

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

1210

284

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 303

(S) Publish Date: 2-11-94

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Act relating to voter elig., voter registration BRU: State Health Services
& voter reg. agencies; & providing for effective date. Component: Women Infants & Children
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. #1013

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	4.4	8.9	9.2	9.5	9.7	10.0
MISCELLANEOUS						
TOTAL OPERATING	4.4	8.9	9.2	9.5	9.7	10.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4.4	8.9	9.2	9.5	9.7	10.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4.4	8.9	9.2	9.5	9.7	10.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) cost \$ NONE

ANALYSIS: (Attach a separate page if necessary)
 This bill 1993 requires state agencies administering certain public programs, including WIC, to be voter registration agencies.

As the agency administering WIC, Division of Public Health, WIC grantees must, under the and this legislation, provide voter registration materials to all applicants for these programs and to clients who wish to report address changes to the Division of Elections. DPH staff and grantee staff must also assist applicants who request help in completing the voter registration forms and mail in the completed forms for individuals who do not wish to mail them themselves. Public health applicants must be requested to agree to decline in writing to register to vote, and written declinations must be retained in state records.

SEE ATTACHED

Prepared by: Peter M. Nakamura, MD, MPH Phone: (907) 465-3090
 Division: Public Health Date: 02/01/94

Margaret R. Lowe

Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S. Date: 2-2-94
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

These activities will increase the workload of already-overburdened staff in DPH and grantee offices throughout the state. We estimate that 10 percent of the approximately 14,578 applicants interviewed each year in our grantees offices will wish to register to vote when they apply for services, and that an equal number will request an explanation of the form or help with the form. We assume that each such interaction will require 10 minutes of staff time, including time to assemble materials, process mailings, and assist clients.

2,916 clients assisted x 10 minutes processing/client = 486 hours
486 = 0.25 FTE 0.25 x \$33,900/year/FTE Clerk III = \$8,475/year
1950

Personnel costs for years after FY95 are increased by 3.0 percent to account for inflation.

Additional PCN not requested: Grantees may require additional staff.

Estimated mailing costs: \$204/year

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill No. 6
Bill Version: SB 303
(S) Publish Date: 2-11-94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to voter eligibility, voter registration, and voter registration agencies BRU: Public Assistance Administration
Component: Eligibility Determination
Sponsor: Governor
Requestor: _____ COMPONENT SERIAL NO. 0236

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	10.2	21.0	21.6	22.2	22.9	23.6
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.2	0.4	0.4	0.4	0.4	0.4
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	10.4	21.4	22.0	22.6	23.3	24.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	5.2	10.7	11.0	11.3	11.6	12.0
1003 GF Match	5.2	10.7	11.0	11.3	11.7	12.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	10.4	21.4	22.0	22.6	23.3	24.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

The federal National Voter Registration Act of 1993 requires state agencies administering certain public assistance programs, including Aid to Families with Dependent Children (AFDC), Food Stamps, and Medicaid, to be voter registration agencies.

(continued on page 2)

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe, M.Ed., Ed.S
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 2/1/94
Date: 2-2-94

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ANALYSIS (cont.):

Under this legislation, Division of Public Assistance field offices must provide voter registration materials to all applicants for all of the programs it administers and to clients who wish to report address changes to the Division of Elections. DPA staff must also assist applicants who request help in completing the voter registration forms and mail in the completed forms for individuals who do not wish to mail them themselves. Under federal law, public assistance applicants must be requested to agree or decline in writing to register to vote, and written declinations must be retained in state records.

These activities will increase the workload of already-overburdened staff in DPA offices throughout the state. We estimate that 10 percent of the approximately 35,000 applicants interviewed each year in our offices will wish to register to vote when they apply for public assistance, and that an equal number will request an explanation of the form or help with the form. We assume that each such interaction will require 10 minutes of staff time, including time to assemble materials, process mailings, and assist clients.

7,000 clients assisted x 10 minutes processing/client = 1160 hours

$\frac{1160}{1950} = 0.6 \text{ FTE}$ $0.6 \times \$33,900/\text{year}/\text{FTE Clerk III} = \$20,340/\text{year}$

The requirement takes effect January 1, 1995. FY95 figures reflect 6 months' costs.

Personnel costs for years after FY95 are increased by 3.0 percent to account for inflation.

Additional PCN not requested: personal services increment will be used to reduce V&T to absorb additional workload.

Estimated mailing costs: \$400/year

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

No. 7
Bill Version: SB 303
(S) Publish Date: 2-11-94

Revision Date: February, 1994 Dept. Affected: Community & Regional Affairs 30
Title: Governor's Motor Voter Bill BRU: Local Government Assistance
Sponsor: Governor Component: Training and Development
Requestor: _____ COMPONENT SERIAL NO. 672

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	5.0	5.0	0.0	0.0	0.0	0.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	5.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	10.0	5.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	5.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	10.0	5.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
This legislation amends state law to bring the Alaska statutes into line with recently passed federal law, the National Voter Registration Act of 1993 (NVRA). Under this legislation, the Department of Community and Regional Affairs is designated as a voter registration agency. In general, the Department can absorb the additional duties required of this responsibility without fiscal impact. That is, existing staff can incorporate the new duties (help clients complete voter registration forms, distribute voter materials, etc.) within the course of their ongoing programmatic functions.
(continued on attached page)

Prepared by: Michael Cushing, Research Analyst Phone: 465-4708
Division: Municipal and Regional Assistance Division Date: 1/31/94
Approved by Commissioner: [Signature] Date: 1/31/94
Agency: Community & Regional Affairs

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FISCAL NOTE

Fiscal Note Analysis Continued

Governor's Motor Voter Bill

The Department, however, does anticipate some minor additional "start-up" training costs associated with helping municipal officials in Alaska's smaller rural communities understand the new federal and state laws; and what they, as municipal officials, need to do to implement these laws correctly. We estimate the additional training costs in the first year will be about \$10,000 which includes \$5,000 for travel expenses and \$ 5,000 for materials and contractual services associated with putting training sessions together. The training will be performed by DCFA's regional office staff. We envision the additional costs to drop off in the second year and to consist of about \$5,000 — all in travel expenses. Beginning in the third year, we would expect this training to be fully integrated into our municipal officials training efforts and, therefore, should not represent an additional fiscal impact from that point forward.

FISCAL NOTE

Bill Version: SB 303
(S) Publish Date: 3-29-94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Revenue
Title: Uniform Voter Registration System BRU: Permanent Fund Dividend
Component: Permanent Fund Dividend
Sponsor: SENATE RULES COMMITTEE, by Request of the Governor
Requestor: Senate State Affairs COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS:
This fiscal note assumes that the Director of Elections does not designate the Permanent Fund Dividend (PFD) Division as a voter registration agency since the PFD Division already includes voter registration forms in the application booklet as required by AS 43.23.016. If the Director of Elections were to designate the PFD Division as a registration agency under proposed AS 15.07.055(c), [See page 2, section 5, lines 24 and 25] the increased cost would require a general fund appropriation or a reimbursable services agreement from the Division of Elections to the PFD Division.

Prepared by: Thomas C. Williams Phone: 465-2323
Division: Permanent Fund Dividend Date: 02-14-94
Approved by Commissioner: [Signature] Date: 2/15/94
Agency: Department of Revenue

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SB 303

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"An Act relating to voter eligibility, voter registration, and voter registration agencies; and providing for an effective date."

SUGGESTED TITLE CHANGE :

"An Act relating to voter eligibility, voter registration, and voter registration agencies; preparation of official ballot and providing for an effective date."

SUGGESTED AMENDMENT/ADDITIONAL LANGUAGE:

AS 15.15.030 (6) is amended to read:

The general election ballot shall be designed with the position of names of the candidates in an order to be determined by an alphabetic drawing by the director. [CHANGED IN EACH SECTION AS MANY TIMES AS THERE ARE CANDIDATES IN THE SECTION IN WHICH THERE ARE THE MOST NAMES. AS NEARLY AS POSSIBLE, AN EQUAL NUMBER OF BALLOTS SHALL BE PRINTED AFTER EACH CHANGE. IN MAKING THE CHANGES OF POSITION, THE NAME OF THE CANDIDATE AT THE HEAD OF EACH SECTION SHALL BE TAKEN AND PLACED AT THE BOTTOM OF THE SECTION AND THE COLUMN MOVED UP SO THAT THE NAME THAT BEFORE WAS SECOND IS FIRST AFTER THE CHANGE. AFTER THE BALLOTS ARE PRINTED, THEY SHALL BE PLACED IN SEPARATE STACKS, ONE STACK FOR EACH CHANGE OF POSITION. THE BALLOTS SHALL THEN BE GATHERED BY TAKING ONE FROM EACH STACK, THE INTENTION BEING THAT EVERY OTHER BALLOT IN THE ACCUMULATED STACK OF BALLOTS SHALL HAVE THE NAMES OF THE CANDIDATES IN A DIFFERENT POSITION.]

SENATE FINANCE
COMMITTEE
Amendment Number: ①
Bill Number: SB 303
Sponsor: _____ Date: 3/14/94
Logged In By: aw

STATE OF ALASKA
P. O. Box 110015
JUNEAU, ALASKA 99811-0015
907.465.3520

March 4, 1994

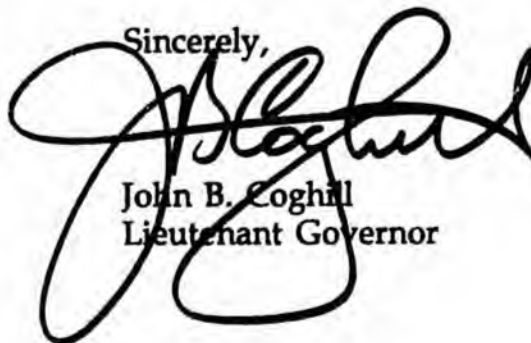
The Honorable Drue Pearce, Co-Chairman
Senate Finance Committee
Alaska State Senate
State Capitol Room 508
Juneau, Alaska 99801

Dear Senator Pearce:

I would like to request an expeditious hearing of Senate Bill 303 "An Act relating to voter eligibility, voter registration, and voter registration agencies; and providing for an effective date."

Please schedule Senate Bill 303 at your earliest possible convenience. If you have any further questions, please do not hesitate to contact my Special Assistant Laura Glaiser at 465-4084.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "John B. Coghill".

John B. Coghill
Lieutenant Governor

SENATE BILL NO. 303

"An Act relating to voter eligibility, voter registration, and voter registration agencies; and providing for an effective date."

Section 2. AS 15.05.020 (10) is amended to read:

Rules for determining residence of voter. Removes the requirement to "execute an affidavit on a form provided" and replaces it with notifying the director in writing of a change of voting residence.

Section 5 (d) of the National Voter Registration Act of 1993 (NVRA) requires states to allow a change of address form for a driver's license to serve as a change of address form for voter registration. Under AS 28.05.071 an affidavit or notarization are not needed when a driver's licensee provides written notification of a change of address to the Department of Public Safety. Also complies with Section 9 (b)(3) of the NVRA which prohibits "any requirement for notarization or other formal authentication" of mail registration forms.

Section 3. AS 15.05.030 (a) is amended to read:

Loss and restoration of voting rights. People convicted of felonies involving moral turpitude under state or federal law may not vote in state, federal, or municipal elections.

Currently statute provides for cancellation of voter registration of persons convicted of such felonies under state law. In Section 8 (g), the NVRA requires the United States attorney to give the state notice when a person is convicted of a felony involving moral turpitude in a United States district court. Names can be removed as provided by State law, by reason of criminal conviction...(Section 8 (a)(3)(B)).

Section 4. AS 15.07.050 is amended to read:

Registration in person or by mail. Adds "or through a voter registration agency"

Permits registration in person through voter registration agencies as well as before a registration official or by mail to comply with Section 7 of the NVRA.

SENATE BILL NO. 303 (cont.)

Section 5. AS 15.07 is amended by adding a new section to read:

Voter Registration Agencies. Designates the following state agencies as voter registration agencies:

Division of Motor Vehicles

Divisions of H&SS that provide public assistance through the food stamp program, Medicaid program, Special Supplemental Food Program for Women, Infants, and Children (WIC), and Aid to Families With Dependent Children (AFDC) program

Community and Regional Affairs/Division of Municipal and Regional Assistance

All recruitment offices of the armed forces of the United States located in Alaska

State-funded agencies that primarily provide services to persons with disabilities

Other agencies that may include: other state and local agencies, federal and nongovernmental offices w/ agreement from offices

Voter Registration Agencies will include voter registration materials with agency applications and forms, assist applicants in completing voter registration forms, and transmit voter registration forms to the director of elections in accordance with regulations adopted by the director.

Section 5 of the NVRA requires simultaneous application for voter registration and application for motor vehicle driver's licenses and defines the relationship and responsibilities of the Division of Motor Vehicles as a voter registration agency.

Section 7 of the NVRA designates voter registration agencies and defines the parameters and roles of those agencies named. The Conference Committee in its report on the NVRA delineated the minimum agencies to be included as "public assistance agencies" as "...those state agencies in each State that administer or provide services under": the food stamp program, the medicaid program, Women, Infants, and Children program, and the Aid to Families with Dependent Children program."

