert that the congressional report language applies only to mandatory, as opposed to discretionary, voter registration agencies. The congressional reports make clear, however, that discretionary agencies are indistinguishable from mandatory agencies in two essential respects: first, "States are required to have a discretionary agency registration program," in the same

Cartagena & Feldman to Chasnow
NVRA Opinion Letter
26 October 1994
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manner as they are required to have a mandatory agency program, House Report at p. 12; and second, once a discretionary agency has been selected, its obligations as a voter registration agency are identical to the obligations imposed upon a mandatory agency. Id. at p. 11. The only difference between mandatory and discretionary agencies is that every State need not choose the same discretionary agencies. If every State chose to designate its state unemployment offices, there would be no functional difference between these offices and public assistance offices in terms of voter registration obligations.

Most importantly, the statement in the congressional reports regarding cost reimbursement follows a discussion of both mandatory and discretionary agencies, and clearly applies to voter registration agencies in general. The only remaining question regarding legislative intent is whether the reference to "matching" costs should be read narrowly, as applying only to those federal reimbursement programs which have a state cost component, or more broadly, as applying to any federal reimbursement program regardless of the state share. If the provision were read narrowly, it would not apply to the Department of Labor, for the federal government apparently pays the full cost of administrative expenses (with no state contribution) in state unemployment offices. Conversation with staff member in House Subcommittee on Labor, Health and Human Services, Education, and Related Agencies. If the provision were read broadly, it would apply with equal force to the Department of Labor, for the Department clearly participates in a cost reimbursement program with the States.

The statement in the congressional reports should be read broadly. The NVRA imposes an explicit obligation upon federal agencies to cooperate with the States in facilitating voter registration, "to the greatest extent practicable." NVRA, § 7(b) (42 U.S.C. §1973gg-5(b) (emphasis added). If an agency construed its obligations narrowly, when a broad reading were equally tenable, the agency's interpretation would be of dubious validity under the statutory mandate to maximize assistance to the States.¹ Therefore, the congressional report language can and should be read as reflecting the legislative intent that state unemployment

¹ Moreover, informal conversations with two Congressional staff persons intimately involved with the NVRA legislative history confirm that Congress, in stating that costs should be reimbursed, had no intention of distinguishing between federal agencies, and assumed that any state voter registration agency which fell under a federal program would qualify for federal reimbursement costs.

Cartagena & Feldman to Chasnow
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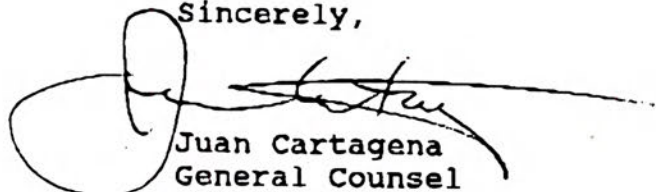
offices receive federal reimbursement for voter registration activities.

Conclusion

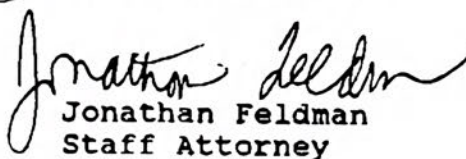
To repeat, we conclude that, to the extent that the NVRA legislative history on federal cost reimbursement conflicts with the Social Security Act, the NVRA controls, under established principles of statutory interpretation. We reiterate our original conclusion that no amendment to the Social Security Act is needed in order for States to use federal funds to conduct voter registration activities within state unemployment offices.

In closing we hope this short letter will be of some use to you. If you deem it necessary to discuss this any further please let us know.

Sincerely,



Juan Cartagena
General Counsel



Jonathan Feldman
Staff Attorney

December 23, 1994

MEMORANDUM FOR HAROLD ICKES

FROM: Jennifer O'Connor

SUBJECT: ~~Motor Voter~~ *National Voter Registration Act*

I have spoken with the Departments of Justice, Health and Human Service, Labor and Agriculture to follow up on our meeting with Richard Cloward and Linda Davidoff. Below I have summarized the departmental responses to the issues raised at the meeting.

