

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Carol Dawson, at 9:00 a.m. on January 24, 1995 in Room 521-S of the Capitol.

All members were present:

Committee staff present: Carolyn Rampey, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Donna Lutjohann, Committee Secretary

Conferees appearing before the committee: Ron Thornburgh, Secretary of State
Brad Bryant, Deputy Assistant Secretary of State

Others attending: See attached list

Chairman Dawson recognized Ron Thornburgh, Secretary of State, to address the Committee in regard to the National Voter Registration Act of 1993. Secretary Thornburgh spoke of the NVRA of 1993 as more than just "Motor Voter". He noted there will be agency-based and mail registration opportunities in addition to motor voter. He also emphasized that the State of Kansas is not in compliance with the NVRA which was federally mandated for all states in 1993. Kansas is susceptible to lawsuits by the Justice Department. Chairman Dawson allowed committee members to ask questions of the Secretary. Some points he made after questioning were; the election offices would still have purging capabilities, however, a name would not be purged if the person moved. In the case of the National Voter Registration Act of 1993 being repealed by the U.S. Congress, they would and have ready, an amendment in that regard. He stated that each county has the computer system in place to receive the updates needed and that litigation by the Justice Department would be more costly to the state than to bring it into compliance.

(See Attachment 1.)

Chairman Dawson recognized Brad Bryant, Deputy Assistant Secretary of State, and asked him to explain, in more detail, the National Voter Registration Act of 1993. Mr. Bryant reviewed the federal requirements and stated that the bill in our committee, HB 2079, has 26 sections. He noted that the NVRA only applies to the federal elections and that, if Kansas should come into compliance, will apply to all elections. Chairman Dawson opened the floor for Mr. Bryant to respond to questions from committee. Changing the term "challenged" to "provisional" would allow a homeless person access to vote if they could define a residence, even so much as a city park bench. It also would allow a person moving to a new residence the day before the election to vote in that person's new precinct. Questions directed to Mr. Bryant were how the system would keep a voter from voting twice and how it would keep election fraud non-existent. The cost of the mail registration process was discussed and Mr. Bryant noted that the election board's postage and mail will increase and the counties will be asked to pay for their own expenses. Chairman Dawson then requested a copy of the budget and stated the committee members had not received a fiscal note on HB 2079. She recessed the discussion on the NVRA until January 25, 1995.

(See Attachment 2.)

Chairman Dawson brought the Committee's attention to the minutes of January 18 and 19, 1995. Rep. Wells made a motion to approve the minutes. Rep. Cox seconded it. The motion carried. Chairman Dawson made announcements and she adjourned the meeting at 10:17 a.m.

The next meeting is scheduled for Wednesday, January 25, 1995, at 9:00 a.m. in Room 521-S of the Capitol.

**GOVERNMENTAL ORGANIZATION AND ELECTIONS
COMMITTEE GUEST LIST**

DATE: January 24, 1995

NAME	REPRESENTING
Edward Rowe	League of Women Voters/KS.
WARREN NEUDORF	D. of A. DISC.
John W. Smith	KDOR - DMV
Brad Bryant	Sec of State
Janice Chubb	SOS
Kucille Parli	visually impaired
RANDY FOSTER	SOS
Marti Gonzalez	KDOR - Vehicles
Betsy Swanwick	Intern - Rep. Dawson
Marc Wilson	Kansas Student Votes Coalition
DEBRA WEIB	COMMON CAUSE
Colleen Kruger	Sen KARR's office
Brett Gadsby	Intern - Rep. Findley
Chuck Knapp	SOS
Nick Haines	KANSAS PUBLIC RADIO
Craig Grant	K NEA
Roger Aeschliman	KID HR

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

REMARKS REGARDING

HB 2079

PRESENTED TO THE

GOVERNMENTAL ORGANIZATION
AND ELECTIONS COMMITTEE

TUESDAY, JANUARY 24, 1995

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS
January 24, 1995
Attachment 1

Madam Chair, members of the committee:

Thank you for the opportunity to appear before the committee this morning in support of HB 2079.

As an introduction to this morning's briefing, I will give the committee a brief history of how we have arrived at this point and why we are facing the situation currently before us.