State funded agencies that primarily provide services to persons with disabilities are specifically designated under Section 7 (a)(2)(B) of the NVRA.

SENATE BILL NO. 303 (cont.)

All recruitment offices of the armed forces of the United States located in Alaska are also designated as voter registration agencies to comply with Section 7 (c)(2) of the NVRA.

The Division of Municipal and Regional Assistance in the Department of Community and Regional Affairs is designated as a voter registration agency in this bill because employees of that division visit each of Alaska's rural communities at least once during each election cycle and provide bilingual information in the villages when needed. Specifically recognizing this division as a voter registration agency assures availability of registration opportunities to Alaska's Native and rural residents.

Section 6. AS 15.07.064 (e) is amended to read:

Address information required for voter registration. Removes reference to consideration by the director of elections of witnessing of an application for voter registration by mail in determining the validity of applications from certain residents of single-precinct municipalities or established villages.

NVRA Section 9 (b)(3), prohibits "any requirement for notarization or other formal authentication" of mail voter registration forms.

Section 7. AS 15.07.070 is amended to read:

Procedure for registration. (a) The director is given specific authority to adopt regulations to implement requirements of federal law, including 42 U.S.C. 1933gg (National Voter Registration Act of 1993).

Regulations to bring the State into compliance with the NVRA are a necessary compliment to this legislation.

(b) In registering by mail, adds voter registration agencies to those who shall furnish forms at no cost to the voter. Removes [upon request] regarding forms prepared by the director for voter registration, so that a voter does not have to request a form to be given the opportunity to register. Removes language regarding required notarization and all witnessing requirements. When the Division notifies the applicant that their registration was denied, the requirement that the Division notify [by certified or registered letter] has been removed.

Section 7 of the NVRA requires that a voter registration agency must distribute mail voter registration application forms and that the individual will be asked by the voter registration agency whether or not they would like to register, rather than the individual requesting the

SENATE BILL NO. 303 (cont.)

application. Section 9 (b)(3) prohibits "any requirement for notarization or other formal authentication" of mail voter registration forms. As a cost saving measure, applicant notification of registration denial will be mailed first class rather than certified or registered mail

(c) Completed registration forms must now be postmarked, not [received by the director or election supervisor] at least 30 days prior to the next election. Added if a registration form is received less than 30 days before an election has an illegible and undated postmark, but was signed and dated by the applicant at least 30 days before an election and was received at least 25 days before an election, their name shall be placed on the official registration list. A person who submits a completed registration form by mail that does not meet the applicable requirements of this subsection may not be placed on the official registration list for that [the next] election.

Complies with Section 8 (a)(1)(B) of the NVRA. The Division of Elections receives many by-mail registration that have illegible, undated, or no postmarks. To maximize the registrations that will be accepted and placed on the official registration list, the provision for receipt of an application by the director at least 25 days before the election, and executed at least 30 days prior was added.

(d) Qualified voters may register in person before a registration official or through a voter registration agency...

Adds voter registration agencies to comply with Section 7 of the NVRA.

(f) Incomplete or inaccurate registration forms may not be accepted. Registration reexecuted and resubmitted forms may be completed in person or by mail and must meet the requirements of (c) or (d). Removes language regarding the date of registration when reexecuting a registration application.

New language conforms to changes made in paragraphs (c) and (d) and complies with Section 8 (a)(1)(B) of the NVRA.

(g) Adds voter registration agencies designated under AS 15.07.055 and removes [Department of Public Safety].

The Division of Elections will be supplying by-mail voter registration forms to all other voter registration agencies for distribution to the public to comply with Section 7 (a)(4)(A)(i) which requires distribution of by mail voter registration forms. All costs associated with the printing of the forms will be the sole responsibility of the Division.

SENATE BILL NO. 303 (cont.)

Section 8. AS 15.07.090 (b) is amended to read:

Voting after change of name; registration; amendment or transfer of registration. If registration is cancelled [for failure to vote in prior elections], the voter shall reregister and the registration is effective for the next election that occurs at least [may not be made later than] 30 days after reregistration [preceding an election].

Section 8 (b)(2) of the NVRA prohibits a state from purging/cancelling a person's name from the registration list based solely on the person's failure to vote. A voter must have the opportunity to respond to several notices before the voter's name is removed from the rolls.

Section 9. AS 15.07.125 is amended to read:

Official registration list. The director shall prepare an official registration list for each election consisting of all names of voters whose registration are not inactive and all voters whose names are required to be placed on the list by AS 15.07.070 (c) and (d).

Removes the language [appearing on the master register 30 days before an election], which allows Elections to continue adding names from those applications defined under AS 15.07.070 (c) to the official registration list for as long as possible and not bind the Division to a "cut-off date" of 30 days prior to an election. This will make the lists the most comprehensive and representative of voters in each precinct.

Section 10. AS 15.07.130 is amended to read:

Voter Registration List Maintenance. [Elimination of Excess Names]. (a) At the close of each calendar year the area election supervisor shall examine the register maintained by the supervisor under AS 15.07.120.

The additional language clarifies that the supervisors examine only the lists from their region.

(b) When a registered voter [has not reregistered or] has not indicated in writing a desire to remain registered as provided in this subsection within the preceding two calendar years and [or] has not voted in a local regional school board, primary, special or general election at least once in two consecutive calendar years, the voter shall be advised by a notice sent by forwardable mail [sent] to the voter's last known address that registration will be [cancelled] inactivated unless the voter responds to the notice at least 30 [indicates within 90] days before the date of the next primary election on a form [forms] furnished by the director [a desire to remain registered]. The director shall maintain on the master register the name of a voter whose registration is

SENATE BILL NO. 303 (cont.)

inactivated. The director shall cancel a voter's inactive registration after the second general election that occurs after the registration becomes inactive if the voter does not vote a questioned ballot or an absentee ballot that is counted under AS 15.15.198(b) at or before that election.

Adds calendar years to ensure consistency throughout. The deadline for a voter's response to the notice is 30 days before the next primary election. If the voter fails to respond to the notice, the voter's registration is only "inactivated," and the voter's name will be maintained on the master register which allows the voter to vote a questioned ballot or request an absentee ballot. As a result, the voter will not be disenfranchised.

(c) Substitutes bureau for [office] of vital statistics.

Retains the existing provision that the registration of deceased voters is to be cancelled. Complies with Section 8(a)(4)(A) of the NVRA.

(d) The notice described in (b) must include a postage prepaid and pre-addressed return card so the voter may state their current address. It must also indicate

(1) that the voter should return the card to the Division not later than 30 days before the next primary election if the voter did not change residence;

(2) that the voter may vote only a questioned or absentee ballot if the voter fails to return the card 30 days before the next primary election;

(3) that the voter's registration will be cancelled if the voter does not vote in an election held during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of notice; and

(4) how the voter can remain eligible to vote if the voter has moved.

Defines the content of the notice sent to voters as required by Section 8 (d)(2) of the NVRA.

Section 11. AS 15.10.105 (a) is amended to read:

Administration of elections. (a) Adds the director is responsible for the coordination of state responsibilities under 42 U.S.C. 1933 (National Voter Registration Act of 1993.

Section 10 of the NVRA requires states to designate a State officer or employee as the chief State election official to be responsible for coordination of state responsibilities under NVRA.

SENATE BILL NO. 303 (cont.)

Section 12. AS 15.15.198 (b) is amended to read:

Voters not on official registration list. (b) A person whose registration is inactive [has been cancelled] and who votes a questioned or absentee ballot shall have either ballot counted if....

Removes the reference to "cancelled" and replaces it with "is inactive" to comply with the NVRA. The questioned ballot procedure and the information required for an absentee ballot provides for the "affirmation or confirmation" of the voter's address required before a voter whose name is not on the official registration list can be permitted to vote under Section 8 (d)(2)(A) of the NVRA .

Section 13. AS 15.60.010 is amended by adding a new paragraph to read:

Definitions. (36) defines a voter registration agency as an agency designated in or under AS 15.07.055.

Section 14. AS 28.05.045 is amended to read:

Voter Registration. Adds the division of motor vehicles shall serve as a voter registration agency to the extent required by state and federal law, including the NVRA and there will be simultaneous application for voter registration and driver's licenses, identifications, and registrations.

Some changes were required to comply with Section 5 of the NVRA which requires simultaneous application for voter registration and application for motor vehicle driver's licenses. The division of motor vehicles and the division of elections are working together to meet specific requirements regarding updating previous voter registration, limitation of use of information, forms and procedures, change of address, and transmittal deadlines.

Section 15. AS 44.29.020 is amended by adding a new subsection to read:

Duties of department. (b) The Department of Health and Social Services shall comply with AS 15.07.055 to serve as a voter registration agency to the extent required by state and federal law, including the NVRA.

To comply with Section 7 of the NVRA, those divisions of the Department of Health and Social Services that administer or provide services under the food stamp, Medicaid, the Women Infants and Children (WIC), and Aid to Families with Dependent Children (AFDC) programs will be

SENATE BILL NO. 303 (cont.)

designated as voter registration agencies. The Conference Report specifically named those programs as public assistance agencies. Working with the division of elections, the divisions administering these programs will meet specific requirements regarding distribution of mail voter registration forms, assistance to applicants in completing voter registration forms, transmittal of forms to Elections, procedures, confidentiality and record-keeping.

Section 16. AS 44.47.050 is amended by adding a new subsection to read:

General powers and duties. (c) The department shall comply with AS 15.07.055 to serve as a voter registration agency to the extent required by state and federal law, including the NVRA.

The division of municipal and regional assistance in the Department of Community and Regional Affairs has been designated as a voter registration agency to provide outreach to rural communities and to work with those applicants who may need assistance and bilingual information.

Section 17. The director of the division of elections may proceed to adopt regulations to implement the changes made by this Act, but the regulations can not take effect before the effective date of sections 1 - 16 of this Act.

Section 18. Section 17 of this Act takes effect immediately under AS 01.10.070 (c).

(1) The secretary of state shall determine the size of the ballot, the type of print, any necessary additional instruction notes to voters, and other similar matters of form not provided by law.

(2) The secretary of state shall determine the manner of numbering ballots to assure simplicity and secrecy and to prevent fraud.

(3) The secretary of state may contract for the preparation of the ballots on a regional basis if necessary and may contract for the preparation of ballots without obtaining competitive bids.

(4) The secretary of state may not include on the ballot as a part of a candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form of a proper name of the candidate.

(5) The general election ballot shall be printed on white paper with the names of candidates placed in separate columns for each political party as indicated by column headings. Candidates shall be grouped according to offices, with each office except the secretary of state, having a separate section. The secretary of state and governor shall be included in the same section. The left column shall be that of the political party receiving the largest vote at the preceding general election. Provision shall be made for voting for write-in and no-party candidates and for voting a straight party ticket by marking only one designated square.

(6) The general election ballot shall be designed with the position of names of the candidates changed in each section as many times as there are candidates in the section in which there are the most names. As nearly as possible, an equal number of ballots shall be printed after each change. In making the changes of position, the name of the candidate at the head of each section shall be taken and placed at the bottom of the section and the column moved up so that the name that before was second is first after the change. After the ballots are printed, they shall be placed in separate stacks, one stack for each change of position. The ballots shall then be gathered by taking one from each stack, the intention being that every other ballot in the accumulated stack of ballots shall have

the names of the candidates in a different position.

(7) The general election ballot shall be designed with the names of candidates of each political party for the office of president and vice-president of the United States placed in the same section on the ballot rather than the names of electors of president and vice-president.

(8) The general or special election ballot shall be designed with the title and proposition for any initiative, referendum, or constitutional amendment formulated as prescribed by law and placed on the ballot in the manner prescribed by the secretary of state. Provision shall be made for marking the proposition "For" or "Against."

(9) The general or special election ballot shall be designed with the question of whether a constitutional convention shall be called placed on the ballot in the following manner: "Shall there be a constitutional convention?" Provision shall be made for marking the question "Yes" or "No."

(10) A separate statewide or judicial district-wide ballot shall be designed with the question of whether a justice or judge seeking to succeed himself shall be approved or rejected in substantially the

following manner: "Shall _____ be retained as justice of the supreme court for ten years?" or "Shall

_____ be retained as judge of the superior court for six years?" Provision shall be made for marking the question "Yes" or "No."

(11) When the legislature by law authorizes a state debt for capital improvements, the secretary of state shall place the question of whether the specific authorization shall be ratified by placing the ballot title and question on the next general election ballot. Unless specifically provided otherwise in the act authorizing the debt, the ballot title shall, by the use of a few words in a succinct manner, indicate the general subject of the act. The question shall, by the use of a few sentences in a succinct manner, give a true and impartial summary of the act authorizing the state debt. Provision shall be made for marking the question substantially as follows: "Bonds — Yes

Public Law 103-31
103d Congress

An Act

To establish national voter registration procedures for Federal elections, and for other purposes.

