

Approved: 1/23/96  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE  
APPORTIONMENT AND GOVERNMENTAL STANDARDS.

The meeting was called to order by Chairperson Janice Hardenburger at 1:40 p.m. on January 18, 1996 in Room 529-S of the Capitol.

All members were present except: Senator Wisdom, excused  
Senator Martin, excused  
Senator Parkinson, excused

Committee staff present: Dennis Hodgins, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Bonnie Fritts, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Assistant Secretary of State,  
Elections & Legislative Matters  
Jennifer Wentz, Deputy Assistant Secretary of State,  
Legal Counsel  
Dennis Hodgins, Research Analyst,  
Legislative Research Department

Others attending: See attached list

Senator Hardenburger asked for introduction of bills.

Brad Bryant introduced a bill to that would allow persons sixteen and seventeen years old to be appointed as precinct election board workers on election day easing the shortage of workers in some areas of the state (Attachment 1).

Senator Sallee moved to introduce the bill, Senator Brady seconded the motion, the motion carried.

Jennifer Wentz presented testimony on the status of "League of Women Voters of Kansas et al vs. Graves et al" (Attachment 2) outlining several points of interest contained in that action.

Brad Bryant briefed the committee on the Status of the National Voter Registration Act (Attachment 3) which is a temporary injunction ordering the Secretary of State to implement the provisions of the NVRA for the 1996 elections and provided a copy of the order (Attachment 4).

Dennis Hodgins presented written testimony on the "Implementation Effects of the National Voter Registration Act of 1993 on the State of Kansas" (Attachment 5) describing the historical background of the NVRA in Kansas, arguments for and against implementation of the NVRA, and the implementation procedures in Kansas. He also provided notes on NVRA legal action in 18 states (Attachment 6) for comparison

The meeting adjourned at 2:10 p.m.

The next meeting is scheduled for January 23 1996.

SENATE ELECTIONS, CONGRESSIONAL &  
LEGISLATIVE APPORTIONMENT AND  
GOVERNMENTAL STANDARDS COMMITTEE GUEST  
LIST

DATE: 1/18/96

NAME	REPRESENTING
Brad Bryant	Sec. of State
Jenny Wentz	Sec. of State
Wendy McFarland	ACLU
Bill Green	self

Ron Thornburgh  
Secretary of State



2nd Floor, State Capitol  
300 S.W. 10th Ave.  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

### Senate Committee on Elections, Congressional and Legislative Apportionment and Governmental Standards

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

January 18, 1996

Madam Chair and Members of the Committee:

The Secretary of State's office requests introduction of a bill that would allow county election officers to appoint persons who are sixteen and seventeen years old to be precinct election board workers on election day. These persons would have to meet the other requirements to be qualified electors. This measure will help ease the shortage of election board workers in some areas of the state, it will foster civic education and political participation among young people, and it might save a little money in some areas.

Thank you.

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Elections (913) 296-4561  
Administration (913) 296-2236  
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Ron Thornburgh  
Secretary of State



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## STATE OF KANSAS

Senate Committee on Elections,  
Congressional and Legislative Apportionment  
and Governmental Standards

Jennifer Chaulk Wentz  
Deputy Assistant Secretary of State  
Legal Counsel  
January 18, 1996

The following discussion is a summary of the status of League of Women Voters of Kansas et al. v. Graves et al.

On August 8, 1995, the League of Women Voters of Kansas, the Kansas AFL-CIO, and those organizations' presidents filed suit in federal district court in Kansas City, Kansas against Governor Bill Graves and Secretary of State Ron Thornburgh to compel the state of Kansas' compliance with the National Voter Registration Act of 1993 ("NVRA").

The plaintiffs specifically asked the Court to issue preliminary and permanent injunctions against the use of procedures not in compliance with the NVRA and to:

1. Enter a declaratory judgment that Kansas is not in compliance with the NVRA;
2. Advance the case on the Court's calendar;
3. Require the Governor and Secretary of State to implement the voter registration procedures mandated by the NVRA no later than a date to be set by the Court;
4. Suspend the operation of Kansas statutes which conflict with the NVRA;
5. Award plaintiffs their costs, expenses and attorneys fees; and
6. Grant any other relief the Court finds necessary.