1. Lawsuits

At the moment, six states are likely to face lawsuits due to noncompliance.

Illinois and Pennsylvania have not taken appropriate legislative or administrative action to comply with the Act and are likely to face suits by the Department. Two states covered by Section 5 of the Voting Rights Act, Georgia and Louisiana, have had their submissions pre-cleared in part and rejected in part. Joel Klein thinks that based on their current status, these *states* four states, ~~Illinois, Pennsylvania, Georgia and Louisiana~~, will be sued by the Department. *also*

There are many other states still in some level of review. Some of them may also be candidates for lawsuits. For instance, the Department was aiming to finish its review of California by today. Joel expects the California plan to be a problem, and anticipates a suit. In addition, South Carolina may be a problem. It has not submitted a Section 5 plan as required; the Department is investigating. *also*

The status of these states is changing rapidly. I recommend you discuss these potential suits with Ab Mikva. It is Joel's assessment that the Department will sue where appropriate. Ron Klain told me, however, that the Attorney General would rather avoid suits if possible. *also*

2. Forms

Cloward and Davidoff raised the issue with us of having the Departments of Agriculture and HHS mandate or encourage the use of combined public assistance/ voter registration applications. They claim the departments have not done so. *for example in these 6 states*

Both departments face the same problem: the Act is administered by state agencies. This

means that to mandate the use of certain forms, they would have to issue regulations to the states to use certain forms. Both departments think the result of such regulations would be a huge backlash from the states ~~regarding how~~ the Act is an unfunded mandate and ~~how~~ ^{that} micromanaging the forms from the federal level is unwieldy and costly. Many states have already developed their materials and to make them reprint their forms would be viewed as heavy handed. ^{likely}

So, while it is possible to order the departments to issue regulations mandating the use of the combined forms, both departments think it is politically foolish and could cause a state and ultimately congressional backlash that would hurt out ultimate goals.

The departments can, however, do more to encourage the use of the forms.

- Agriculture has already passed the D.C. ^{along} ^{District of Columbia} model form that Cloward showed ^{to us} ^{along} to its regional offices to distribute to the states. And it has discussed motor voter implementation at regional meetings with state WIC directors. The Department could go further and develop and disseminate its own model forms and conduct trainings in how to use them. It could set up regional meetings with Food Stamp state program directors to train them, much as it has trained the WIC directors.
- Some states have not yet passed their motor voter implementation legislation. These states may be ~~sufficiently~~ behind in preparing materials ~~that~~ ^{and} the departments could be influential if they step in now.
- Agriculture thinks it could publish stricter guidelines for motor voter implementation. These would not have the force of regulations but could be a lesser measure to encourage use of combined forms.
- HHS, according to Peter Edelman, has already strongly encouraged the states to use the Humanserve forms. He thinks the department could go further by reaching out to each state to ask how it is implementing the Act and ^{ask} see what forms are being used. Edelman is also exploring the idea of developing eye-catching materials to be sent to states for posting in AFDC offices.
- Although both departments have disseminated the model District of Columbia form, it appears to have been in the form of training sessions. We could ask both departments to send a special mailing with the model forms and a letter encouraging their use to regional and state agency directors.

3. Agency Issues

Cloward and Davidoff raised legal program implementation questions about two departments: HHS and Labor

- HHS - HHS has done what Cloward and Davidoff recommended. The recommendation was that the Office of Community Service at HHS should be legally

allowed to participate in motor voter activities. They understood there to be a legal barrier to this. According to Peter Edelman, the department has recently issued a legal opinion that supports the position advocated by Cloward and Davidoff. The Director of the Office of Community Service has since then distributed a memo to his programs to let them know they are legally allowed to participate in motor voter activities when asked by a governor.

- Labor -- The Labor Department has not done what Cloward and Davidoff recommended. They recommended two things: first, that the Social Security Act be interpreted such that unemployment insurance offices could be used for voter registration; second, that Employment Service grants be used for motor voter activities. The Labor Department believes a legislative fix is needed for either recommendation to be possible.