May 20, 1993
[H.R. 2]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Act of 1993".

National Voter
Registration Act
of 1993.
Inter-
governmental
relations.
42 USC 1973gg
note.
42 USC 1973gg.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

SEC. 3. DEFINITIONS.

42 USC 1973gg-1.

As used in this Act—

(1) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(2) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3));

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(C) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

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

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

(D) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 8(a)(5) (A) and (B);

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) CHANGE OF ADDRESS.—Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(e) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

SEC. 6. MAIL REGISTRATION.

42 USC 1973gg-4.

(a) FORM.—(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration

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

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

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

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

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

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

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

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

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

(i) the mail voter registration application form described in section 9(a)(2), including a statement that—

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

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

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

(ii) the office's own form if it is equivalent to the form described in section 9(a)(2), unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes—

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

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

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

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

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 5, 6, and 7 of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) **CONFIRMATION OF VOTER REGISTRATION.**—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) **VOTER REMOVAL PROGRAMS.**—(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which

area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (i) or (ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION.—In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 10 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

- (A) the name of the offender;
- (B) the offender's age and residence address;
- (C) the date of entry of the judgment;
- (D) a description of the offenses of which the offender was convicted; and

area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

SEC. 9. FEDERAL COORDINATION AND REGULATIONS.

42 USC 1973gg-7.

(a) **IN GENERAL.**—The Federal Election Commission—

(1) in consultation with the chief election officers of the States, shall prescribe such regulations as are necessary to carry out paragraphs (2) and (3);

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act; and

Reports.

(4) shall provide information to the States with respect to the responsibilities of the States under this Act.

(b) **CONTENTS OF MAIL VOTER REGISTRATION FORM.**—The mail voter registration form developed under subsection (a)(2)—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

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

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

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

(3) may not include any requirement for notarization or other formal authentication; and

(4) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 8(a)(5) (A) and (B);

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

SEC. 10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

42 USC 1973gg-8.

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.

States Code), notwithstanding any other law), or imprisoned not more than 5 years, or both.

SEC. 13. EFFECTIVE DATE.

42 USC 1973gg
note.

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on the later of—

(A) January 1, 1996; or

(B) the date that is 120 days after the date by which, under the constitution of the State as in effect on the date of enactment of this Act, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit such compliance with this Act without requiring a special election; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

Approved May 20, 1993.

LEGISLATIVE HISTORY—H.R. 2 (S. 460):

HOUSE REPORTS: Nos. 103-9 (Comm. on House Administration) and 103-66 (Comm. of Conference).

SENATE REPORTS: No. 103-6 accompanying S. 460 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Feb. 4, considered and passed House.

Mar. 10, 11, 15-17, S. 460 considered in Senate; H.R. 2, amended, passed in lieu.

May 5, House agreed to conference report.

May 6-8, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

May 20, Presidential remarks.

A SUMMARY OF THE NATIONAL VOTER REGISTRATION ACT OF 1993

Sec.2. FINDINGS AND PURPOSE.

- * Establish procedures that will increase the number of citizens who register to vote in elections for Federal office
- * Enhance participation of eligible citizens as voters in elections for Federal office
- * Protect the integrity of the electoral process
- * Ensure accurate and current voter registration rolls are maintained

Sec.4. NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR FEDERAL OFFICE.

IN GENERAL

- * Simultaneous voter registration and application for motor vehicle driver's license
- * By mail voter registration
- * Voter registration through voter registration agencies

NON-APPLICABILITY TO CERTAIN STATES

- * The Act does not apply to states where there is no voter registration requirement for any voter in the state in elections for Federal office (under law in effect continuously on & after 3/11/93)
- * All voters in the state may register to vote at the polling place at the time of voting in a general election for Federal office (under law in effect continuously on & after 3/11/93)

SEC.5. SIMULTANEOUS APPLICATION FOR VOTER REGISTRATION AND APPLICATION FOR MOTOR VEHICLE DRIVER'S LICENSE.

- * Driver's license application (including renewal) shall serve as an application for voter registration unless the applicant fails to sign the voter registration application
- * Application for voter registration considered an update of previous voter registration
- * No information may be used for any purpose other than voter registration
- * Shall include voter registration application as apart of application for driver's license
- * Voter registration application portion can not duplicate information required on driver's license portion
- * If applicant declines to register to vote, the declination remains confidential
- * Change of address form for driver's license shall serve as notification of change of address for voter registration unless the registrant states otherwise
- * Transmittal deadline for DMV to transmit voter registration portions of application to Elections

SEC.6. MAIL REGISTRATION.

- * Each state shall use mail voter registration application for the registration of voters in elections for Federal office
- * Mail voter registration application shall be accepted as notification of a registrant's change of address
- * Mail voter registration applications shall be made available for distribution through governmental and private entities
- * If notice of the disposition of mail voter registration application is sent by nonforwardable mail and is returned undelivered, the registrar may proceed with the removal of the voter from the rolls.

SEC.7. VOTER REGISTRATION AGENCIES

- * Each state shall designate agencies for the registration of voters in elections for Federal office
- * Voter Registration Agencies are all offices in the State that provide public assistance (narrowly defined in the Conference report as those agencies who administer programs in Medicaid, Aid to Families with Dependent Children [AFDC], Women, Infants and Children [WIC], and Food Stamps)
- * All offices that provide state-funded programs primarily engaged in providing services to persons with disabilities
- * Voter Registration Agencies may include: schools, public libraries, county clerks offices, unemployment compensation, federal and nongovernmental offices (with the agreement of such offices)
- * Voter Registration Agencies shall distribute mail voter registration applications
- * Voter Registration Agencies shall assist applicants in completing voter registration application forms unless applicant refuses assistance
- * Voter registration forms will be transmitted to Elections
- * If a Voter Registration Agency provides service to a person with disability in their home, the above assistance shall be provided
- * A person providing services and assisting in voter registration shall not
 - seek to influence an applicant's political preference or party allegiance
 - display political preference or party allegiance
 - make a statement/action to dissuade an applicant from registering to vote
- * Voter Registration Agencies shall distribute with each application for such service/assistance/recertification/renewal/change of address form a mail voter registration form specifying each eligibility requirement, containing an attestation that the applicant meets each requirement, and requiring the signature of the applicant under penalty of perjury
- * The form must include the question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"

- * If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency"
- * Boxes for the applicant to check to indicate if the applicant would like to register or declines to register to vote (failure to check a box constitutes a declination to register) and a statement, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME"
- * The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to accept help is yours. You may fill out the application form in private" and
- * The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with _____", (the blank to include the name, address, and telephone number of the appropriate official to whom such a complaint should be made)
- * Each applicant who does not decline to register to vote shall be provided the same degree of assistance with the voter registration form as with the agency forms
- * Declination information can not be used for anything except voter registration
- * Federal government and its agencies shall cooperate with the states
- * Each state and the Secretary of Defense shall work together to register voters at recruitment offices and recruitment offices shall be Voter Registration Agencies
- * Transmittal deadline for Voter Registration Agencies to transmit voter registration forms to the Division of Elections

SEC.8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION

IN GENERAL

- * In registration through DMV, if the valid voter registration form is submitted to the DMV not later than the lesser of 30 days or the period provided by state law, before the election or
- * By mail if valid voter registration form is postmarked not later than the lesser of 30 days or the period provided by state law, before the election
- * Through a voter registration agency if valid voter registration form is accepted at the agency not later than the lesser of 30 days, or the period provided by state law before the date of the election
- * In any other case, if the valid voter registration form is received in Elections not later than the lesser of 30 days or the period provided by state law, before the election
- * Elections must send notice to each applicant of the disposition of the application

- * Name of registrant may not be removed from the official list of registered voters except
 - at request of registrant
 - reason of criminal conviction or mental incapacity (in State law)
- * Conduct a general program to remove names of ineligible voters by reason of
 - death of registrant
 - change of residence of the registrant
- * Inform applicants of eligibility requirements, penalties for submitting false voter registration application
- * Ensure the identity of voter registration agency through which voter is registered is not disclosed to the public

CONFIRMATION OF VOTER REGISTRATION

- * Accurate and current voter rolls for elections for Federal office
 - shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S. C. 1973 et seq.)
 - shall not remove voters from the official list of voters by reason of the person's failure to vote

VOTER REMOVAL PROGRAMS

- * May use change of address information supplied by the Postal Service to identify registrants whose addresses may have changed
- * From above information, registrar changes the registration records and notifies the registrant of change by forwardable mail and postage prepaid pre-addressed return form so registrant may verify or correct address information
- * A state shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any voter removal program

REMOVAL OF NAMES FROM VOTING ROLLS

- * A state shall not remove the name of a registrant from the official list on the grounds that the registrant has changed residence unless the registrant
 - confirms in writing that the registrant has moved outside the registrar's jurisdiction
 - has failed to respond to a notice described below and
 - has not voted or appeared to vote in an election during the period beginning on the date of the notice and ending of the day after the second general election for Federal office
- * A notice is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address together with a notice to following effect

"If registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration. If the card is not returned, affirmation/confirmation of registrant's address may be required before voting is permitted from the time the notice is dated and ending the day after the second general election for Federal office occurring after the date of the notice, and if the registrant does not vote in an election during that period, the registrant's name will be removed from the list of eligible voters."

- * If the registrant has moved out of the registrar's jurisdiction where the registrant is registered, information on how the registrant can continue to be eligible to vote.
- * A registrar shall correct an official list of eligible voters with change of residence information obtained in the manner described above

PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD

- * If registrant moves within a precinct, but fails to notify the registrar of the change of address prior to the election, they will be permitted to vote at that polling place upon oral/written confirmation of that change at the polling place
- * A registrant who has moved to another precinct and the same congressional district and who has failed to notify the registrar of the change of address prior to the election shall be permitted to correct voting records and vote at the former polling place, a central location, or at the appropriate polling place for the current address, if permitted by state law, upon oral/written affirmation of new address to an election official at the polling place

CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION

- * With change of address within a registrar's jurisdiction, the correction shall be made on the list and the registrant's name can not be removed by reason of change of address

CONVICTION IN FEDERAL COURT

- * US attorney shall give written notice of a person convicted of a felony in a district court to Elections
- * The notice shall include
 - name of offender
 - offender's age and residence address
 - date of entry of judgement
 - description of offenses by offender
 - sentence imposed by court

- * If conviction is overturned, the US attorney will give notice of the vacation of the judgement

REDUCED POSTAL RATES

- * While the Act assures that there will be reduced postage rates available we were notified by the Federal Elections Commission (FEC) that a subsequent bill in Congress repealed this section of the Act

PUBLIC DISCLOSURE OF VOTER REGISTRATION ACTIVITIES

- * Each state shall maintain for at least 2 years (and make available for inspection and copying at a reasonable cost) all records concerning the registration lists/activities except those records relating to a declination to register or the identity of a voter registration agency
- * Lists shall include names and addresses of all persons receiving notices and whether a response resulted

SEC.9. FEDERAL COORDINATION AND REGULATIONS

IN GENERAL

- * FEC shall consult with elections officials of the states to develop necessary regulations
- * FEC shall develop mail voter registration application form
- * FEC, not later than June 30 of each odd-numbered year, shall submit to Congress a report of the impact of the Act on elections for Federal office during the preceding 2-year period
- * FEC shall provide information regarding state's responsibilities under this Act

CONTENTS OF MAIL VOTER REGISTRATION FORM

- * May require only such identifying information to assess the eligibility of the applicant and administer voter registration
- * Shall include a statement that specifies each eligibility requirement; contains an attestation that the applicant meets such requirements; requires the signature of the applicant, under penalty of perjury; and may not include any requirement for notarization or other formal authentication
- * Shall include in print the same as the attestation, above information and that a declination to register will remain confidential, and the office at which the applicant submits a registration application will also remain confidential, except for voter registration purposes

SEC.10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

- * Each state shall designate a state official as the Chief Election Official to be responsible for coordination of State responsibilities under this Act.

SEC.11. CIVIL ENFORCEMENT AND PRIVATE RIGHT OF ACTION.

- * Attorney General may bring civil action for declaratory or injunctive relief as necessary to carry out this Act
- * A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official
- * If the violation is not corrected within 90 days of receipt of notice or within 20 days after receipt of notice if violation occurred within 120 days before an election for Federal office, the aggrieved person may bring a civil action in district court for declaratory or injunctive relief
- * If violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice before bringing civil action
- * In civil action, the court may allow the prevailing party reasonable attorney fees/litigation expenses/costs
- * The rights and remedies of this Act shall not supersede, restrict or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC.12. CRIMINAL PENALTIES

- * A person, including an election official, who in any election for Federal office knowingly/willfully intimidate/threatens or coerces (or attempts) any person for
 - registering to vote, voting, or attempting to register
 - urging or aiding any person to register to vote or attempting
 - exercising any right under this act
 - deprives/defrauds (or attempts) a fair/impartial election process by procuring false voter registration applications that are known to be false, or casting or tabulating ballots that are known to be false shall be fined or imprisoned not more than 5 years, or both.