On October 6, 1995, Governor Graves and Secretary Thornburgh filed their answer to the plaintiffs' complaint, denying that the plaintiffs are entitled to the relief requested and outlined in items 1 through 6 above. The Governor and Secretary of State did not object, though, to

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the advancement of the case on the Court's calendar in the interests of upcoming 1996 elections. The Governor and Secretary of State alleged as affirmative defenses the guarantee clause and the 10th amendment to the United States Constitution.

On November 30, 1995, U.S. District Judge Kathryn Vratil conducted a conference with the parties to the litigation, at which time she granted the plaintiffs' motion for a preliminary injunction. The Court specifically ordered that:

1. All Kansas statutes and rules and regulations that conflict with the NVRA are pre-empted in their application for federal elections;
2. The Governor and Secretary of State are enjoined from failing or refusing to comply with the NVRA;
3. Specific provisions of the original 1995 House Bill No. 2079, which designated the Secretary of State as the chief state election official for NVRA purposes, are to serve as the implementation plan for the NVRA in Kansas;
4. The Secretary of State is to share with the plaintiffs information relating to the implementation of the Court's order;
5. The Secretary of State is to direct county election officers to reinstate for federal elections all voters purged after January 1, 1995, and to notify those voters of their reinstatement for federal elections;
6. Plaintiffs are entitled to attorneys fees;
7. The preliminary injunction will be in effect until the case is adjudicated or the Court issues an order to amend or rescind this order; and
8. The plaintiffs have until June 15, 1996 to file dispositive motions in that the parties want to resolve this matter in the 1996 session of the Kansas legislature.

On December 27, 1996, plaintiffs' attorneys submitted a bill for \$10,415.69. The Attorney General's office is processing the bill through the tort claims fund.

Ron Thornburgh  
Secretary of State



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## STATE OF KANSAS

### Senate Committee on Elections, Congressional and Legislative Apportionment and Governmental Standards

#### Status of the National Voter Registration Act

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

January 18, 1996

The temporary injunction orders the Secretary of State to implement the provisions of the National Voter Registration Act (NVRA) for the 1996 elections. There are three state and national elections scheduled for this year: the presidential preference primary on April 2, the primary election on August 6, and the general election on November 5.

The court's order applies only to federal elections. Without state legislation applying NVRA provisions to all Kansas elections, the order creates a dual system of registration and voting.

This means that:

- Some individuals will apply to become registered voters using the universal NVRA form developed by the Federal Election Commission. Such registrants will be registered only for federal elections.
- County election officers will prepare a separate federal-only ballot for the federal-only voters.
- County election officers will maintain two lists of voters.
- When voters are purged from the lists for missing two elections in accordance with state law, they will remain on a federal-only list, increasing the number of federal-only voters.

The Secretary of State, having been designated chief state election official for federal elections, is proceeding with the following steps toward implementation of the NVRA:

- We have directed county election officers to reinstate voters purged after the effective date of the NVRA, January 1, 1995. Such voters must also be notified of their reinstatement by mail.

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- We are developing guidelines for use by individuals involved in implementation of the NVRA, including county election officers, agency-based registrars, employees of the Division of Motor Vehicles, and individuals who conduct private registration drives.

- We are developing several new forms required by the NVRA that will be phased in as soon as possible. This includes a redesign of the current voter registration card in statewide use.

- We are designing a series of training sessions across the state for officials involved in implementation of the NVRA. We hope to complete the sessions in February and March.