In 1993, the National Voter Registration Act was signed into law. With its implementation, election law in the state of Kansas will be altered. Prior to its passage by Congress, the Secretary of State's office opposed the NVRA. We believed it to be inherently unfair for the federal government to burden the state with yet another unfunded mandate. Additionally, and perhaps most importantly, voter registration in the state of Kansas is an easy and accessible process. Unfortunately, after expending countless hours trying to defeat it, the NVRA became federal law.

As the chief election official of the state of Kansas, I took an oath to uphold the law, and the NVRA is now the law in the United States. I realize currently there are attempts in Congress to alter or even repeal the NVRA. In view of that possibility, I have suggested we amend HB 2079 to include a provision ceasing the implementation of the NVRA if Congress does indeed repeal it. This does not change the fact that as of January 1, 1995, Kansas is not in compliance with federal law and is susceptible to litigation by the U.S. Department of Justice or any number of private special interest groups.

In May of 1994, the Department of Justice warned the Secretary of State's office of possible litigation. Since then, we have worked closely with the Department of Justice to develop and implement an interim plan, which comes as close to full compliance as we are constitutionally allowed without legislative approval.

The interim plan involved the voluntary cooperation of state agencies likely to be participating in the registration process under the NVRA. Each agency was designated by its local county election officer as a voter registration outpost as they would be under the NVRA. In concert with current Kansas law, our interim plan addresses many of the compliance issues related to the NVRA.

Due to the steps our office has taken, including the formation of an NVRA advisory panel, we have thus far avoided a lawsuit. However, if we are not in full compliance after adjournment of the 1995 session, the State of Kansas will be sued, and in my opinion we will lose.

After years of researching the NVRA, the Federal Election Commission NVRA implementation manual and dealing with the Department of Justice, I am confident we have developed the least intrusive manner of implementing the NVRA. Our legislation meets the requirements of the federal law without drastically modifying the intent of or significantly varying from current Kansas law. Which is why I come before the committee today in support of HB 2079. This legislation will fully implement and bring Kansas into compliance with the NVRA while preserving the sanctity and security of Kansas elections.

This morning, I will provide the committee with a brief overview of what the federal law demands, what our legislation provides and why it must be passed. In testimony to follow, Brad Bryant will provide a detailed analysis and explanation of the legislation.

Voter Registration

The purpose of the NVRA was to increase voter registration by providing more opportunities to register to vote. The national act provides for these opportunities in three different ways:

- 1) Motor Voter, which allows driver's license applicants to simultaneously register to vote while they are applying for or renewing their license.
- 2) Agency-based Registration, which allows the opportunity to register at public assistance offices, such as SRS or local health agencies; offices serving the disabled like the VA; military recruitment offices and other offices designated by the state, such as libraries or the Department of Revenue.

- 3) Mail Registration will be expanded to include door-to-door registration.

Voter Registration List Maintenance

Under the NVRA, state and county election officers must systematically update voter registration records to account for changes of address. The NVRA also makes purging of inactive voters more difficult than the current system.

Fail-Safe Voting

The NVRA also will replace the current challenged ballot system in Kansas with the provisional ballot system. Additionally, if a registered voter moves within the county and fails to re-register, the voter may still vote on election day by completing a registration form and voting a provisional ballot. This is not a significant change in current law. This would simply expand the current fail-safe voting boundary from precinct to county.

Budget Considerations

The NVRA is an unfunded mandate, which will create a financial burden on our counties if the state cannot offer some assistance. Therefore, we have requested the state to fund the initial start-up expense for the counties. This is a one-time expenditure of less than \$900,000. More than 1/3 of this amount will provide computer hardware and ancillary expenses. This will enable all 105 counties to have the technical ability to electronically transfer information required by the NVRA. It is not a requirement of the NVRA for the information to be electronically maneuvered. However, it is the most accurate and efficient mode of transfer. And, quite frankly, it is the most responsible manner in which to handle this system.

Counties will be asked to pay for the ongoing costs associated with voter registration, which would rise with increased registration. State agencies involved in the NVRA will include the cost of participation in each

individual agency budget submitted to the Legislature. All expenses of which we are aware are addressed in the fiscal note.

HB 2079

In drafting HB 2079, we have met the requirements of the NVRA in the least intrusive manner possible. While the federal law does alter Kansas election law, many of the changes are simply extensions or additions to current policy and procedure. Some provisions of the NVRA actually relieve county election officers of previous responsibilities.