Humanserve has one set of legal opinions on this issue and the Labor Department has another set. I recommend you ask Ab Mikva to take a look at the issue and determine whether it is appropriate for any part of the White House to engage in a debate on the legal interpretation of the Labor Department's Solicitor. I have included the duelling legal memos for your convenience.

4. Promotion of Motor Voter

I have asked each department to brainstorm ways to better promote the implementation of the motor voter bill. When I return from vacation, I will raise the issue with David Dreyer and others here as well. None of the departments has engaged in promotional activities yet, and none of them have funds set aside for such activities at the moment.

My
not lawyer's
reading
suggests
the
Department's
view
is
conservative.

Master Note

currently states not Sec 5

IL
PA expect to fill

prob on Jan

Sec 5

reviewed

prob. won't be sued { CO, CT, DE, ID, IN,
ID, KS, KY, ME, MD,
MA, MO, NB, NM, NV

they look ok, continue
invest

Sec 5 - preclearance

GA, LA, preclearance -
observed in part under
review

Some states still under
review
are likely to object

CA prob
a problem

some not



U.S. Department of Justice
Office of the Associate Attorney General

Deputy Associate Attorney General

Washington, D.C. 20530

FACSIMILE TRANSMITTAL COVER SHEET

DATE:

12-20-94

TO:

Jennifer O'Connor

FACSIMILE NO.

456-6704

TELEPHONE NO.

FROM:

Nancy E. McFadden

Deputy Associate Attorney General

FACSIMILE NO.

202--514-0238

TELEPHONE NO.

202--514-9700

NUMBER OF PAGES (INCLUDING COVER SHEET):

4

COMMENTS:

Motor Voter memo



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

December 20, 1994

MEMORANDUM

TO: John Schmidt
Associate Attorney General

FROM: *N* James Vigil
Assistant Associate Attorney General

SUBJECT: Status of State Compliance With Motor Voter

Here is the current status of state compliance with the National Voter Registration Act of 1993 (Act). I obtained this information from Barry Weinberg, Deputy Chief, Voting Section, Civil Rights Division. Note that the status of many states can change on short notice.

I. NON-SECTION 5 STATES

This category concerns states which are not covered by the preclearance provisions of Section 5 of the Voting Rights Act, with two minor exceptions.

A. Failure To Comply With The Act

We have concerns with Illinois and Pennsylvania. Neither state has taken appropriate legislative or administrative action to comply with the Act.

A letter informing Pennsylvania of our concerns was sent on December 2, 1994. By letter dated December 7, 1994, Pennsylvania admitted they will not be in compliance. On December 9, 1994, we sent Illinois a similar letter, to which we have not yet received a response.

B. Procedures Reviewed: Further Investigation in 1995

The Voting Section of the Civil Rights Division has reviewed the legislation and administrative procedures for Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Mexico, Nevada, Oklahoma, Rhode Island, South Dakota, Utah, and West Virginia. Our initial review indicates these states may be in compliance with the Act. However, further investigation will be

needed in 1995 to determine whether all states are properly implementing their procedures.

Note that although we reviewed the statewide provisions for South Dakota, we still have not received a specific submission for those parts of South Dakota covered under Section 5 of the Voting Rights Act (See Part II.E below).

C. Legislation Or Administrative Procedures Under Review

Review is still proceeding of compliance measures enacted by the District of Columbia, Hawaii, Montana, Ohio, Oregon, Tennessee, and Washington.

D. Legislation Still Pending

Legislation to comply with the Act is still pending in the New Jersey and Michigan legislatures. Note that, in addition, we are separately reviewing Michigan's plans for compliance for those portions of the state covered by Section 5 (See Part II.D below).

II. STATES COVERED ALL OR IN PART BY SECTION 5

We are also reviewing submissions from states covered all or in part by Section 5 of the Voting Rights Act. In some cases, we have already interposed partial objections.