FILED  
U.S. DISTRICT COURT  
DISTRICT OF KANSAS

35 NOV 30 AM 9:16

RALPH L. DELCACH  
CLERK

BY \_\_\_\_\_ DEPUTY  
AT KANSAS CITY, KS.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

LEAGUE OF WOMEN VOTERS OF KANSAS, )  
KANSAS AFL-CIO, LINDA JOHNSON, )  
and JIM M. DeHOFF, )

Plaintiffs, )

vs. )

BILL GRAVES, in his official )  
capacity as Governor of the State )  
of Kansas; and RON THORNBURGH, in )  
his official capacity as Kansas )  
Secretary of State, )

Defendants. )

Case No. 95-2350-KHV

ORDER

This matter is before the court on plaintiffs' motion for preliminary injunction as presented in the Complaint (Doc. 1). For the reasons set forth below, this motion is granted.

Plaintiffs have alleged in their complaint that the State of Kansas is not in compliance with the provisions of the National Voter Registration Act, 42 U.S.C. § 1973gg, et seq. (NVRA). They allege that the State's failure to comply with the NVRA violates their rights as guaranteed under the statute, as well as under the 14th Amendment.

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The defendants do not deny that the State has not complied with all of the provisions of the NVRA. However they will not confess judgment or agree to any consent degree. Instead they present the 10th Amendment and art. 4, § 4 of the Constitution as affirmative defenses to the Complaint.

The issue of Kansas' compliance with the NVRA, while new to this court, is not new to the parties. In both the 1994 and 1995 Kansas Legislature, bills were introduced with the intent of coming into substantial compliance with the NVRA. In 1995 the House approved a bill which the defendants contend would have brought the State into substantial compliance. That bill is in Senate committee and could be considered in the 1996 Legislative session scheduled to begin in January.

In order to obtain a preliminary injunction the moving party must show that : (1) a substantial likelihood of success on the merits; (2) the moving party will suffer irreparable injury unless the injunction issues; (3) the threatened injury to the moving party outweighs whatever damage the proposed injunction may cause the opposing party; and (4) the injunction, if issued would not be adverse to the public interest. Seneca-Cayuga Tribe v. State ex rel. Thompson, 874 F.2d 709, 716 (10th Cir. 1989).

As to whether the plaintiffs have a substantial likelihood of success on the merits, a movant may show a likelihood of success by raising serious questions going to the merits. Otero Savings and Loan Ass'n. v. Federal Reserve Bank, 665 F.2d 275, 278 (10th Cir. 1981). The plaintiffs have satisfied that burden for the purposes of this preliminary injunction. The issuance of this injunction may well determine whether thousands of people will be able to register to vote in the next federal election. There can be no more serious issues in a democracy.

Federal courts throughout the nation have found that U.S. Const. art. I, § 4 empowers Congress to regulate the registration of voters in federal elections. Voting Rights Coalition v. Wilson, 60 F.3d 1411 (9th Cir. 1995); Association of Community Orgs. for Reform Now v. Edgar, 56 F.3d. 791 (7th Cir. 1995). The weight of court precedent is on the side of the plaintiffs.

The plaintiffs will suffer irreparable harm unless the injunction is issued. In the month of April, 1996, a Presidential Preference Primary will be held in Kansas. Effective voter registration is a process which can take many months to accomplished. Further, under current Kansas law, the purging of voter registration files could deny

certain people the right to vote granted to them under the NVRA. Once the election is over any harm resulting from people not being allowed to vote cannot be undone.

The injunction will not be adverse to the public interest.

IT IS THEREFORE ORDERED BY THE COURT that the plaintiffs' motion for a preliminary injunction is granted to the extent set forth below.

IT IS FURTHER ORDERED BY THE COURT that all provisions of Kansas statutes and rule & regulations for Federal elections that conflict with the NVRA are pre-empted by that act in their application to federal elections.

IT IS FURTHER ORDERED BY THE COURT the individual defendants, their agents and successors in office and all persons acting in concert with any of them are enjoined from failing or refusing to comply with the requirements of the NVRA.