As a result of Legislative action in 1992, Kansas already has a motor-voter law. HB 2079 will fine-tune current law to bring Kansas into compliance with the NVRA.

Our bill will provide for agency-based registration, giving the Secretary of State the authority to name additional agencies as participants in the registration process.

HB 2079 will provide for door-to-door registration as mandated by the NVRA. Anyone who wishes to register voters may now do so without being deputized and trained by county election officers. As a result, we will no longer require county election officers to deputize individuals for any voter registration outposts. This will not only expand registration opportunities, but will relieve local officials of unnecessary administrative paperwork as well.

A new registration card will be required by the NVRA. We have developed a card which meets the requirements of the Federal Election Commission and will alleviate problems created by the old cards related to unaffiliated voters and non-citizens of the United States.

Voter registration list maintenance will require additional effort by the county election officers and the secretary of state. In this legislation, we have adopted the most efficient and least intrusive system which still meets list maintenance and purging requirements of the NVRA. Many of these steps have already been implemented under our interim plan.

Closing

Madam Chair, the Secretary of State's office has been involved in the debate over the NVRA for approximately five years. Our primary concern throughout the process has been the sanctity and security of Kansas elections. Based on that objective, our experience and research, we have drafted and recommend passage of HB 2079.

I thank you again for the opportunity to address the committee, and I urge you to favorably consider HB 2079.

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

House Committee on Governmental Organization and Elections

Testimony on H.B. 2079

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

January 24, 1995

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before the committee to testify in support of House Bill 2079. This bill culminates many months of study, discussion and meetings conducted in an effort to determine the meaning of the National Voter Registration Act of 1993 (NVRA), assess its impact on elections and voter registration in Kansas, and plan for its implementation. Much progress has been made, and adoption of HB 2079 will put our state in compliance with the NVRA.

I wish to make a few remarks concerning the status of the project and our approach to the formulation of legislation, then I will summarize each section of the bill to give the committee an opportunity to fully understand its components.

Preliminary work leading to this legislation was begun by the Secretary of State's office in June, 1992, in discussions with the Kansas Division of Motor Vehicles regarding implementation of the state motor-voter statute, which went into effect July 1, 1994. The work with the Division of Motor Vehicles intensified early in 1993 when it became clear that passage of some form of federal voter registration act was imminent due to strong support in Congress and the White House.

One group of election officials who will see many changes due to the NVRA, and who are mentioned repeatedly throughout the bill, are the county election officers. There has been an NVRA committee of county election officers for three years, and the Secretary of State's office has worked with that committee to study the NVRA and plan how to write its provisions into Kansas election law.

HOUSE GOVERNMENTAL ORGANIZATION
AND ELECTIONS

January 24, 1995

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Attachment 2

In September, 1993, Secretary of State Graves appointed a 22-member Advisory Panel to provide guidance during the planning stage. The Panel was composed of officials of various state agencies likely to be involved in implementation, elected officials, and county officials. The Panel met in September, November and December, 1993.

Members of the Secretary of State's office and other state and county officials have attended several national conferences to learn about the NVRA: one hosted by the Election Center in August, 1993, and two hosted by the Federal Election Commission (FEC) in the fall of 1993 and spring of 1994. The FEC is the principal federal oversight agency for the NVRA.

The Secretary of State's office has met with other groups with stakes in the outcome of the project, including the Kansas Association of Counties and state and county data processing managers.

In October, 1993, the Senate Committee on Elections, Legislative Apportionment and Governmental Standards conducted an interim study on the NVRA. The Secretary of State's office presented a one-half day overview of the NVRA and status of the implementation plan, with a two-hour question and answer period following. The input received from the committee and the other discussions mentioned earlier led to the development of 1994 SB 489, which was introduced by the Senate Committee one year ago, but which failed to pass.

Today, one year later, we appear before this committee to recommend passage of HB 2079, which is very similar to last year's Senate bill.

Upon first reading the NVRA, the task of complying with the Act seemed overwhelming. It appeared it might entail a virtual rewriting of Chapter 25 of the Kansas Statutes Annotated. There should be no misunderstanding that this legislation represents the biggest change in Kansas election law in recent years. However, after many discussions and many hours of analysis, the conclusion we have reached is that the task is not insurmountable. This bill is not as long or as far-reaching, and its provisions are not as disruptive, as once feared. Much of the reason is that we have in our state a good election system based on good election laws.