SEC.15. EFFECTIVE DATE

- * The Act will take effect January 1, 1995 unless there is a provision within a state's constitution which precludes compliance with this Act

"An Act relating to voter eligibility, voter registration, and voter registration agencies; and providing for an effective date."

SUGGESTED TITLE CHANGE :

"An Act relating to voter eligibility, voter registration, and voter registration agencies; preparation of official ballot and providing for an effective date."

SUGGESTED AMENDMENT/ADDITIONAL LANGUAGE:

AS 15.15.030 (6) is amended to read:

The general election ballot shall be designed with the position of names of the candidates in an order to be determined by an alphabetic drawing by the director. [CHANGED IN EACH SECTION AS MANY TIMES AS THERE ARE CANDIDATES IN THE SECTION IN WHICH THERE ARE THE MOST NAMES. AS NEARLY AS POSSIBLE, AN EQUAL NUMBER OF BALLOTS SHALL BE PRINTED AFTER EACH CHANGE. IN MAKING THE CHANGES OF POSITION, THE NAME OF THE CANDIDATE AT THE HEAD OF EACH SECTION SHALL BE TAKEN AND PLACED AT THE BOTTOM OF THE SECTION AND THE COLUMN MOVED UP SO THAT THE NAME THAT BEFORE WAS SECOND IS FIRST AFTER THE CHANGE. AFTER THE BALLOTS ARE PRINTED, THEY SHALL BE PLACED IN SEPARATE STACKS, ONE STACK FOR EACH CHANGE OF POSITION. THE BALLOTS SHALL THEN BE GATHERED BY TAKING ONE FROM EACH STACK, THE INTENTION BEING THAT EVERY OTHER BALLOT IN THE ACCUMULATED STACK OF BALLOTS SHALL HAVE THE NAMES OF THE CANDIDATES IN A DIFFERENT POSITION.]

BALLOT ROTATION FACTS

Twenty six states do not have ballot rotation. Ballot rotation refers to whether or not candidate names on the ballot are rotated or in some other way scrambled so as to avoid a strict alphabetical order of presentation on all ballots within the jurisdiction of the office.

Those states that do not have ballot rotation are:

Alabama, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nevada, New Hampshire, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, and West Virginia.

Illinois - The order of names placed on the ballot is determined by the time of filing.
Missouri -

Colorado - The order of names placed on the ballot is alphabetical.
Connecticut -
Hawaii -
Louisiana -
Maine -
New Hampshire -
Oregon -
Tennessee -
Vermont -
Washington -

South Dakota - Lottery system
Virginia -

Alabama - Discretion of Election Officials
South Carolina -

**ESTIMATED COST SAVINGS FOR ONE ROTATION INSTEAD OF NINE
(EXAMPLE: 1992 GENERAL ELECTION)**

SAVINGS

Precinct and Absentee Ballots:

Ballot Plates	\$48,480	
ID Punch Charge	2,160	
Cost of Ballots	16,210	
<u>Total Ballot Savings</u>		<u>\$66,850</u>

Programming and Test Ballots:

Programming	\$ 8,400	
Test Ballots	13,521	
<u>Total Programming and Test Ballots</u>		<u>\$21,921</u>

Proofreading and Rotations:

Staff Time	\$ 520	
<u>Total Proofreading and Rotations</u>		<u>\$ 520</u>

<u>TOTAL SAVINGS</u>	<u>\$89,291</u>
-----------------------------	------------------------

The savings shown above relate to a single general election. In a statutory election cycle (primary and general elections) the savings would be **\$178,582**.

Two ballots, as required in the 1992 primary election to accommodate Republican Party rules, approximately doubles the cost for the primary election, and under this scenario the total savings would be **\$267,873**.

M E M O R A N D U M

DATE: January 25, 1994

TO: Joseph L. Swanson, Director
Division of Elections

FROM: *Alice Bergdoll*
Alice Bergdoll
Precinct Worker

SUBJECT: Ballot Rotation

I have worked at the polling places in Juneau for many years, and this is to relate my experience with problems because the candidate names are rotated on the ballots.

Some voters come to the polls with a sample ballot from the newspaper or the one that is available from the Division of Elections. They have their sample ballot all marked for voting, and when they go into the voting booth, they do not even look at the candidate names on the ballot. They just mark it in the same sequence as they have pre-marked their sample ballot. At some point they realize the ballot they have is different than the sample ballot. They bring their ballot back to the precinct worker upset because we have switched it on them. It becomes a spoiled ballot, and we have to issue them a new ballot and remind them to check the order of the names.

Their comment is usually something to the effect that we do all we can to try and confuse the voter!!

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

M E M O R A N D U M

DATE: January 27, 1994

TO: Joseph L. Swanson, Director
Division of Elections

FROM: *(BSW)* Barbara Whiting, Administrative Officer
Division of Elections

SUBJECT: Ballot Name Rotations

As you requested, this memo outlines the results of telephone research conducted to determine those states that do not rotate the candidates' names on their ballots.

FEC - FEDERAL ELECTION COMMISSION 800-424-9530 (Clearinghouse) was called to find out which states do or do not rotate ballots. A random sampling follows as time did not permit calling everyone:

STATES CALLED THAT DO NOT ROTATE BALLOTS:

1. Washington - David Elliot - 206-753-2336

Order of names by random drawing. He didn't have any specific information about whether it affected the outcome of an election, but his personal opinion is that it hasn't made a difference.

2. Oregon - Scott Tighe - 503-378-4144

Order of names by random alphabetic selection. Oregon recently removed the ballot rotation. The ballots were printed by the counties, and the County Clerk's Association lobbied the Legislature to eliminate it because it was too costly. The Election Division backed the County Clerks. He stated that it is just intuitive knowledge that name placement will not make a difference in being elected.

Joseph L. Swanson
January 27, 1994
Page Two

3. New York - 518-474-8100 (didn't get the person's name)

Order of names according to the numbers of votes received in the party of previous gubernatorial race. How they determine placement of the names within the party wasn't revealed. No studies or information on how it affects an election, but the party candidates listed in other than first on the ballot have won elections.

4. Hawaii - Laura Shimaga - 808-586-0255

Order of names alphabetically by last name. Doing rotation has come up for discussion in the Legislature, but it has not been approved because of the cost factor.

5. California - from statutes (10217. Drawing of randomized alphabet)

Letters of the alphabet are drawn to determine which letter comes first; drawn by Secretary of State for federal and state candidates; county clerks determine their own ballots from the appropriate randomized alphabet.

Technical Report 2

EXCERPT

Fast Facts on State Registration and Election Procedures

- Types of Registration Systems
- Registration Procedures
- Registration Verification and Purging Policies
- Information Requested on Registration Forms
- Election Day Procedures
- Absentee Ballot Provisions
- Ballot Formats
- Ballot Contents

Compiled By:

Brian Hancock

National Clearinghouse on

Election Administration

February 1992



DEFINITIONS FOR BALLOT FORMATS

Straight Party Voting? refers to whether or not voters are permitted to cast a vote indicating the selection of all candidates for a single political party.

If Yes, Split by Exception or by Separate Voting means to say "If straight party voting is permitted and a voter wishes to vote for all candidates of a single party with one or more exceptions (i.e. split the ticket), can the voter merely cast the straight party vote and indicate the exceptions or must the voter cast a separate vote for each and every office?"

Ballot Rotation refers to whether or not candidate names on the ballot are rotated or in some other way scrambled so as to avoid a strict alphabetical order of presentation on all ballots within the jurisdiction of the office.

Ballot Stub Nos. Used? refers to whether or not (only in the case of paper, punchcard, or marksense ballots) a detachable numbered stub is appended to the ballot as a means of ballot control.

Write Ins (Gen & Prim) refers to whether or not the State permits voters to write in candidate names on the general election ballot, the primary election ballot, or both.

Unopposed Candidates refers to whether or not the names of candidates running unopposed for office are listed on the general election ballot, the primary election ballot, or both.

NOTES FOR BALLOT FORMATS

- * Write In votes are counted only for those persons who have filed a declaration of intent to be a write in candidate.
- ** If the number of write in candidates filing for non-partisan office is not more than twice the number of available positions, the office does not appear on the ballot.
- † The state parties have the discretion of including or excluding candidates names on the ballot in the primary, as state has no requirement to do so.
- †† Ballot rotated only in New York City primary elections.

BALLOT FORMATS

	STRAIGHT PARTY VOTING?	BY EXCEPTION OR BY SEP. VOTING?	BALLOT NOTATION	BALLOT STUD NO. USED?	WRITE INS?	UNOPP. CAND.
AL	Yes	Separate Vote	No	No	Gen	Gen
AK	No	-----	Yes	Yes	Gen	Gen
AZ	No	-----	Yes	Yes	Both	Both
AR	No	-----	Yes	Yes	Gen	Gen
CA	No	-----	Yes	Yes	Both	Prim
CO	No	-----	Machines	Yes	Both	Both
CT	No	-----	No	No	Gen	Both
DE	No	-----	No	N/A	Gen	Gen
DC	No	-----	No	Yes	Both	Both
FL	No	-----	No	Yes	Gen	No
GA	Yes	By Exception	No	Yes	Gen	Both
HI	No	-----	No	Yes	No	No
ID	No	-----	Yes	Yes	Both	Both
IL	Yes	By Exception	No	Yes	Both*	Both
IN	Yes	By Exception	Yes	Local	Gen	Local
IA	Yes	By Exception	Yes	No	Both	Both
KS	No	-----	Yes	Yes	Gen	Both
KY	Yes	By Exception	Yes	Yes	Gen	Gen
LA	No	-----	No	N/A	No	No
ME	No	-----	No	Punchcrds	Both	Both
MD	No	-----	No	Yes	Gen	Both
MA	No	-----	No	Punchcrds	Both	Both
MI	Yes	By Exception	Yes	Yes	Both	Both*
MO	No	-----	Yes	Punchcrds	Gen	Both
MS	No	-----	Local	No	Both	Both*
MT	Yes	By Exception	No	No	Gen	Both
NE	No	-----	Yes	Yes	Both	Both
ND	No	-----	No	Yes	No	No
NH	Yes	By Exception	Prim	No	Both	Both
NJ	No	-----	Yes	No	Both	Both
NM	Yes	By Exception	Yes	Yes	Both	Both
NY	No	-----	No	No	Both	Gen
NC	Yes	By Exception	Prim	Yes	Gen	Gen
ND	No	-----	Yes	No	Both	Both
OH	No	-----	Yes	Yes	Both	Both
OK	Yes	By Exception	Yes	Yes	No	No
OR	No	-----	Prim	Yes	Both	Both
PA	Yes	By Exception	No	Yes	Both	Both
RI	Gen	By Exception	No	N/A	Gen	Both
SC	Yes	By Exception	No	Yes	Gen	Gen
SD	Yes	By Exception	No	No	No	No
TN	No	-----	No	Yes	Both	Both
TX	Yes	By Exception	Yes	No	Gen	Both
UT	Yes	Separate Vote	No	Yes	Gen	Gen
VT	No	-----	No	No	Both	Both
VA	No	-----	No	No	Gen	Gen
WA	No	-----	Prim	Yes	Both	Both
WV	Yes	By Exception	No	Punchcrds	Gen	Both
WI	Yes	By Exception	Yes	No	Both	Both
WY	No	-----	Yes	Yes	Both	Both

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This study is
out of date but
it might be of
interest. Some states,
such as California,
changed their method
of rotation after 1985.

per

A COMPREHENSIVE STUDY OF BALLOT POSITION AND
BALLOT ROTATION

Lisa Ann Fasciano
November 12, 1985

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Introduction

It is commonly believed that the placement of names on the ballot affects the number of votes received, especially in low visibility races, giving an unconstitutional advantage to the party or candidate occupying the first position. The purpose of ballot rotation is to rotate the names of candidates in an order that reduces the likelihood of positional voting bias.

Ballot rotation has originated as a judicial remedy stemming from cases filed by candidates claiming that poor ballot position is an act of discrimination against themselves and their supporters under the Equal Protection Clause of the Fourteenth Amendment. It has been instituted as a fairness reform.

This report attempts to compile relevant studies and law cases that present the controversy surrounding ballot rotation and ballot position.

Studies

Howard White 1950

This study reviewed the 1948 Ohio state senate race in which the winner carried 103 (81%) of 128 voting machine districts. In the 144 precincts in which he occupied the first ballot position he had a plurality of 128 (89%).

Bain And Hecock

In their book, Ballot Position And Voters Choice, Bain and Hecock studied elections in Detroit and Kalamazoo. Their work shows that the candidate listed first on the ballot has an advantage over the others, and that with a large number of candidates this advantage carries over to those listed first and second. The effect was found to be greatest in low-visibility races.