IT IS FURTHER ORDERED BY THE COURT that section one through fourteen, sixteen through twenty, and twenty-two of the attached exhibit, entitled "House Bill No. 2079" shall serve as the plan for implementation of the NVRA in

Kansas. The Court further orders Kansas to implement the following provisions of the NVRA: §1973gg-5(a)(3) requiring the designation of other offices within the state as voter registration agencies; §§1973gg-5(a)(4)(A)(ii) and 1973gg-(5)(a)(6)(C) requiring the provision of assistance in completing voter registration applications unless the applicant declines; §1973gg-5(a)(4)(B) requiring designated voter registration agencies providing services to the disabled at home, also to provide voter registration services to the disabled at home; §1973gg-5(a)(5) assuring impartiality of voter registration services; §1973gg-6(c)(2) requiring Kansas to complete its voter removal programs no later than 90 days prior to the date of a federal election; §1973gg-6(i) providing for public disclosure of voter registration activities.

IT IS FURTHER ORDERED BY THE COURT that the Secretary of State shall make available to the plaintiffs all information, which is not privileged by reason of attorney-client communication, relating to the implementation of House Bill 2079, the NVRA, and this Order. Said information shall include records and materials relevant to this case.

IT IS FURTHER ORDERED BY THE COURT that the Secretary of State shall direct county election officers to reinstate

onto the voter rolls those voters inappropriately purged by the operation of Kansas statutes and rules & regulations which conflict with the NVRA from and after January 1, 1995. All such voters shall be notified of their reinstatement on or before December 31, 1995, and if eligible to vote pursuant to the NVRA, shall be entitled to vote in federal elections.

IT IS FURTHER ORDERED BY THE COURT that the plaintiffs are at this time prevailing parties for purposes of an award of attorney fees and, pursuant to D. Kan. Rule 54.2 (formerly Rule 220), shall attempt to negotiate an agreed order for fees with the defendants for approval by this Court within 30 days.

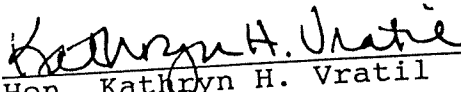
IT IS FURTHER ORDERED BY THE COURT that this preliminary injunction shall remain in effect and apply to any subsequent federal elections in Kansas until such time as this case is finally adjudged on the merits or this court issues an order to amend or rescind this order.

IT IS FURTHER ORDERED BY THE COURT that in so much that the parties have informed the court that there are no issues of material fact in this matter and all of the questions before the court are ones of law, and in that all of the parties wish to seek resolution of this dispute in

the 1996 session of the Kansas Legislature, the court will grant the plaintiffs until June 15, 1996 to file dispositive motions in this matter giving the defendant thirty days to respond.

IT IS SO ORDERED.

Dated this 30th day of November, 1995.

  
\_\_\_\_\_  
Hon. Kathryn H. Vratil  
U.S. District Judge

**REVISED  
MEMORANDUM**

**Kansas Legislative Research Department**

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January 18, 1996

**IMPLEMENTATION EFFECTS OF THE NATIONAL VOTER REGISTRATION  
ACT OF 1993 ON THE STATE OF KANSAS**

On March 11, 1993, President Bill Clinton signed the National Voter Registration Act of 1993, (NVRA) into law. The NVRA often is referred to as the "motor-voter" act. However, this reference is a misnomer because the NVRA not only requires motor-voter registration, it mandates agency based registration, fail-safe voting procedures, and registration list maintenance for federal elections in each state. States which are subject to the NVRA requirements were mandated to implement this Act by January 1, 1995 (Minnesota, North Dakota, Wisconsin and Wyoming are exempt from the NVRA requirements). Although the NVRA only applies to federal elections, states probably would have to maintain a more costly dual system if they chose not to implement the requirements for state and local elections as well as federal elections. The purpose of the NVRA is to increase voter registration for federal elections in every state subject to the Act. The NVRA dictates the process states must follow to increase voter registration. To implement these changes requires funding; however, the federal government has not provided states with moneys for implementation and many states have labeled the NVRA an unfunded federal mandate and have refused to implement it. As a result, private organizations and the United States Department of Justice have litigated against some states to try and force them to comply with the Act. According to the Federal Elections Commission, to date there are 18 states that have been sued, will be sued, or have implementation problems. The court has ordered every state that has been sued to comply with the NVRA and no state has been able to win a case against implementation of the NVRA. Some of these states include; California (state has appealed the case to the U.S. Supreme Court), Connecticut, Illinois, Louisiana, and other states (complete list enclosed). Kansas is under a federal judge's temporary injunction; the lawsuit is not resolved.