A. Precleared Under Section 5

Only one state, Florida, has been completely precleared.

B. Section 5 Preclearance In Part

Six states, Alabama, Alaska, Arizona, New York, North Carolina, and Texas, have received preclearance for part of their voter program. Review of the remaining parts is still pending.

C. Section 5 Preclearance In Part; Objection In Part

Two states, Georgia and Louisiana, have had their submissions precleared in part and objected to in part. Review of remedies is still pending.

D. Initial Section 5 Review Pending

We are continuing Section 5 review of initial submissions from five states. Our response to California is due out December 23, 1994. Our response to Michigan is due out January 3, 1995. Our response to Mississippi is due out February 6, 1995. And our response to New Hampshire is due out January 17, 1995. The South Dakota submission is due out February 20, 1995.

Regarding California, Governor Wilson has indicated he opposes spending state funds to comply with the Act. In fact, California officials wrote to the Attorney General to express their opposition to the Act as an "unfunded mandate." On November 28, 1994, the Department sent a letter response encouraging California to reconsider. On December 14, 1994, a private lawsuit, Voting Rights Coalition v. Wilson, was filed to force the state to comply.

E. Section 5 Submission Requested

We have not received a Section 5 submission from South Carolina. We have concerns with South Carolina because we have heard reports that Governor Campbell is refusing to allow state funds to be spent to comply. We are investigating these reports.

III. EFFECTIVE DATE DELAYED DUE TO CONSTITUTIONAL CONFLICT

In three states, Arkansas, Virginia, and Vermont, the Act will not become effective on January 1, 1995. That is because these states must first amend their constitutions. Note that one of the states, Virginia, is covered by Section 5 of the Voting Rights Act.

IV. EXEMPTED

Four states, Minnesota, North Dakota, Wisconsin, and Wyoming are exempt from compliance pursuant to Section 4(b) of the Act, which contains a grandfather clause for states which used same-day voter registration procedures for federal elections prior to March 11, 1993.

Ab

- unfunded mandate
- no resp.
- oversight
- give \$ to states

- supposed to register a food stamp
will get as a meme)

IMMEDIATE ACTION TO IMPLEMENT NVRA



1. The US Departments of Health and Human Services and Agriculture have recently published regulations in the Federal Register pertaining to the NVRA and voter registration in AFDC, Medicaid, and Food Stamps agencies.¹ In Human SERVE's opinion, these regulations are not satisfactory because they do not require agencies to use combined forms for voter registration and services.² By contrast, most states will use combined forms in their drivers' license agencies and will thus register higher proportions of upscale voters. In addition, the Departments should be required to modify Family Assistance Management Information System (FAMIS)³ components to include mandatory combined systems (when augmenting or installing computer systems) and new data collection elements.

Call Peter Edelman, Counsel to the Secretary, HHS at (202) 690-8157 and Ellen Haas, Under Secretary, Food, Nutrition, and Consumer Services, USDA at (202) 720-7711.

To comment on the Notice of Proposed Rule Making, call or write Mack Storrs, Director, Division of AFDC Program. Phone: (202) 401-9289. Address: Office of Family Assistance, Fifth Floor, 370 L'Enfant Plaza SW, Washington DC 20447

2. The Department of Justice should heighten its scrutiny of voter registration in public assistance agencies. It should affirmatively block states from creating programs that would lead to discrimination against poor people and minorities based on strongly designed drivers' license and poorly designed public assistance agency voter registration programs.⁴

Call Deval Patrick, Asst. Attorney General for Civil Rights, DOJ. His phone number is: (202) 514-2151.

3. The Department of Labor oversees two programs that should offer voter registration. The Solicitor of the US Department of Labor has taken the position, with which Human SERVE disagrees, that the Social Security Act prohibits the first of these programs, unemployment compensation (which provides checks to the unemployed) from spending federal dollars on voter registration.⁵ However, there is no prohibition against funding voter registration in the other program, Employment Services, which was established under the Wagner-Peyser Act and is not subject to the Social Security Act restriction. At the least, we recommend that state Employment Services programs conduct voter registration.