Bain and Hecock measured the intensity of positional bias by noting the deviation from 100% of the "percent of the adjusted vote", with % of E equaling the expected adjusted vote. A measure of 100% shows an absence of positional bias, a measure greater than 100% shows favorable results for the candidate holding that position, and a measure under 100% indicates that chances for election suffer at that position. The following table shows the results of Bain and Hecock's study of the Democratic Primary for State Senator in three Detroit districts, August 5, 1952:

Senatorial Districts

Position	1st		4th		2nd	
	<u>votes</u>	<u>% of E</u>	<u>votes</u>	<u>% of E</u>	<u>votes</u>	<u>% of E</u>
1	1030	111.91	253	162.88	363	129.85
2	894	97.14	146	93.99	315	112.68
3	837	90.95	154	99.14	300	107.31
4			123	79.18	273	97.66
5			111	71.46	266	95.15
6			145	93.35	235	84.06
7					250	89.43
8					248	88.71
9					266	95.15
Precincts						
in sample:		17		13		10
Total Precincts:		337		278		194

Upon reaching similar results in other elections which they analyzed, Bain and Hecock drew the following conclusions:

The first position in a vertical list was universally the preferred one when paper ballots were used. When voting machines were used, the top row was favored in most cases...With an increase in the number of candidates, there appeared to be a tendency for additional positions, immediately after the first, to be favored...Position effect was greatest for those offices whose incumbents come least to the attention of the public. The largest position effect was found in data from voting machines...The magnitude of position effect for individual candidates was less in their home towns than elsewhere.

Bagley 1959

In studying the 1959 and 1964 British General elections which consisted of two, three, and four man races, Bagley found that positional bias was most damaging to the last position, and that the first position possessed no clear advantage. He concluded that there is a positional bias in favor of the second position where there are two candidates, in favor of the central position where there are three candidates, and in favor of the third position where there are four candidates.

Byrne and Pueschel 1975

In the article, "But Who Should I Vote For For County Coroner", Gary Byrne and J. Pueschel, using data from parties county central committee elections, found that several factors influence voting decisions in elections where voters have no partisan labels or other conventional cues. In addition to place on the ballot, the authors found voting factors includes sex of the candidate, lack or possession of a nickname, and ethnic origin of the candidates' last names.

James Scott 1972

James Scott studied ten statewide primary contests in California, a state which lists incumbents first on the ballot with following candidates listed on a rotating basis. The statistical data compiled clearly demonstrated a preference for candidates appearing in the first spot on the ballot. In every race except for Governor, the aggregate first place adjusted vote exceeded the total that would have been expected absent positional bias. The following table shows the data from the Scott study:

Percent of the Adjusted Vote Received
By the First Ballot Position, California Primaries, 1970

Governor	96.3	Comptroller	114.3
Attorney General	103.9	Judge of Superior Court	116.0
U.S. Senator	105.3	Judge of Superior Court	118.7
Secretary of State	106.1	Lieutenant Governor	126.7
Judge Of Superior Court	112.7	Judge of Superior Court	161.2

Robson And Walsh 1974

In, "The Importance of Positional Voting Bias In th. Irish General Elections of 1973", Christopher Robson and Brendan Walsh found that candidates with names occurring early in the alphabet have an advantage over others. (Candidates names are listed alphabetically on ballots in Irish elections) They also found that the effect was most pronounced among the less well known candidates.

G.J.G. Upton and D. Brooks

In, "The Importance of Positional Voting Bias in British Elections", Upton and Brooks studied three British elections (Greater London Council, local government, and national), and found that position biased voting behavior.

Relevant Case Law

State Courts

Kautenburger v. Jackson (1958)

Arizona Supreme Court decided that first position on the ballot has an advantage over others.

Elliot v. Secretary of State (1940)

The Michigan Supreme Court held that it was not consistent with fairness or purity of elections for election officials to prepare ballots in a condition that would give an unfair advantage to one candidate over another. Since it is commonly known, they said, that candidates listed first have an unfair advantage, the rotation of candidates names was required for the nonpartisan election for Supreme Court Justice.

Holtzman v. Power (1970) New York

Gould v. Grubb (1975)

The California Supreme Court decided that the listing of incumbent first or alphabetically on the ballot gives preference to those candidates. The Court stated that candidates names should be placed on the ballot in an order determined by lot. They also concluded that this rotational method was not necessarily the only constitutionally permissible ballot procedure. They held that development of election rules and procedures was under the purview of the legislature and not the courts.

Tsongas v. Secretary of the Commonwealth (1972)

The majority of the Court held that there was no evidence concerning the

comparative advantages and disadvantages of various rotation schemes, and that various reasons could be assigned for including incumbent first or alphabetical listing of candidates, and the controversy giving rise to the case was moot; thus no declaratory decree was made.

Culliton v. Board of Election Commissioners of Dupage County

Sangemeister v. Woodward

Walsh v. Board of Election Commissioners of Chicago

A November 7, 1977 decision by the Seventh Circuit Court of Appeals in Chicago upheld two 1976 U.S. District Court opinions on the practices of county clerks in the Illinois counties of DuPage, Will, and Cook. The District courts had ruled that the county clerks practice of placing their own political parties in top position in all general elections violated the Constitution's guarantee of equal protection. However, the district courts order to rotate political party positions on the ballot was reversed. The three-judge appeals panel ruled such a remedy was too restrictive.

DuPage County: Judge Bernard M. Decker mandated a lottery for party ballot position and ordered the board to devise a rotational ballot placement procedure for future elections.

Cook and Will Counties: Judge Thomas R. McMillen ordered election officials to place one major party at the top in even-numbered precincts and the other party in the first position in odd-numbered precincts in both counties. No rotation was ordered for minor parties whose candidates are traditionally placed after the major parties in rows in the order in which each qualified for the ballot.

The Court found that the "widespread and persistent practice of the Illinois county clerks to exclude opposition party members from the top ballot position is sufficient" to show discrimination. The long use of such a practice--over 100 years in Will County--was found by the Court to be evidence of "intentional or purposeful discrimination"

Rather than propose its own remedy, the court turned the ballot question back to the county clerks, subject to the following judicial guidelines:

1. "The procedure adopted must be neutral in character. This court will not accept a procedure that invariably awards first position on the ballot to the county clerk's party, the incumbents party, or the majority party."
2. "The procedure adopted should take account of all political parties involved, major and/or minor. While we need not decide whether the district courts order to exclude minor parties from the rotational selection was valid, we recognize that there may be serious questions about its constitutional propriety".
3. "The county clerks should feel free to adopt Constitutional procedures and to experiment from election to election if they feel such an approach is desirable."

Federal Courts

Weisberg v. Powell (7 cir. 1969)

It was adequately established that the top position on the ballot is one of a number of factors which tend to effect the outcome of an election, and which may have a substantial effect, although degree varies with circumstance.

Bohus v. Board of Election Commissioners (7 cir. 1971)

The burden was on the plaintiff to show that the top ballot position is an advantage in an election, and the Court ruled that this was not adequately done. (The Cook County ballot placed Democrats before Republicans on the ballot)

Tsongas et al v. Davoren (1972)

The proof of the advantage of top ballot position was ruled imprecise (due to the difficulty of conducting empirical studies). The Court affirmed the advantage of the first candidate, but did not make a binding declaration as to whether rights were being violated. The felt that the most important factors of election outcome were visibility, number of candidates, and the position on the overall ballot.

Murray et al v. Shea et al

The Court ruled that state laws granting first position on the ballot to incumbents (as is the policy in California and Massachusetts) do not violate the rights of the Plaintiff in the case. The Court felt that it was equally probable that the incumbents prevailed because of their prior public exposure. There is no showing that there is no rational basis for listing candidates in the manner required by state law.

Ulland v. Grove (1978)

^{is also}
A California case in which a candidate claimed that discriminating ballot position infringes the right to vote. The Court ruled that the impact of ballot position on voting is insignificant, or not proven. The Court felt that the magnitude of positional bias present in partisan elections was relatively small

and could be reduced, at least in part, by candidates' efforts to inform the public. The alleged deprivation of voting rights was insufficient to trigger strict scrutiny by the Court.

The argument presented in Ulland v. Growe was analagous to that put forth for reapportionment. It was argued that just as voters in disproportionately large legislative districts cast votes that are unfairly "diluted" by votes cast in relatively small districts, so too are votes cast by supporters of candidates victimized by discriminating ballot position diluted by the phenomenon of positional bias. Those voters are unconstitutionally denied the right to participate on an equal basis, a right guaranteed by the Fourteenth Amendment to the Constitution.

The result of this case is the Ulland two-tiered test:

1. Voters who choose a candidate on the basis of ballot position are casting real votes that, although irrational, do not cause arithmetical dilution.
2. Candidates disadvantaged by their ballot position can endeavor to increase the visibility of their candidacy and thus reduce the impact of positional bias.

Advantages and Disadvantages of Ballot Rotation

Ballot position is believed to have an effect on the number of votes cast for candidates, and therefore the practice of ballot rotation has been implemented in many states as a means for mitigating positional bias. Those opposed to ballot rotation point out its many disadvantages. Varying the ballot throughout the state amounts to increased printing costs, as well as an increase in the number of complaints received from voters confused about the ballot. Ballot rotation creates more work for election administrators, and increases the risk of error in counting the ballots and the possibility of fraud and mismanagement of elections.

Voting machines also present a special problem to ballot rotation. The limited number of machines within each precinct makes the rotation of names for each successive voter impractical, if not impossible, causing precinct rotation to be implemented instead.

The importance of ballot rotation is that it attempts to make the election process more fair to all candidates--or to appear more fair--and it encourages the intelligent use of the ballot and

increases the motivation of public spirited citizens to run for office while at the same time increasing the apprehension of incumbents, thus tending to make them more responsible than they might otherwise be.

State Rotation Systems **

Alaska	Each voter
Arizona	Each voter
California	State Assembly district
Idaho	Each voter
Illinois	Precinct or County
Indiana	Each voter
Iowa	Precinct or County
Kansas	Precinct or County
Kentucky	Precinct or County
Missouri	Each voter
Montana	Precinct or County
Nebraska	Precinct or County
New York*	Precinct or County
North Carolina	Each voter
North Dakota	Each voter
Ohio	Each voter
Oklahoma	Within race categories
Oregon	Precinct or County
Washington	Each voter
Wyoming	Precinct or County

* Only for primary races

** Obtained from Report Relative to the Order of Names On the Ballot, compared to the 1982 Ballot Makeup and Rotation report by Gwen Hoffman

Order of Names on the Ballot

Alphabetical listing

Colorado
Connecticut
Hawaii
Iowa
Louisiana
Maine
New Hampshire
New York
Nevada
Oregon
Tennessee
Vermont
West Virginia

Lottery system

Texas
Wisconsin
South Dakota
Virginia

Discretion of Election Officials

Alabama
South Carolina
Mississippi-discretion of the
printer of ballots

Incumbent first

Massachusetts-alphabetical listing of remaining candidates
California-remaining candidates are listed according to a random alphabet

Time of filing

Illinois
Missouri Nebraska
Nebraska

Rotation Methods-rotating alphabetical list

Alaska
Kansas
Kentucky Montana
North Dakota
Michigan
Ohio

Rotation -each name appears at each position an equal number of times

Wyoming
Arizona
Oklahoma
Michigan

Rotation- ballot position is determined by the number of votes the party
received at the last gubernatorial election

Minnesota

State Summaries

Alaska

Alaska's ballots are rotated within each precinct so that the names of the candidates are changed in each section. This attempts to provide equal representation of each name at each ballot position.

Alabama

The Secretary of State has discretion over the format of the ballot, and therefore ballots are uniform throughout the state.

Arizona

The name of each candidate appears an equal number of times in each position. Rotation is done by precinct, and where voting machines are used the arrangement of the names is as uniform as possible and complies with the rule of paper ballots in so much as the machines will allow.

California

The incumbent is listed first on California ballots, with the order of the remaining candidates arranged according to a random alphabet.

Colorado

The order of names on ballots in Colorado is alphabetical, with no rotation practiced.

Connecticut

Names are listed alphabetically on the ballots with no rotation practiced.

Deleware

Names are listed within party columns on Deleware ballots, the order of which is determined by the list which respective candidates give to the party.

Georgia

Ballots are uniform across the state. No rotation is practiced

Hawaii

The order of names appearing on the ballot is alphabetical.

State Summaries

Illinois

The order of names on ballots in Illinois is determined by the time of filing. Rotation by precinct is practiced in aldermanic races only.

Idaho

Each paper ballot has a different rotation within the precinct. In Punch Card counties each precinct has the same rotation.

Iowa

The names appear in alphabetical order on the ballot for the first precinct, and for each succeeding precinct the names which appeared first shall be placed last, with those names previously appearing second moving to first position on the ballot.

Kansas

The alphabetical list of candidates rotates so that each candidate's name appears first in one division.

Kentucky

The Secretary of State arranges the names of the candidates in alphabetical order for the first congressional district of the state. For each succeeding congressional district, the name appearing first in the preceding district is placed last, and the name appearing second shall move to the first position on the ballot.

Louisiana

Names appear in alphabetical order on Louisiana ballots.

Maine

Candidates are listed alphabetically on Maine's ballots.