**Historical Background of the NVRA in Kansas**

In the 1994 Kansas Legislative Session, three bills were introduced which addressed the problem of implementation of National Voter Registration Act. The first bill, S.B. 441, sponsored by Senators Karr, Brady, Martin, and Wisdom, would have allowed voters to register at the polls on election day for state and federal general elections. This bill was referred to the Senate Committee on Elections, Congressional and Legislative Apportionment, and Governmental Standards (referred to as the Senate Elections Committee). The bill was considered by a subcommittee; however, it was not recommended for passage and therefore died in the Senate Elections Committee. The second bill, S.B. 489, was sponsored by the Secretary of State's Office to address the mandated requirements of the NVRA. According to a representative of the Secretary of State's Office, S.B. 489 would have restructured the state and federal elections in the State of Kansas into one election system and satisfied the requirements of the NVRA. The

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bill was considered by the Senate Elections subcommittee, but it was not recommended for passage and died. The final bill introduced into Committee was S.B. 613 which was sponsored by Senators Hardenburger, Bond, Lawrence, Ranson, Sallee and Wisdom. This bill would have allowed unregistered residents to vote for candidates for national office in a federal election at the polls. This bill was considered by the Senate Elections subcommittee and recommended for passage to the Senate Elections Committee which recommended the bill for passage. The Senate Committee of the Whole passed S.B. 613 by a 27 to 13 vote. The bill was referred to the House Committee on Governmental Organization and Elections where it was recommended for passage as amended. However, S.B. 613 was stricken from the calendar by the House Committee of the Whole.

In the 1995 Legislative Session, the Secretary of State's Office sponsored H.B. 2079 which was the same as 1994 S.B. 489 except for a few minor changes. According to a representative from the Secretary of State's Office, H.B. 2079 would have created one election system for national, state and local elections, and it would comply with the requirements as mandated in the NVRA. The bill was introduced in the House Committee on Governmental Organization and Elections and referred to a subcommittee which amended the bill and recommended a substitute bill for H.B. 2079 for passage to the House Committee on Governmental Standards and Elections. The House Committee passed the substitute bill out of Committee with no recommendation. The House Committee of the Whole passed the substitute bill by a vote of 104 to 19. The substitute bill was introduced into the Senate Committee on Elections, had a hearing but was not recommended for passage. Substitute for H.B. 2079 is still alive in the Senate Elections Committee and could be considered in the 1996 Legislative Session.

No legislation has been passed in the State of Kansas prior to the compliance date of January 1, 1995, and therefore, the State of Kansas is subject to litigation to compel it to conform to the provisions listed in the NVRA. On August 8, 1995, the League of Women Voters and the Kansas AFL-CIO filed suit in the United States District Court to compel various officials of the State of Kansas to comply with the provisions of the National Voter Registration Act of 1993. On November 30, 1995, United States District Court Judge Kathryn Vratil granted a preliminary injunction to the League of Women Voters and Kansas AFC-CIO against the Governor of Kansas and the Secretary of State to compel these officials representing the State of Kansas to implement the provisions of the NVRA as described in H.B. 2079. The court allowed the 1996 Legislature until June 15, 1996, to statutorily implement the NVRA. If the Legislature does not act on this implementation, then the court could issue a permanent injunction against the state. As a result, the state of Kansas would have a registration system for federal elections and a registration system for state and local elections. The States of Illinois and Virginia have a two-tiered registration system until state law can be revised.