Call John M. Robinson, Deputy Assistant Secretary, DOL. His phone number is: (202) 219-5257.

4. The Office of Community Service (part of HHS) should remove Assurance 7 from the Human Services Amendment of 1994 of the Community Service Block Grant Statutory Assurance Public Law 103252. Assurance 7 "prohibits any activity to provide voters and perspective voters with transportation to the polls, or provide similar assistance in connection with elections or any election activity" in every Community Action Program. Human SERVE believes that the NVRA supersedes Assurance 7, and that voter registration should become an integral part of all Community Service Block Grant programs.

Call Donald Sykes, Executive Director, Office of Community Service, (202) 401 9333.

622 West 113 Street • Suite 410 • New York, New York 10025 • 212 854 4053 • fax 212 854 8727

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Paul Anders Ogren • Basil Paterson • Cheryl Patterson Artis • Jan Pierce • Anthony Robbins • Baldemar Velasquez • George Wallerstein • Juanita White

NOTES

¹ In the Federal Register Volume 59, Number 224, File Code MB-092-P, dated Tuesday, November 22, 1994, the Department of Health and Human Services proposed rules to "remove certain regulatory restrictions that conflict with the implementation of the National Voter Registration Act". Human SERVE recommends that HHS use this opportunity to not only revoke certain past provisions, but to promulgate further regulations requiring states to use combined forms/systems in public assistance agencies.

Also, the Proposed Rule states HHS's intentions to maintain the bar against offering voter registration in public assistance agencies in the states that are exempt from the NVRA. Human SERVE does not recommend that these four states (Minnesota, North Dakota, Wisconsin and Wyoming) be forced to offer voter registration services in their agencies, but we do recommend that the bar be removed, allowing them to offer voter registration if they wish to.

² The single most effective way to offer voter registration in public assistance agencies is to combine the voter registration forms with applications for services. However, it appears that while drivers' licensing agencies across America plan to combine forms, few public assistance agencies will do so. Nationally, poor people and minorities have far fewer drivers' licenses and many will only be reached through public assistance agencies. Therefore, it is imperative that public assistance agencies implement programs that will register the most voters possible.

Minorities will bear the brunt of the poorly designed voter registration programs in public assistance agencies. While only 11.3% of the national voting age population is black and 7.9% Hispanic, 39% of AFDC recipients are black, and 17% Hispanic.

On the other hand, poor people and minorities are far less likely than whites to hold drivers' licenses, and to receive superior voter registration services. While US Department of Transportation statistics show that only 73% of persons with incomes less than \$10,000 hold drivers' licenses, more than 97% with incomes over \$50,000 do. And a 22,000 household survey commissioned by the US Department of Transportation in 1990 showed that nationally, only 79% of blacks hold drivers' licenses as opposed to 93% of whites. These dramatic differences in drivers' license rates will have a significant impact on poor people and minorities if drivers' licensing agencies implement programs superior to those in public assistance agencies.

If the public assistance agencies register disproportionately fewer people to vote because of the separate forms, they will, in effect be erecting a new barrier preventing poor people and minorities who do not receive drivers' licenses from having easy access to voter registration. Given the census data showing that these groups are also underrepresented on the voter registration rolls, the separate form system would further the exclusion of the very citizens who are traditionally disenfranchised.

Human SERVE recommends that to ensure that states implement effective agency-based voter registration programs, the Departments of HHS and Agriculture should require that voter registration forms be bound into applications for assistance where such applications are on paper, and integrated into computer systems where applicable.

Because combined forms make voter registration part of the agency application process, they make implementing the NVRA streamlined and productive, and save time and money. Oregon implemented a motor voter program using combined forms that registers 20% of all applicants for and renewal of drivers' licenses. The District of Columbia provides further evidence showing that more people register when an agency uses combined forms. The DC motor voter program uses a paper combined form that transfers information from the drivers' license form directly to the voter registration form. When the DC motor voter program ran out of combined forms, they switched to offering separate mail-in forms with the drivers' license application, and voter registrations dropped by more than 50%.