Massachusetts

In state elections the procedure is to list incumbents first with the remaining candidates following in alphabetical order. In voting machine districts, name position is determined by the vote cast for governor in the last election. The party gaining a majority vote in the last gubernatorial election appears first, and so on. By charter provision, municipalities may provide their own methods of determining ballot position. Fourteen determine position by lottery, thirteen follow state procedures, three mix lottery and alphabetical methods, and eight use a lottery system in both primary and final races.

State Summaries

Michigan

The names of candidates are listed alphabetically on paper ballots in Michigan, rotating such that on each successive ballot the name which had previously appeared first is moved to last, etc. Each candidate is in each position an equal number of times. Voting machines follow the same procedure as that for paper ballots, but rotation is then done by precinct.

Minnesota

The candidates of the political party which polled the smallest number of votes at the last general election shall appear first on the ballot. Second and succeeding lines shall be the candidates of the other parties receiving succeeding higher number of votes.

Missouri

Candidates are placed on the ballot in order of filing a declaration of candidacy, time, and date. No rotation is required.

Montana

The Registrar divides the number of ballot forms into sets equal in number to the greatest number of candidates for any office. The names of the candidates are arranged in alphabetical order and rotated by removing one name from the top of the list and placing it at the bottom of the list for each successive set of ballot forms. Candidates of the two major parties appear above the candidates of minor and independent parties.

Nebraska

The order of the first set of ballots for the first precinct shall be determined by the candidates' filing by date and hour. The names shall be rotated precinct to precinct by taking the line of type at the head of each office division and moving the column up so that the name that was second shall be first after the change.

New Hampshire

Names are arranged on the ballots in alphabetical order, and all the ballots from each town are identical.

New Jersey

Names are arranged in groups as presented in the several certificates of

State Summaries

New Jersey (con.)

nominations or petitions, which groups shall be seperated from other groups and candidates.

New Mexico

Ballots across the state are uniform. The position of candidate names is left to the discretion of the Secretary of State.

New York

Candidates' names are listed in alphabetical order, and rotated by election district in the state of New York.

Nevada

The order of names on the ballot is alphabetical with no rotation by precinct.

North Dakota

The arrangement of names is alphabetical. Names shall be rotated such that the printer shall take the line of type at the head of each office division and move it up so that the name that was previoully second shall occupy the first position on the ballot.. Each candidate's name shall appear an equal number of times.

Ohio

Rotation is done from precinct, beginning alphabetically in precinct number one and in each succeeding precinct the name of the person listed first is moved to last and the names of the other candidates are moved up one.

Oklahoma

Each candidate's name is rotated so that the name appears in each voting position an equal number of times. Rotation occurs within race categories and not by precinct.

Oregon

The order of names on the ballot is alphabetical, and rotates accordingly.

State Summaries

Pennsylvania

Candidates are listed on the ballot according to the vote received at the last gubernatorial election. There is no rotation by precinct.

South Carolina

Party ballot position is determined by lottery, but the order of names on the ballot is left to the discretion of the Secretary of State.

South Dakota

The Secretary of State draws by lot the candidates position for his office.

Tennessee

Candidates for the same office shall be listed in alphabetical order.

Texas

In any election in which the names of more than one candidate for the same office are to be printed on the ballot without party designation, or are to be printed on the ballot in an independent or nonpartisan column, the order in which the names of such candidates are to be printed on the ballot shall be determined by a drawing to be conducted by the county clerk.

Vermont

Names of candidates appear on the ballot in alphabetical order. There is no rotation by precinct.

Virginia

The State Board of Elections determines by lot the order of the political parties and the names of all candidates for a particular office appear together in the order determined for their parties.

West Virginia

Ballot rotation is done alphabetically and by lottery. There is no rotation by precinct.

Wisconsin

Ballot position is determined by lottery. No rotation by precinct.

State Summaries

Wyoming

Names are rotated by precinct on paper ballots and voting machines in the state of Wyoming. In each county the name of each candidate shall appear substantially an equal number of times at each position.

Utah

Rotation is not practiced in the state of Utah. Parties are listed left to right on the ballot.

States Not Appearing In the Summaries: Florida
Indiana
Maryland
Washington
Arkansas
Mississippi
Rhode Island
North Carolina

* Information for the state summaries was gained from the 1978 questionnaire designed by Gwen Hoffman, and resulting in the 1982 FEC Clearinghouse report "Ballot Makeup and Rotation."

Ballot Rotation Methods Presently in Practice

Alphabetical listing-merely arranging the candidates name in alphabetical order without rotating the names.

Rotation of the Alphabetical list-the ballot for the first precinct shows the names of the candidates in alphabetical order, but in each succeeding precinct the name that previously appeared first is moved to the last position, and that which had been placed second moves up to the first position.

Placing the incumbent first-the incumbent occupies the first ballot position with the remaining candidates names appearing in a designated order.

Time of Filing-candidates names appear in the order according to the time and date of filing of the petition for candidacy.

Percentage of Vote-ballot position is determined by the number of votes that the party received at the last gubernatorial election.

Basic rotation-any method that provides for the candidates' names to appear at each position an equal number of times.

The hypothesis that ballot position influences the number of votes that a candidate receives has been largely based on supposition. Because few empirical studies have been conducted which substantiate the claim, the courts have been reluctant to suggest alternative methods for placing names on ballots, leaving it largely up to the individual states to provide a fair method.

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SUMMARY OF STATE SURVEYS

re: Ballot Counting Rules

Forty-five states were surveyed in regard to their ballot counting rules. The information provided should assist a test authority in performing qualification and certification tests of voting systems under the voting system standards. The questions posed to the states and a summary of the responses follows:

The states were first asked if they permitted cross filing. Of 44 states surveyed, only 7 allowed the practice:

California
Connecticut
Maryland
New Hampshire
New York
Pennsylvania
South Carolina

(Note: the Clearinghouse research files show that California and Maryland do not allow this practice; they do. The files also show that Delaware, Ohio, and Vermont do permit cross filing but they do not.) California allows cross filing only in the general election for federal and state officials. It is permitted for individual candidates as well as for teams or slates. It is unknown what would happen in California if a voter voted more than once for a candidate who had filed with different parties. Connecticut permits cross filing for all candidates in both the general and the primary election. Both individuals and teams may cross file, however it is impossible to vote for a candidate

New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
South Carolina
Washington
Wyoming

(Note: Clearinghouse research files show that Arkansas, Colorado, Michigan, Minnesota, New Hampshire, and South Carolina do not have ballot rotation but they do. Also, records show that Missouri and Indiana practice ballot rotation and they do not.)

Each state has a different method of rotating names of candidates on a ballot. A cross-check of survey data and Clearinghouse files on this subject shows the following information:

oArizona: permits ballot rotation at all elections except where voting machines are used. Rotation is by name within party within precinct.

oArkansas: rotates names within counties in all elections.

*oCalifornia: candidates are rotated alphabetically by random alphabet within each district in all elections.

*oColorado: rotates names alphabetically within party within each precinct in the general election.

oIdaho: rotates names alphabetically or rotates columns in the general election.

*oIllinois: names appear in the order in which they were filed and are rotated by district in the general election. Ballots are security coded to ensure that this rotation occurs properly.

*oIowa: rotates names of candidates within their party by precinct in all elections.

oKansas: rotates names alphabetically within county in all elections.

*oKentucky: rotates candidates names alphabetically by each legislative district in all elections.

oMichigan: names are rotated alphabetically by each paper ballot and by name within precinct on machines in all elections.

oMinnesota: rotates names within party in the primary and all non-partisan elections.

oMontana: names and parties are rotated in all elections.

*Nebraska: rotates by precinct in primary elections. This rotation is done at the county level.

New Hampshire: rotates randomly in the primary and alphabetically in the general election.

New York: names are rotated alphabetically for the New York City primary election.

North Carolina: the county has the option to rotate candidate names in any election.

North Dakota: rotates names alphabetically by precinct in all elections.

Ohio: rotates names alphabetically from precinct to precinct in all elections.

Oklahoma: rotates names alphabetically by race in the primary election only.

Oregon: rotates alphabetically in the primary.

South Carolina: rotates parties in the general election.

oWashington: rotates names and offices in the primary.

*oWyoming: names are rotated by precinct in all elections.

*In those states in which rotation is linked to geographic area, there was no information available as to how this connection was made on the ballot counting software.

L Of the 45 states surveyed, 22 permitted recall elections:

Arizona
California
Colorado
Georgia
Idaho
Kansas
Louisiana
Massachusetts
Michigan
Mississippi
Montana
Nebraska
Nevada
New Jersey
New Mexico
North Carolina
North Dakota
Oregon
Rhode Island
Virginia
Washington
Wisconsin

(Note: Clearinghouse research files show that Massachusetts, Mississippi; Nebraska, New Jersey, New Mexico, North Carolina, Rhode Island, and Virginia do not have recall elections but all do.) Of these states, 15 have simple recall elections:4

SCHOLARS SAY STUDIES SHOW BALLOT POSITION EFFECT LIMITED TO SPECIAL CIRCUMSTANCES

Based on their own research and after surveying existing scholarly literature on the impact of ballot position effect, an American and an Australian professor concluded ballot position effects can be found under certain electoral conditions, but not under others. What effects exist will be found only in certain types of elections - not in elections generally.

The professors, R. Darcy and Ian McAllister, conclude there is no reason for positional advantage when the candidate is identified by political party, or where the ballot is so arranged as to facilitate the voter locating candidates of his or her choice. Further, they find political parties are not advantaged by ballot position in any election no matter what system is used. The scholars published their findings in an article entitled "Ballot Position Effects," in the March, 1990 issue of the international journal, *Electoral Studies*.

The authors found a large body of research showing significant advantages to be gained from placement at the top of the ballot but other research showing these effects are either non-existent, limited, or apparent only under special conditions. The authors are very critical of studies that leap to conclusions about the automatic impact of ballot position in all situations simply because research shows some apparent ballot position effect under the special conditions studied.

Studies showing a "first ballot position" effect, for example, are flawed if the majority party candidate or incumbent is automatically listed in the first position. Other studies have been based on classroom elections in which students have been asked to choose between two to five names in a fictitious election. Yet courts have accepted such "elections" as evidence of ballot position effects.

Some studies have been based on elections in which the most minimal information about the candidates is available, as those in which voters have little interest in the position or little knowledge of the candidates and a complex voting system is used. In these cases ballot position might have an effect because voters have little to go on, or may not have been able to figure out the voting system. (See the complex Cook County Commissioners ballot on Page 5.)

Darcy and McAllister conclude: *"A series of judicial decisions have taken it as established that first position on a ballot yields a distinct electoral advantage. The consequences of this, besides an unflattering and cynical portrait of the electorate, are elections made indecisive by legal wrangling and subsequent expensive and potential confusing court-ordered remedies to nullify the supposed effect. Yet the research upon which the courts have based their decisions indicate that either, position effects that exist only under special electoral conditions are being used generally to vastly different circumstances, or that the research evidence does not substantiate the conclusions reached."*

The professors also note that the research "pays little attention to the impact on the voter of the various proposed remedies for position effect." The reforms designed to remedy the situation, such as ballot rotation may be counterproductive because they confuse the voter and make difficult to accurately count votes.

The bibliography offered by the authors includes all studies on ballot position effect published in recent years in English language journals. They classify the studies into minimal information experiments, American partisan primaries and non-partisan elections, American partisan and general elections, and non-American examples.

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— Dr. Valerie Earle

Ballot Position Effects

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There has been much debate in political science about the importance of position effects on ballots. This paper reviews and evaluates the available research on the topic. It concludes that much of the current literature is methodologically flawed, fails to take into account competing explanations for the effects which are found, or presents evidence from case studies that have little in common.

The issue of whether or not position on the ballot paper affords a candidate : electoral advantage or a disadvantage over their competitors has a long history bo in political science and in practical politics. A large body of research appears show that there are unequivocal and significant advantages to be gained fro placement at or near the top of the ballot. Conversely, an almost equally large box of research has shown that these effects are either non-existent, limited, or a apparent only under special conditions.

The contradictions involved in this research is illustrated in an early examp concerning the election of the governor, deputy governor and 12 magistrates Colonial Connecticut. A law promulgated in 1670 specified that the Gene: Assembly make up a nomination list of 20-odd names which the constable was read, in the order designated by the Assembly, one at a time. At each name a vo was to be taken and if a candidate gained a majority, the candidate was elected. T names were to be read until the governor, deputy governor and 12 magistrates we elected. The order of names, then, was crucial. Names at the bottom of the list wou stand a smaller chance of being elected than those at the top. By controlling t

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**Ian McAllister would like to thank the Centre for the Study of Public Policy, University Strathclyde, for providing research facilities while on study leave from the University New South Wales.

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expensive and potentially confusing court-ordered remedies to nullify the supposed effect. Yet the research upon which courts have based their decisions indicate that either, position effects that exist only under special electoral conditions are being used generally to vastly different circumstances, or that the research evidence does not substantiate the conclusions reached.