### **Arguments For and Against Implementation of the NVRA in Kansas**

The proponents of the National Voter Registration Act argue that the Act is necessary because it will increase the number of registered voters for federal elections. Also, they argue that this increase may increase the number of eligible voters who will vote in federal elections. Moreover, if states implementing the NVRA do not want to incur as many additional costs, they probably will change state and local election laws to coincide with the requirements in federal election laws under the NVRA. Proponents of a unified election system argue that voter turnout at the polls will increase not only for federal elections but also state and local elections. According to proponents of the NVRA, increases in voter registration and voter turnout at the polls are a very desirable goal in the democratic process. The costs associated with implementation of the NVRA vary depending on the system already existing within a state. Proponents argue that if a state has a motor-voter law, mail-in voter registration and a computerized registration system, then costs of NVRA implementation will be minimal. Finally, the proponents contend that the federal government has the power



to mandate how federal elections are conducted at the state level. To date, the courts have agreed with that contention.

The main argument by opponents to the NVRA is the non-funding by the federal government to implement such a system at the state level. Opponents view the NVRA as another unfunded mandate by the federal government. They also argue that each state should be allowed to conduct its own elections for federal offices without mandates from the federal government. In Kansas, legislators argued that Kansas already had a "motor-voter" law and mail-in registration for all elections prior to the NVRA and these already register a high percentage of eligible registered voters. Implementation of the NVRA, it is argued, will not significantly increase the number of registered voters in the State of Kansas, and therefore, the increased number does not justify the cost.

H.B. 2079 was the bill introduced by the Secretary of State's Office in the 1995 Legislative Session to comply with the provisions of the NVRA. The Division of Budget submitted a fiscal note for H.B. 2079 stating that costs associated with the implementation of the NVRA was from a survey of state agencies and counties affected by the NVRA. According to the fiscal note, storage costs and computer expenses totaled \$653,651 for agencies and \$941,500 for implementation costs to the 105 counties in Kansas. These are first-year implementation costs. Some costs, *i.e.* postage, printing, personnel, will be ongoing county and state agency costs. The total estimated cost to implement the NVRA in the State of Kansas is estimated to be \$1,595,151. However, the Division of Budget stated in its fiscal note that there are discrepancies in the estimated costs between similar counties and agencies, and until the differences between these estimated costs can be reconciled, no accurate estimate of the fiscal impact of H.B. 2079 can be made.

Attached please find the fiscal note on H.B. 2079 from the Division of Budget on January 25, 1995.

### **Implementation Procedures of the NVRA in Kansas**

#### **1. Voter Registration**

##### **a. Division of Motor Vehicles ("Motor Voter") Provisions**

###### Kansas (current law)

K.S.A. 25-2351 provides for "motor voter" registration in the State of Kansas.

###### NVRA Requirements

Most of the NVRA requirements are contained in the Kansas motor-voter law, however additional provisions regarding confidentiality of declinations of voters, change of name and address, and transmission of applications from the agency to the appropriate county election officer are necessary.

##### **b. Procedural/Administrative Provisions**

K.S.A. 25-2309 specifies the registration form approved by the Secretary of State.

A mail voter registration form prescribed by the Federal Election Commission may be used by the electorate.

The statute also specifies what voter registration information should be on an application for registration.

K.S.A. 23-2316 specifies the requirements for voters who move within a precinct and want to register to vote.

K.S.A. 23-2316 allows removal of voter's name from the registration list after a specific period of time and under specific conditions (failure to vote in a general election).

### c. Agency-based Registration Provisions

K.S.A. 25-2303 allows county election officers to appoint deputy county election officers in cities of the first and second class for the purpose of registering voters. County election officers deputized certain additional sites at the request of the Secretary of State. The sites are those that are required by the NVRA.

The NVRA requires additional information on the registration forms.

An additional form is required for individuals who apply for voter registration through a voter registration agency.

There is a requirement that voter registration agencies transmit completed forms within a certain time period to county election officers.

NVRA allows voters to move within county before meeting requirements under K.S.A. 23-2316.

The NVRA changes requirements for removal of a voter's name from registration lists (failure to vote in two consecutive federal general elections).

The Act also requires accuracy of registration lists through the National Change of Address program through the U.S. Postal Service.