While technicalities such as form design may appear inconsequential, agencies that use separate forms for voter registration purposes see significantly smaller registration rates. The use of separate forms means that after completing the agency application, applicants will have to fill out two separate forms to register to vote (the declination form with the voter registration question, and the actual voter registration form). This type of agency-based voter registration system has consistently proven to register fewer voters than a combined program such that which have been used in motor voter programs. In Arkansas, for example, an agency-based voter registration system used separate forms and registered virtually no voters. One reason why citizens are less likely to register with separate forms is that this type of system increases the likelihood that the voter registration forms will not be offered due to human error. Separate forms require that an agency employee keep the separate forms stocked and available to each applicant, and that caseworkers remember to offer the forms and assistance to each applicant. They thus increase the burden on staff time in agencies, and increase the margin of error. Also, this will increase the cost of implementing the voter registration programs. Completing two separate forms takes more time, and thus poses an increased imposition on the time of the employees as well as the applicants. Thus, the extra time it takes to fill out separate forms reduces productivity and increases cost.

Some examples of combined systems follow. These three models highlight not only the programs, but the ease with which combined form systems can be flexibly modified into a wide variety of existing programs.

Paper-Based Systems: New York

New York state law requires all offices in the state that provide public assistance to combine all applications for services, recertifications and changes of address with a perforated "universal agency-based voter registration form." The universal form is modeled after the state mail-in form and will have a perforated section that contains the required voter registration question and mandated language. The required language section will be maintained by the agencies.

As New York public assistance agencies provide all services in person and do not permit applications, recertification or changes of address by mail or phone, the combined form system will reach all eligible applicants.

Paper-Based Systems: Oregon

Oregon has a unique and flexible combined system which will be used in all agency application processes. The paper-based form combines the voter registration application with the acceptance/declination language as a single sheet of paper with perforation. AFDC, Medicaid and Food Stamp applications are each multi-page booklets and this form will likely be bound into the booklets.

Computer-Based Systems: Kentucky

The Department for Social Insurance (DSI) administers the AFDC, Food Stamp and Medicaid programs. Beginning January 1, 1995, DSI will link the public assistance computer system with the centralized voter registry, giving Kentucky the most technologically advanced combined system.

During an application, recertification or change of address, the worker will verbally ask if the applicant is registered to vote at her/his current address. The applicant will be given a carbon-copy form explaining the applicant's right to register to vote, the acceptance/declination language, and a place to sign if the applicant declines to register to vote. The applicant will be given one copy of the form, and the other copy will be maintained in the agency casefile.

If the applicant wishes to register to vote, the public assistance computer will electronically transfer voter registration data onto a pending voter registry computer file. Once the intake worker has input the data necessary for voter registration, the computer will generate a voter registration form with the relevant information printed on it (name, address, etc.). The applicant only needs to check off a political party, sign and date the voter registration form. Because the computer system cannot generate voter registration forms for changes of address, an applicant changing an address for public assistance will be given a blank standard mail-in voter registration form. The applicant will be provided assistance in completing the form. The standard mail-in form will be pre-addressed to the State Board of Elections and can be collected at the agency or mailed directly to the State Board. All applicants with computer-generated and standard mail-in forms can place their completed forms in agency-supplied sealed envelopes, drop them in the DSI office's locked box, and the county clerk will collect the forms.

For data purposes, the public assistance computer system will create a daily file indicating the number of applicants who registered or declined to register to vote with a code indicating whether the applicant is a Food Stamp, AFDC or Medicaid registrant.

Despite the overwhelming evidence of the productivity of combined forms, most state public assistance agencies are moving toward using separate forms. They guarantee that inefficient and costly programs will be developed and less people will be registered.

In contrast, most drivers' licensing agencies across the nation are adopting combined forms. Thus, public assistance recipients will be receiving services inferior to those offered to drivers' license holders. This will have a discriminatory effect because of the discrepancy in the racial composition and income levels of the populations served by each agency.