For instance, the impact of the NVRA is lessened because in Kansas we already have:

- mail registration, although more limited than that in NVRA;
- existing statutes on mandatory registration offices, such as city clerk offices, built upon a controlled system of deputizing by county election officers;
- a good system of verification of voter registration, requiring mailing of certificates of registration, similar to the NVRA's notices of disposition;
- good purge laws, although they'll be rewritten by HB 2079;

- an effective system for challenging ballots, which will be expanded by HB 2079;
- a state motor-voter program.

Because our system works, we can comply with the NVRA by amending some statutes instead of completely reworking the system.

This bill has 26 sections. We would like to use the bill itself as the basis for discussion, taking it section by section.

Office of the Secretary of State
National Voter Registration Act of 1993
Advisory Panel

Mike Glassner	Office of Senator Bob Dole
Michael Brungardt	Kansas Human Rights Commission
Louis Chabira	Kansas Division of the Budget
Marilyn Chapman	Sedgwick County Election Commissioner
Laura Epler	Kansas Dept. of Health & Environment
Nancy Hempen	Kansas County Treasurers Association
Rochelle Henderson	U.S. Postal Service
Jacque Kimbrough	Office of Senator Nancy Kassebaum
Jane Knight	ADA State Coordinator
Mike Leeper	U.S. Postal Service
Betty McBride	Kansas Department of Revenue
Martha Gabehart	Kansas Department of Human Resources
Warren Neudorff	Division of Information Systems & Communications
Chad Edwards	Kansas House of Representatives Office of the Speaker
Senator Lana Oleen	State Senator
Representative Michael Sawyer	Kansas House of Representatives Minority Leader
Kandy Shortle	Social and Rehabilitation Services
Dave Kensinger	Office of Representative Sam Brownback
Richard Wagner	Kansas Department on Aging
Meg Henson	Office of the President of the Kansas Senate
Stephanie Isenhour	Office of the Senate Minority Leader

Office of the Secretary of State

House Bill 2079

Outline

- Section 1 Challenged Ballots
Changes challenged ballots to provisional ballots
Certain voters must complete voter registration applications and vote
provisional ballots
- Section 2 Fail-Safe Voting
Voters who move within the county and fail to re-register must
complete voter registration applications and vote provisional
ballots
Precinct election board workers have the duty to supply the ballots
- Section 3 Fail-Safe Voters Choose Precinct Where They Vote
They may choose either their new precinct or a central location
- Section 4 Challenged Ballots Called Provisional Ballots
- Section 5 Substitutes "Registration Application" for "Oath"
Same as Section 1 above; applies to counties using voting machines
- Section 6 Voter Registration Agencies
State must name mandatory and designated agencies
Division of Motor Vehicles included elsewhere
- Section 7 Voter Registration Application Card
Procedure for eligible persons to apply
Data elements required
Content of application as required by NVRA
Maintenance of records of declinations
Notices of disposition
Door-to-door registration
Agencies' transmittal of data to counties

- Section 8 Confirmation Mailings
New duty for county election officers required by NVRA
- Section 9 Opening/Closing of Voter Registration
- Section 10 Additional Voter Registration Hours Before Elections
Exempts NVRA agencies
- Section 11 Expenses
- Section 12 Fail-Safe Voting
Who may vote fail-safe
Limited purging
Confirmation mailings
Felony convictions
- Section 13 (new) Registration List Maintenance
National Change of Address checks
- Section 14 Motor-Voter
Amends 1992 state motor-voter statute
Voter registration application simultaneous with Division of Motor
Vehicle transactions
Information required; form of application
Transmittal of data to counties
Rules and regulations
- Section 15 (new) Illegal Compensation for Distribution of Voter
Registration Applications
Makes it a crime to receive payment for registering voters
- Section 16 Chief State Election Official
NVRA requires designation of a chief state election official

- Section 17 Preservation of NVRA Records
 Agencies and counties must store records for federal reporting
 purposes
- Section 18 Challenged Ballots Called Provisional Ballots
- Section 19 Handling Provisional Ballots
- Section 20 Declaration of Party Affiliation
 Registrants must receive opportunity to affiliate when applying
- Section 21 Verifying Petition Signatures
- Section 22 (new) Rules and Regulations
- Section 23 Disqualification for Felony Conviction
- Section 24 Registrations Since January 1, 1995
- Section 25 Repeal of Statutes
- Section 26 Effective Date

HIGHLIGHTS: 1993 NATIONAL VOTER REGISTRATION ACT

Office of the Secretary of State

January 24, 1995

SECTION 1 Title. The name of the act is the National Voter Registration Act. Although it is commonly referred to as the "motor-voter" act because it offers new registration opportunities at motor vehicle offices, it also provides for new agency-based registration, fail-safe voting and registration list maintenance.