NVRA allows door-to-door registration, which is a significant change in election administration in Kansas.

NVRA requires a state to have certain agencies designated as "voter registration agencies" where voters can apply for an application for federal elections registration. Some mandatory agencies include: agencies that provide public assistance, *i.e.*, Medicaid, food stamps, WIC, AFDC; agencies that provide services to persons with disabilities, *i.e.*, job training, transportation, rehabilitation; and armed forces recruitment offices. Some possible designated agencies include: libraries; schools; unemployment compensation offices; and other agencies deemed necessary by the state.

Portions of K.S.A. 25-2303 may be incorporated into a bill to satisfy some of the requirements of the NVRA.

NVRA requires a system of confirmation mailings, as part of the list maintenance system, prior to removal of any voter's name.

**2. Fail-Safe Voting Provisions**

K.S.A. 25-409 allows provisions for fail-safe voting to insure voters are permitted to vote even after changing addresses but challenging any ballots that are suspected of being illegal ballots.

The NVRA requires additional provisions to insure fail-safe voting.

**3. General Application**

K.S.A. 25-2709 allows the county election officer to destroy certain filed election records after a certain length of time.

The NVRA requires additional provisions for voter information to be kept on file for a certain period of time.

The NVRA requires the Federal Election Commission to collect data from Secretary of States Office, who collects it from county election offices and agencies. The data is reported to Congress which assesses the impact of the NVRA.

NVRA requires a system of confirmation mailings, as part of the list maintenance system, prior to removal of any voter's name.

Other minor requirements of the NVRA are necessary for the State of Kansas to comply with the Act. Kansas is not a voting preclearance state; it does not have to have the Justice Department verify our changes. They may, however, review the state's actions because Kansas has not been in compliance of NVRA. If legislation is passed in the State of Kansas that brings the state into compliance with the NVRA, the U.S. Department of Justice will review the legislation to determine if the state does fully conform to the Act's requirements.

Notes on NVRA Legal Action in States  
As of 12/6/95

- California - State sued by voting rights groups. State sued DOJ on 12/10/94 to prevent enforcement of NVRA. State sued by DOJ 1/95. In April, a federal court of appeals denied a stay of this order pending resolution of the appeal filed by the state. Decision 7/24/95 upheld provisions of NVRA. DOJ subsequently challenged State implementation plans re: using DMV changes of address for voter registration and using non-voting information in list maintenance. Federal district court order issued 11/2/95 partially supported, partially rejected DOJ arguments. State appealed to the U.S. Supreme Court.
- Connecticut - ACORN and Project Vote served notice on 8/14/95 of intent to sue the State for failure to properly implement agency registration. State is trying to resolve the problem out of court.
- Georgia - DOJ objected 10/24/94 to list maintenance provisions of implementing legislation (using combination of failure to vote and failure to make any other contact as trigger for forwardable confirmation mailings). Alternative plan not submitted by State.
- Illinois - Sued by DOJ and private groups 1/95. On 3/28/95, a federal district court ordered Illinois to comply with the NVRA. The State appealed and won a stay from the 7th U.S. Court of Appeals on 4/7/95, pending resolution of the appeal. Case argued 5/8/95. Decision 6/6/95 upheld NVRA. DOJ objections to State's proposed use of verification notice before name added to registry and certain fail-safe voting provisions were upheld by Federal District Court 9/6/95. State is implementing NVRA for federal elections only until State law is revised.