³ "Family Assistance Management Information System (FAMIS) came into existence when it was recognized that administration of the AFDC program could be significantly improved if states would establish and use computerized information systems in managing their programs. Public Law 96-265 was enacted June 9, 1980 to provide increased federal financial support to state agencies as an incentive to develop/expand automated Title IV-A application processing and information retrieval systems. FAMIS is intended to assist the states in determining the *basic requirements for system design*; augment the state's design definition; *and establish basic standard systems components and file elements for future interfaces*" (emphasis added).

"Enhanced funding for operational costs associated with a FAMIS system was also made available with the provision of increased funding for system development/augmentation to meet FAMIS requirements. Operational costs are reimbursed only after a system has been federally certified. Virtually all of these systems include AFDC, Food Stamps and Medicaid. The regulations governing system requirements, conditions for federal financial participation and the responsibilities of the Administration for Children and Families (ACF) are found in the Code of Federal Regulations, Sections 205.35-205.38." (This information was by Betty Curtis of the ACF in a memo dated January 6, 1993.)

Almost all states are involved with the FAMIS program, and many of these systems are in development, planning, or augmentation stages. By requiring that voter registration be a component of every FAMIS system, it can be virtually assured that the application process in public assistance agencies will be as integrated and effective as the application process in drivers' license agencies.

Further, by computerizing the voter registration aspect of the intake process, states will be better able to meet the NVRA's data reporting components (regulations regarding data reporting were promulgated by the Federal Elections Commission). Data reporting serve an important function in the implementation and monitoring of the NVRA. Computerizing data collection procedures will provide two specific benefits; information by *site* and *rate*. Site and rate information will allow for better monitoring at the local level, and will ensure full implementation nationwide.

Human SERVE therefore encourages HHS to update the FAMIS requirements to include voter registration and data collection elements which gather information pertaining to the NVRA by site.

⁴ The US Department of Justice has been examining state plans to implement the NVRA, to ensure both compliance with the Voting Rights Act and timely implementation of the NVRA. However, they have not focused on the discriminatory impact that will inevitably result from the inferior program in public assistance agencies, as explained in Note 1 above.

DOJ can have a direct effect in states covered by Section 5 of the Voting Rights Act of 1965. These 16 states must submit all changes of election procedure to the DOJ for approval. DOJ should refuse to approve plans that would not require combined forms in public assistance agencies. Another approach should be taken with the states not covered by Section 5, and that is to address the issue as a violation of Section 2 of the Voting Rights Act. Section 2 sets out the general non-discrimination provisions of the Voting Rights Act, and a program that registered more whites would most likely violate Section 2.

⁵ The Solicitor took this position because unemployment security offices are not mandated by the NVRA as voter registration agencies. Instead, the NVRA requires states to choose additional agencies to offer voter registration, and specifically names unemployment security offices as an option. Unemployment offices are particularly important because these sites should outreach to the traditionally disenfranchised groups who are not served by drivers' license or public assistance agencies. Instead, most states are choosing such sites as libraries that will have a minimal effect on registration rates.

NYS Agency-Based Voter Registration Form

ESTE FORMULARIO ESTÁ DISPONIBLE EN ESPAÑOL

這份表格必須以中文填寫

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

- ☐ Yes ☐ No
- ☐ I decline because I am already registered at my current address.
- ☐ I asked for and received a mail registration form.

IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.

(Signature)

(Date)

(Please Print Name)

Qualifications for Registration

You Can Use This Form To:

- register to vote in New York State
- change your name and/or address, if there is a change since you last voted
- enroll in a political party or change your enrollment

To Register You Must:

- be a U.S. citizen
- be 18 years old by December 31 of the year in which you file this form (note: you must be 18 years old by the date of the general, primary, or other election in which you want to vote.)
- be a resident of the County, or of the City of New York at least 30 days before an election.
- not be in jail or on parole for a felony conviction
- not claim the right to vote elsewhere

IMPORTANT!