It will be argued here that existing research may lead us to expect ballot position effects under certain electoral conditions, but not under others. It will be further argued that little by way of theory or explanation for position advantage exists, and where plausible theory or explanation does exist, these effects will be found only in certain types of elections—not in elections generally. We will also argue that much existing research on ballot position is flawed in that an inappropriate (or no) statistical model is used or that the research fails to exclude competing explanations for the appearance of position effect. Finally, existing research pays little attention to the impact on the voter of the various proposed remedies for position effect.

Previous Research

Minimal Information Experiments

Minimal information experiments, typically conducted under classroom conditions with student subjects, do not yield consistent findings. Coombs, Peters and Strom (1974) find the first position advantageous while Nanda (1975) and Bagley (1966) find those in the lower middle positions on a list of names to be favoured. Taebel (1975) performed nine experimental elections in which three showed a significant first position advantage, one showed the last position to be favoured, and five showed no significant difference between first and last position. The format in each of these experiments was to ask students to choose between two to five names in a fictitious election.

Each of these reports concluded that position effects exist without specifying why or under what conditions they are found. Bagley (1966), for instance, used five candidates with identical names (Jones) to conclude that voters, when forced to choose, tended toward one position over the others. In Bagley's situation, however, there was no other basis for choice other than position. None of these experiments approximate the conditions of actual elections either in North America or in Europe, yet they have been cited by scholars and courts as justifications for ballot rotation as a remedy for position effects.

A variation on this theme is provided by Bakker and Lijphart (1980), who conduct what they regard as a 'crucial test of alphabetic voting' by analysing elections to the University of Leiden. They conclude that 'although the strength of alphabetic voting is relatively modest, it is clearly an extremely tenacious and pervasive tendency' (p.525). But like student experiments, elections to a university committee in a single university can hardly be regarded as typical of local, regional or national elections—much less a 'crucial test'. In addition, the electoral system was complex, according to Bakker and Lijphart (1980: 522) using 'a combination of the single transferable vote in multi-member constituencies and the alternative vote in single-member districts'. In short, as we argue below, such elections are precisely the kind of low salience, complex voting system elections in which position effects might be expected to be found.

Many studies share common methodological weaknesses, notably in significance

testing. In some studies it is either absent (White, 1950; Scott, 1977) or inappropriate. Bain and Heacock (1957), for example, lump together votes for a candidate while in various ballot positions and test the significance of the difference between these votes and that expected if there were no position effect. The assumption is that voters are assigned to the 'treatment' but that is not the case. Voters are assigned to precincts and precincts are assigned to treatments. This is analogous to cluster sampling and must be taken into account in significance testing (see Kish, 1965: 187-8). Failure to do so will yield lower (more significant) probability estimates than are warranted.

To illustrate this point, consider two hypothetical precincts with 10,000 votes each. In one precinct the Democrat is listed first, in the other the Republican. If the Democrat got 52.5 per cent of the vote in the first and 47.5 per cent in the second—what is the probability of this happening by chance (that is, if the null hypothesis of no position effect is correct)? Chi square calculated with one degree of freedom would be 50 and the associated probability would be <0.001 and significant. But if the null hypothesis is correct and there is no position effect and if one precinct is slightly more Democratic than the other, then the chances of the Democrats being first in that precinct, assuming ballot types are assigned randomly, is 0.5 not <0.001 . The results are not significant and the evidence cannot rule out the null hypothesis.

American Partisan Primaries and Non-partisan Elections

Studies of partisan primaries and non-partisan elections in the United States present stronger evidence in favour of a first position ballot advantage. Brooks (1921) finds that first position among those in the same faction is advantageous over last position among the same faction members in a primary where voters had 12 votes to distribute among an alphabetical list of 24 candidates belonging to two factions. The ballot did not indicate faction. First position on the ballot, however, was of no overall advantage. White (1950) found that in an Ohio state Senate primary, in which candidate names were rotated, each candidate received a larger percentage of the vote when in first position than when in second position.

Bain and Heacock (1957) found similar results in a number of Michigan non-partisan and partisan primary contests. They did, however, note that there were exceptions to this; where the list of candidates in partisan primaries or non-partisan elections is long, they suggest a J curve effect where candidates at the bottom also receive some advantage (pp.72-5). Mueller (1969, 1970) examined several California non-partisan elections and partisan primaries and confirmed Bain and Heacock's findings, both with regard to the positional advantage of being first and the advantage of being at the bottom of a long list of candidates for a single office.

Scott (1977) adds additional evidence, finding with only an occasional exception, advantage to first position in partisan primary ballots and non-partisan elections. Byrne and Pueschel (1974) provide the only discordant note to this literature, concluding that there is no advantage to being first on a California party central committee primary ballot. Instead, they find the advantage to be at the bottom of the list of names.

By contemporary standards these findings have various flaws. White (1950) and Bain and Heacock (1957), for example, do not describe the rotation procedure which produced their data. In examining actual elections in which the names on the ballot were rotated, it is assumed that the rotation plan was independent of the

candidates names. Where this is so the votes of the same candidate in various positions can be compared. If, with some consistency, candidates do better when in first than other positions, then position advantage is concluded. Rudimentary investigation indicates however, that the appearance of position effects can be produced by rotation even where there is no position advantage.

Politicians (like many academics) believe that position on the ballot can add up to 5 per cent to the vote—typically more than an effective election campaign can earn. When able, they act accordingly. For example, Boss Hague's clerks in Jersey City conducted rigged place drawings between 1917 and 1949 to give the Democratic candidates first position (Bain and Hecock, 1957: 11). In Illinois, federal courts ordered county clerks to devise a random method to determine the ballot positions of the Democratic and Republican parties in their counties in order to correct the presumed position advantage. The results of this random process for 90 of Illinois' 102 counties in the 1982 general election are presented in Table 1.

TABLE 1. Party of County Clerk and Results of Random Process to Determine Ballot Position, Illinois, 1982

First on ballot	County clerk party	
	Republican %	Democratic %
Republican	68.75	38.10
Democratic	31.25	61.90
Total (n)	100.0 (48)	100.0 (42)
Chi Square = 8.48 DF = 1 $p < 0.0036$		

In almost 70 per cent of the cases where there was a Republican county clerk, the random process gave the Republicans the first ballot position and in over 60 per cent of the cases where there were Democratic county clerks the random process gave the Democrats the first ballot position. Such a result would occur by chance 36 out of every 10,000 trials. It would be foolish to treat ballot position as random under these circumstances and even if there were no ballot position effects present, we would clearly expect the Republicans to do better when in first place and similarly for the Democrats. That is because the political tendency of the county determined ballot position, not vice versa. In fact, the expected 5 per cent position advantage did appear in the 1982 Illinois general election.

The political manipulation of rotation procedures also takes place in Kansas. Kansas law specifies that the Secretary of State (a Republican in the period under question) rotate the ballot in the following way. Beginning with an alphabetical list of 105 counties, excluding the four largest (they rotate differently), take the total vote for governor or president in the past election and divide this by k , the number of candidates for an office. This yields a rotation quotient. Divide the list of counties into k groups (while keeping their alphabetic order), such that the total vote for each group cast in the previous election comes as close as possible to the rotation quotient. Candidates are to be in alphabetical order in the first group of counties and will rotate through each of the subsequent groups.

In 1982 there were four state-wide races in which Republican and Democrats faced one another. In three of the four races there were more ballots cast when the Republican was in first place than when the Democrat was in first place and in four of the races there were more ballots when the Democrats were in last place than when the Republicans were in last place. This was accomplished by dividing the counties so that there were more counties in the group with the Republican first ballots and fewest in Democratic first groupings.

This process can be seen most clearly in the 1984 election when the only state-wide races were for president and US senator. In each race there were six candidates but the counties were divided differently for the two races to advantage both Republican presidential candidate Reagan (in fourth alphabetic position among presidential candidates) and Republican senate candidate Kassebaum (third among Senate candidates). State law provides no justification for such a difference in rotation schemes between the two races and, in fact, specifies the same rotation scheme. It appears that the Republican Secretary of State tried to capitalize on supposed position effects by having Republican candidates in first position for as many voters as possible. The Republicans would collect their 5 per cent (the imagined advantage) where there was the most votes and the Democrats would get their 5 per cent from position advantage where there was the smallest possible number of votes. Again, a superficial analysis would find Republican candidates gaining more votes while in first position even if there were no ballot effects.

The examples from Colonial Connecticut, New Jersey, Illinois and Kansas are echoed in studies from Australia (Kelley and McAllister, 1984) and elsewhere (Trench *et al.*, 1987). Because politicians believe there are position effects they manipulate the ballot to take advantage of the presumed effect with the result the election returns appear to confirm the position advantage.

American Partisan and General Elections

According to Dana (1912) there is a 'slight basis of fact' to the contention that first place yields an advantage in office block (Massachusetts) type ballots. These ballots minimize party identification and symbols and list all candidates for a single office in alphabetical or some other order. This effect, he argues, however, is confined to:

Some minor offices, over which there is no contest, especially where four or five vacancies of the same kind in the same group are to be filled, such as members of school committees, assessors of taxes and the like, and especially where the candidates have been nominated on non-partisan or citizens' tickets. But even in these minor offices this has not been true where there has been a public contest... (Dana, 1912: 223).

Coombs, Peters and Strom (1974), in their experiment with students, find that when party information is present the significant advantage enjoyed by the candidate at the top of the ballot changes to an insignificant difference, although this is not noted by the authors.¹ Instead, they conclude that 'when information about the party of the candidates as well as public opinion poll data is provided, the ballot position effect is reduced to 55 per cent' (Coombs, Peters and Strom, 1974: 53-4).

Mueller (1969: 1208) notes, without presenting data, that the presidential candidates who were rotated on the 1964 ballot in the 1964 California general

election gained no positional advantage, unlike the situation in the non-partisan and partisan primaries he examined. Similarly, while Scott (1977) finds a clear positional advantage in the non-partisan and partisan primary elections he described, this was not the case in the two general election contests he studied. In the 1968 California United States Senate election Cranston did best when in last place and Jacobs and Rafferty did best in first place. In the 1970 Secretary of State election Brown and Goodloe did best in first place while Flornoy did best when in second place and Feuer did best in third place. Nevertheless, Scott (1977) proceeded to conclude that there is a position effect in California ballots.

Darcy (1986) examined 22 elections in Denver and Arapahoe counties Colorado in 1984. These ranged from President of the United States to At Large Regent for the University of Colorado. These counties rotated the ballots so that one of the two major parties was in first position in odd numbered precincts and the other party in even numbered precincts. A comparison of the candidate performance in odd and even numbered precincts showed no significant differences (despite the fact the number of votes cast ranged from 12,896 to 204,182 and the number of precincts from 31 to 445). In 12 of the races candidates did better in first than in second place and in 10 of the races candidates did better in second than in first place—as would be expected by chance. Finally, when the total votes gained in each position are compared with what would be 'expected' under the null hypothesis, it is found that an average gain of 2.68 votes (out of over 200,000) came from first place. Darcy also tested for position effect in experiments using facsimiles of actual ballots among 1,549 students and local voters and similarly failed to produce position effects (Darcy, 1986).

Non-American Examples

Several position effect studies from England, Ireland, Australia and Finland have also been published. Upton and Brook (1974) studied Greater London Council elections. In these elections voters were required to apportion from two to four votes among six to 16 candidates in an alphabetical list. For the 1964 and 1967 elections, elections in which party was not indicated on the ballot, there was a clear advantage to being first among one's own party candidates, but not to being first on the ballot itself. There was also a disadvantage to being last among the candidates of one's party. The advantage of being first among one's party's candidates disappeared in 1970 when party was indicated next to the candidates' names. However, the disadvantage of being listed last among the candidates of one's party persisted.

Upton and Brook (1974) observed a similar finding for the 1973 provincial local elections where voters again had to allocate a number of votes among an alphabetical list of candidates. The candidate who was first among those of a party did significantly better than those listed last. Position on the ballot itself, however, was not studied for this election. When these authors turned to the 1964 British general election, an election also studied by Bagley (1966), they found no significant difference between first and second place on the ballot when party was controlled. Party was not indicated on the ballot in British general elections at that time (although it is so indicated now) and while each party nominates only one candidate, they are listed alphabetically.

Upton and Brook conclude that there is a position effect:

In the case of general elections, we were unable to detect any significant positional bias. Nevertheless, it would be surprising, in view of our other results, if such biases were totally absent. We do not believe that this is the case. However, it is certain that if such biases are present they are relatively small and we do not believe that our results give any justification for changing the present system of voting (Upton and Brook, 1974: 189-90).

Robson and Walsh (1974) performed a similar analysis on the 1973 Irish general election. In Ireland, candidates are listed alphabetically with party identified on the ballot. Voters are asked to indicate first, second, third and as many more preferences as there are candidates and there are usually two or three candidates to be elected from a district. Under these conditions, position among one party's candidates would appear to be advantageous. Robson and Walsh (1974: 198-9) found while there is a significant advantage in first preference votes to be gained by being first among one's party candidates, there is no significant advantage to being first on the ballot. They found, however, a major advantage to being last on the ballot, although the advantage varied among the parties (p.202). Other observers are not in agreement on the position effect with Irish ballots (Trench *et al.*, 1987: 23).