- Indiana - Sued by State AFL-CIO, 6/94. Federal district court ordered compliance, 12/1/94. State entered into interim agreement with plaintiffs to accept the order and implement all section of proposed implementing legislation that cover most aspects of NVRA except list maintenance. Court gave State until 1/31/95 to resolve disputed list maintenance procedures, after which court would resolve issue. State is in process of implementing.
- Kansas - State legislature adjourned without passing legislation needed to bring State law into conformance. (State already has motor voter and mail registration, though they don't comply with all NVRA requirements, and list maintenance procedures do not comply.) State began taking administrative steps to provide for some agency registration and use of national form for federal elections. State sued 8/95 by LWV of KS and State AFL-CIO. Federal judge issued a preliminary injunction (12/95), requiring State to implement NVRA for federal elections (effectively establishing a dual registration system until state laws are revised). DOJ is monitoring progress.
- Louisiana - State sued on 1/30/95 by State legislator who did not want implementing legislation to take effect without a specific fraud prevention measure (picture I.D. at the polls required for those who register by mail) that was rejected by DOJ on 11/21/94 as violating the Voting Rights Act. Implementation was delayed pending outcome. ACORN sued State 2/95 and settled after State began implementation in agencies 5/95. State court found the questioned provision severable. State is implementing all other provisions of implementing legislation.
- Michigan - Sued by ACLU & ACORN 3/95 to implement agency registration. (State already has motor voter and mail registration.) DOJ joined suit 6/12/95, also objecting to State's list maintenance provisions. First hearing held end of 11/95. No decision yet.

- Mississippi - Subsequent to DOJ preclearance, State decided to employ State NVRA implementation provisions for federal elections only. DOJ and a private group have sued under provisions of Voting Rights Act for failure to preclear that decision and the resulting dual registration situation. Panel of 3 federal judges upheld dual registration, ruling on 7/24/95 that State's dual registration system was created by NVRA, not the State implementation of it, and that DOJ had previously precleared State law. Plaintiffs may appeal.
- Montana - DOJ notified the State by letter that they were not in compliance with the NVRA's agency registration and list maintenance requirements. Governor directed State agencies to comply, with Secretary of State to determine procedures. List maintenance problem still under negotiation.
- New Hampshire - Passed retroactive same day registration. State sued 5/95 by State LWV and State AFL-CIO, seeking to implement all provisions of NVRA. No decision yet. Senator Gregg's amendment to Commerce, State and Justice appropriations bill would exempt New Hampshire from NVRA.
- New York - ACORN and Project Vote filed notice on 10/4/95 of intent to sue State for failure to properly implement agency registration. 10/95, DOJ initiated inquiry into alleged failure of agency registration in State.
- Pennsylvania - Sued by ACORN 12/94. Suit joined by DOJ 1/95. On 3/30/95, a federal district court ordered State to comply with the NVRA. Governor signed implementing legislation 6/95. Implementation began 7/95, but DOJ has objected to two voter registration list maintenance provisions in the State's implementing statute.
- South Carolina - State sued DOJ et al. 1/95. DOJ sued State 1/95, coalition of private plaintiffs also involved. Court heard case 2/21/95. U.S. District Court found the NVRA to be constitutional in 11/17/95 decision, and ordered State to implement the NVRA within 30 days. State appealed to Federal Court of Appeals.

- South Dakota - DOJ formally objected on 6/19/95 to State proposal to use failure to vote as a trigger for confirmation mailings under its voter registration list maintenance procedures.
- Texas - NVRA implemented under Executive Order, pending passage of State implementing legislation. DOJ objected to Spanish translation of voter registration form, under provisions of the Voting Rights Act, and is working out acceptable language with State.
- Vermont - Originally due to implement 1/96, is now scheduled to implement no earlier than 1999 due to constitutional impediments and the process required to amend State constitution. State sued 11/27/95 by private plaintiffs (Common Cause of VT and VT NOW) for failure to implement NVRA.
- Virginia - Originally scheduled to implement NVRA 1/96. Governor vetoed implementing legislation 5/5/95. State filed suit against DOJ 5/95. DOJ and private groups subsequently filed suit against Virginia (on 7/67/95). Federal district court, in 10/3/95 decision, ordered State to implement NVRA by 3/6/96. State will implement for federal elections only, until State law can be revised.

NOTE: Idaho passed retroactive same day registration, but has not been sued to implement NVRA, and would be affected by Gregg Amendment (see New Hampshire above). Arkansas, which had a constitutional impediment, passed implementing legislation to be effective 1/96. Minnesota, North Dakota, Wisconsin, and Wyoming are exempt from NVRA provisions.