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

If you would like help 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.

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 *New York State Board of Elections, 6 Empire State Plaza, Suite 201, Albany, New York 12223-1650.*

Tele: 1-800-367-8683, TTY 1-800-533-8683.

All information will remain confidential and will be used only for voter registration purposes. Anyone not choosing to register to vote and/or information regarding the office to which the application was submitted will remain confidential, to be used only for voter registration purposes.

VOTER REGISTRATION FORM

Please print or type in blue or black ink

1	Check boxes that apply: ☐ new registration and enrollment ☐ party enrollment change	☐ address change ☐ name change	For Board Use Only				
2	Last Name First Name Middle Initial Suffix						
3	Address Where You Live (do not give P.O. address)		Apt. No.	City/Town/Village Zip Code			
4	Address Where You Get Your Mail (P.O. box, star rte., etc.)		Post Office	Zip Code			
5	Date of Birth	6	Sex (circle) M F	7	Home Tel. Number (optional)	8	Are you a U.S. citizen? ☐ Yes ☐ No
9	The last year you voted	Your Address was (give house number, street, and city)		In county/state		Under the name (if different from your name now)	
10	Choose a Party — Check one box only ☐ DEMOCRATIC ☐ REPUBLICAN ☐ CONSERVATIVE ☐ RIGHT TO LIFE ☐ LIBERAL ☐ I do not wish to enroll in a party			11			
				AFFIDAVIT: I swear or affirm that • I am a citizen of the United States. • I will have lived in the county, city, or village for at least 30 days before the election. • This is my signature or mark on the line below. • The above information is true. I understand that if it is not true I can be convicted and fined up to \$5,000 and/or jailed for up to four years. ↓ Signature or mark ↓ X _____ Date _____			

Please do not write in this space

Agency Voter Registration Form

State of Oregon

You Can Use This Form To:

- Register to vote in Oregon.
- Change your name or address on your registration.
- Choose a political party or change parties.

To Register To Vote In Oregon, You Must Be:

- A resident of Oregon.
- A United States citizen.
- At least 18 years old by election day.

Registering To Vote:

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

☐ YES. (Where you submit your registration is confidential).

☐ NO. (The fact that you have checked "no" is confidential).

IF YOU DO NOT CHECK A BOX, WE WILL ASSUME YOU CHOOSE NOT TO REGISTER.

Signature

Date

Other Information:

- Your county elections office will mail you a card to let you know that your registration was received.
- You may ask us to help you fill out this form or you may fill it out by yourself.
- You may leave this form at the office where you got it or you may mail it to an address on the back of this form.
- The service or benefits you might receive will not be affected by your decision to register or to select a party preference.
- If you believe 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 your right to choose your political preference in box #6, you may file a complaint with the Secretary of State, Salem, Oregon 97310. Phone (503) 986-1518.

1	Are you a U.S. Citizen? ☐ Yes ☐ No		
2	Last Name	First Name	Middle Name
3	Home Address (Include apt. or space #)		City Zip Code
4	Mailing Address, if different than #3		City Zip Code
5	Date of Birth ____/____/____		
6	Choose One: ☐ American Party ☐ Democratic Party ☐ Libertarian Party ☐ New Alliance Party ☐ Pacific Party ☐ Republican Party ☐ Not a member of a party ☐ Other Party (Print Party) Name Here: _____		
7	I Swear or Affirm that _____ Sign Here _____ Date Here ____/____/____ WARNING: If you sign this card and know it to be false, you can be convicted and fined up to \$100,000 and/or jailed for up to 5 years.		

TEAR HERE

DO NOT TEAR OR FOLD

8	County Where You Live	9	Phone Number (Optional)
If Previously Registered to Vote, Please Complete this Section			
10	Name on Previous Registration	11	Previous County and State

Important!

- Unless you are already registered, this card must be postmarked by the 21st day before an election.
- Some political parties require you to be registered in their party to vote on their candidates at a primary election. See box #6.