SECTION 2 Findings and purpose. The purpose of the act is to increase the number of registered voters. Its approach is new. Unlike the Voting Rights Act, which authorizes federal intervention if there are violations, this act assigns specific duties to state and local governments.

SECTION 3 Definitions. The definitions clarify that the act only applies to federal elections. However, it would be expensive and complicated for a state to administer two different voter registration systems. Kansas legislation should apply to all elections.

SECTION 4 General provisions/exempted states. The act exempts or "grandfathers" only those states who had no registration or who permitted same-day registration before the act was passed in 1993.

SECTION 5 Motor-voter. In summary, unless a person declines to register, the application or renewal form for a drivers license or identification card is simultaneously an application for voter registration. Any change of address submitted to the division of vehicles also changes the address for voter registration purposes unless the person indicates otherwise. In this and other agency-based registrations, the information about declining to register and information identifying the agency where a person registers must be kept confidential.

SECTION 6 Mail registration. This section of the act directs the federal election commission to create a national mail registration form and requires the states to accept it. However, the states are permitted to prepare a form tailored to the state's eligibility requirements so long as it otherwise meets the federal criteria. Since the national form includes a booklet describing eligibility requirements for all states, the state form will be shorter. The state election official is required to provide the forms and to make them available to organized registration programs -- allowing the door-to-door registration that currently is not permitted in Kansas.

SECTION 7 Agency-based registration. This section describes which agencies will become voter registration agencies. These offices must provide registration forms to every applicant for services, offer registration assistance, process applications and keep records of information and written declinations.

Some agencies are automatically voter registration agencies. They include (1) those that provide "public assistance" -- medicaid, AFDC, WIC, food stamps; (2) those that primarily provide "services to persons with disabilities" -- transportation, job training, rehabilitation; and (3) armed forces recruitment offices. The decision whether an agency fits one of these definitions must be made by the state. Other agencies are to be designated by the state. The act gives as examples libraries, schools, local government offices and unemployment compensation offices. If an agency is designated as a voter registration agency by the state, it is subject to the same requirements as those agencies that are automatically subject to the act.

SECTION 8 Administrative requirements. The provisions in section 8 include complex rules for permitting changes and deletions in voter registration records with or without confirmation notices, depending on responses to those notices and depending on what prompted the notice, such as information from the postal service's national change of address program (NCOA). Generally, a state may not purge a voter's registration for failure to vote, but the state must conduct thorough confirmation programs to update the accuracy of the registration records.

This section also contains complex "fail-safe" procedures for permitting a voter who has moved to vote a regular or challenged ballot at the old polling place, a new polling place or a central polling place. Provisions differ if the move was within a precinct, outside a precinct but within the county, outside a precinct but within a congressional district, among others. The act is not clear about whether a "fail-safe" voter is entitled to vote for races in the old or new district. Discretion is given states regarding removal for death, criminal conviction or mental incapacity.

SECTION 9 Federal regulation. The federal election commission (FEC) advises states and prepares the national mail registration form. It is not authorized to interpret the act, and the agency advises states that each state attorney general is the one to be consulted about legal questions. FEC is required to report to congress every two years, and it anticipates that local and state agencies will report to FEC.

SECTION 10 Designation of chief state election official. The state legislature will designate the chief state election official. Some of the many alternatives offered states under the act may be dictated by state statute. Others may be delegated to the chief state election official.

SECTION 11 Enforcement and private right of action. The attorney general of the United States and "any aggrieved" individual may sue to enforce the act. However, an individual usually must first give the state notice of the complaint and 90 days to correct the violation.

SECTION 12 Criminal penalties. It is a federal crime to intimidate, threaten, coerce or otherwise bother persons about registration or to do anything that threatens the fairness of the registration process.

SECTION 13 Effective date. The effective date of the National Voter Registration Act in Kansas is January 1, 1995.