Kelley and McAllister (1984) examined the 1974 and 1977 British general elections and the 1980 Australian federal election. For the British alphabetical ballot they found that 'candidates having names in the first third of the alphabet get neither more nor fewer votes than other candidates in Britain' (Kelley and McAllister, 1984: 460). This is consistent with the previous work of Upton and Brook (1974).

The results for Australia are more complex. As in Ireland, Australian voters indicate a preference order for candidates. Further, voting is compulsory and abstention without good reason risks a substantial fine. Under these conditions a 'donkey vote' emerges among a proportion of voters who mark ballots 1-2-3-4 for the several candidates listed. In the 1937 Senate election, for example, the Labor Party in New South Wales sought to capitalize on the donkey vote and nominated four candidates all with surnames beginning with 'A'—Amour, Armstrong, Arthur and Ashley—thus gaining the top position on the ballot; all four were elected. Since 1940, the placement of Senate candidates on the ballot has been determined by lot.

Candidates for election to the Australian Lower House, the House of Representatives, were listed alphabetically and had no party designation until 1984. Kelley and McAllister (1984) found that when party was controlled, alphabetic placement, and hence placement on the ballot, had no significant effect on the vote received. Without party controls, however, ballot placement did have a significant effect. This led the authors to conclude that for Australia, the ballot position effect noted previously by Benn (1970) and Mackerras (1970) was caused by party nomination strategies, rather than positional bias. They argue that the largest component of the positional effect stems from 'a conscious attempt by the political parties to secure an advantage from it, by selecting candidates at least partly for their name...It seems that it is not so much the voters who are the donkeys as the parties' (Kelley and McAllister, 1984: 460).

Research from Finland also indicates that position on the ballot does not affect the vote when the voter has one vote to cast for a candidate (Haavio-Mannila, 1983: 84; Pesonen, 1968: 324). On the other hand, the Finnish electoral law takes a small bow towards position effects. Finnish national assembly (Eduskunta) ballots are by party list in which the voter may vote for an individual. The number of individual

votes are totalled for each candidate and the order of election in the proportional representation system is determined by the number of individual votes a candidate receives. Since it may be difficult to find a certain name in a long list of names the candidate at the top may be at some advantage. Each party, then, has the option of deciding its own candidate order. Some parties present an alphabetical list to the voter and others place favoured candidates in high positions (Sänkiäho, 1989; Tarasti, 1987). This means that it is easier for the voter to find candidates on some lists and more difficult to find all but the party favourites on others.

Lijphart and Pintor (1988) examined position effects in the Spanish Senate elections of 1982 and 1986, where four candidates were to be elected and voters were given three votes each. Each party normally nominated three candidates. In the first election candidates were listed alphabetically and in the second they were grouped by party and listed alphabetically within the grouping. The authors report no advantage to being first on the ballot itself, either for a party or for a candidate. They do notice that within a party, candidates listed higher receive (on the average) more votes than those listed below. The explanation offered is that this alphabetic voting 'is caused by voters who, instead of voting a straight party ticket, distribute their three votes over two or three parties or who do not use all of their votes' (Lijphart and Pintor, 1988: 226).

While the Lijphart and Pintor explanation is specific to a certain voting system (limited voting) they, nevertheless, use their study of Spanish senatorial voting to generalize to all elections and argue that 'some degree of ignorance and confusion—and, consequently, alphabetic or positional bias—must occur among at least some voters' (p.229). This is a familiar position (Upton and Brook, 1974; Coombs, Peters and Strom, 1974), which states that despite the lack of credible evidence for position effect—or even a reason why it should occur in a particular election format—it is nevertheless present.

Elections in the United States, Spain, England, Ireland, Finland, and Australia are conducted under different electoral circumstances to American general elections. One difference is that the voter casts more than one vote for an office or is asked to rank candidates. Americans typically cast only a single vote for an office. Next, voters in these countries vote only for the legislature in the general election, not a host of offices, federal, state and local, executive, legislative and judicial, as do Americans. There are other differences as well, including party structure, political culture and election regulations, all of which inhibit comparisons.

Methodologically there are weaknesses in many of these studies. Ireland, the United Kingdom and Australia do not rotate candidates on their ballots. Studies of ballot position effects therefore must be made through comparing the performance of different candidates in different positions on the ballot, not through comparing the performance of the same candidate at different ballot positions, as is possible when the ballot is rotated. Since candidates are listed alphabetically in these countries, political parties, especially parties not currently holding the seat, can manipulate candidate order by nominating a candidate with a higher position name than the incumbent, something that in fact is frequent (see Kelley and McAllister, 1984). Given this situation, it is difficult to determine the presence of a position effect as different races are invariably not comparable.

Evidence from other countries and a small amount of evidence from American elections indicates that when elections are contested between parties, especially where party information is present on the ballot, there is no positional effect. In

spite of this, however, a number of researchers conclude that there is a position effect even in partisan situations. Studies of elections in which voters are given a number of votes to distribute among a list of candidates, and elections in which voters are asked to rank order their candidate preferences among several candidates of one party, present mixed findings. While position on the ballot itself in these elections is of little importance (except at the bottom, which is an advantage), position among the candidates of one party is important. Thus, there is not a partisan positional advantage but a within-party positional advantage.

Theory

Position effects are of interest beyond ballot studies and research has examined the subject in psychology (see Hovland *et al.*, 1957), marketing (see Bettman, 1979), questionnaire construction (see Clancy and Wachslar, 1971; Darcy and Schramm, 1979; Sigelman, 1981) and testing (see Adkison and Seip, 1983). Few studies have integrated the various findings, however, and the contradictions between the 'recency' findings, which suggest an advantage for the last presented alternative, and the 'primacy' findings, which suggest an advantage for the first presented alternative, lead Cohen (1964) to conclude little practical use can be made of the evidence. At this point, it is not possible to use developed psychological theory to predict one voter reaction to ballot choices as a function of position. Instead, psychological theory yields contradictory predictions. There is no evidence of a heuristic decision favouring the first choice in a set of choices from the psychological literature.

Turning to ballot position effects, the theory emerging from several researchers suggests that position effect will manifest itself in situations where voters have no other guide to a vote choice and must make use of the limited information contained on the ballot itself (see Kelley and McAllister, 1984; Upton and Brook, 1974). This could occur in several ways. In Australia, meaningful fines punish non-voting. This brings voters to the polls who are indifferent to the choice of candidates and the eventual outcome. In Britain, until party was indicated on the ballot, voters intending to support a party but lacking the candidate's name may have voted by ballot position. In American general elections, voters who go to the polls to support some highly salient candidate such as one for president typically find a long list of obscure offices and candidates also present on the ballot.

Under these conditions, position advantage, if such exists, may be expected to emerge as voters without any other basis for choice will choose the easiest option and cast a vote for the first listed candidate (Britain and Australia) or simplify the task of studying a complex ballot and reaching a number of decisions as to candidates by voting for those first listed (the United States). On the other hand, voters in the United States can simplify the task of voting in other ways. They can simply vote for the salient candidate they turned out for and ignore the rest of the ballot (roll-off), which a proportion in fact do (see Walker, 1966; Darcy and Schneider, 1989). Voters can also vote haphazardly or in patterns of up and down, and again, there is some evidence that some voters do just this (see Mueller, 1969).

Another potential explanation for alphabetic voting occurs in countries such as Ireland, where the voter is asked to number their preferences from most to least preferred among as many as 18 candidates from about 10 or so parties. The evidence suggests that some voters are interested in party and not candidates. They number the first candidate of their party '1', the second candidate '2' and so on. This does

not affect party proportions but does advantage party candidates at the front of the alphabet. The evidence also suggests, however, that most Irish voters give their first preference to their preferred candidate, not the first one found on the ballot.⁶ It would be reasonable to hypothesize that Irish voters would be more likely to vote for candidates of one party if their ballot grouped candidates by party.

Something similar might be occurring in the Spanish elections analysed by Lijphart and Pintor (1988). The Senate candidates were not well known and voters may have simply voted by party. Some voters may have wished to split their votes among several parties and some voters may have cared about the party, not the candidates. What is important in this situation is position advantage for the party listed first in the 1986 election when candidates were grouped by party. Lijphart and Pintor do not report any party advantage from position.

This review implies that positional voting can be eliminated by removing its causes. There should be no reason for positional voting where eligible voters are not required to vote, where party is clearly indicated next to a candidate's name, where the voter can simply stop voting whenever he or she wishes, and where the ballot is arranged so as to facilitate the voter locating candidates of his or her choice. In fact, judges as far apart as Chicago, Illinois and Dublin have reached this conclusion (Darcy, 1986; Trench *et al.*, 1987). Further, there is no evidence for position advantage for political parties in any election, no matter what the system used.

Notes

1. This system survives today in the Soviet Union and was used to select members to the first full-time legislature by the Congress of People's Deputies in May 1989. Boris N. Yeltsin got a majority of the votes for a seat but 11 others got more votes so he was not elected until a member stepped aside for him.
2. The chi-square is 12.18. DF = 15, $p > 0.50$. The data are taken from Trumbull (1852).
3. For American court decisions see *Bohus v. Board of Election Commissioners* 447 F.2d 821 (1971), *Sangmeister v. Woodard* 56 F.2d 460 (1977), *Board of Election Commissioners v. Libertarian Party* 591 F.2d 23 (1979), *McLain v. Meier* 637 F.2d 1159 (1980); for a European decision see Trench *et al.*, 1987: 23.
4. This is consistent with the findings of Kelley and McAllister (1984) in Australia.
5. This is correct. Confused readers should make enquiries with the authors quoted.
6. In the 1987 Irish general election, for example, 12,986 Dublin North Central voters gave first preference votes to Charles Haughey despite his being fifth on the ballot and third (last) among the Fianna Fail candidates. The first on the ballot got 5,201 first preference votes and the first Fianna Fail candidate got 4,454 first preference votes.

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BALLOT ROTATION OR BALLOT ROULETTE

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officers, ranging from members of the county central committees of the parties through township, municipal, county, legislative, Congressional, statewide, and Presidential candidates, plus 614 boards of education and innumerable judges at all levels. We also vote on local options, tax levies, bond issues, charters, state Constitutional amendments, and various initiatives and referenda. At one recent election, there were 34 separate decisions for the voter to make. Sometimes election administrators sigh for a nice, simple centralized parliamentary system.

To further complicate the system, there is overlapping authority for determining the rules for conducting elections. The federal government can and does set some guidelines for federal elections: requirements for federal candidates and their campaigns, for registration and voting accessibility for the disabled and minorities, perhaps soon for the closing time of polls in Presidential years. The states have primary responsibility for setting most of the rules for conducting all elections, and have responded with the usual wide variety of procedures. The actual administration of elections is delegated to thousands of local jurisdictions, in Ohio to county boards of elections but in other states to a variety of local officials such as county recorders or auditors or township and municipal clerks, most of whom carry out their election responsibilities in addition to their other duties. Finally, the frontline of elections is staffed by the hundreds of thousands of pollworkers, some of whom are well trained and some not trained at all, most paid minimum wage but some working as unpaid volunteers, who work one or two days a year, often 15- to 18-hour days, and who are expected to administer the whole interlocking set of rules imposed on them by the federal, state, county, and local authorities. The wonder is not that things sometimes go wrong, but that generally they go so right.

State Practices

There is no consensus among the states on the best way to determine ballot position for candidate names on a ballot. An incomplete listing of states¹ indicates that at least 22 do some kind of rotation in at least some elections. Rotation is done in at least 9 different ways in different states. Ten states list candidates alphabetically with no rotation; 3 list candidates by time of filing; 3 by the number of votes the party received in the last gubernatorial election; 4 by lottery; and 4 leave the assignment of ballot position to the discretion of election officials or the printer.

There are all sorts of combinations of methods within these categories, and there are states that use unique systems that defy classification.

Pros and Cons

Just what are the questions these varying state laws are trying to address?

Which is most important--convenience to the voter or fairness to the candidates or saving tax money in the preparation of ballots? What is the best balance among these factors?

Should incumbents always be listed first or should their names be rotated with those of all other candidates? Is being identified as an incumbent an advantage or a disadvantage? Does the voter have a right to have the incumbent identified as such on the ballot?

Should all the candidates of one party be listed on a single line so the voter can find them easily on the ballot? Should the party lines then be rotated? Should the two major parties always occupy the two top lines because they have demonstrated their widespread support, and should all other parties and independent candidates be listed below them? Or should it be the other way around to afford lesser known parties and candidates a higher visibility to compensate for their lack of familiarity to the voters?

Should each candidate be assigned a specific ballot position so the location of that position can be included in the candidate's advertising to help the voters locate the candidate's name on the ballot?

If it is agreed that there should be some scheme for rotating candidate names or parties, how should the rotation be decided? Alphabetically; by name or by party; alphabetically with exceptions (e.g., for incumbents); by lot; some combination of methods?

All of these questions assume by their wording that ballot position does affect the outcome of the election. Does it? If so, that raises another series of questions.

Does ballot position affect all elections and, if so, how much? Does it affect equally elections for local, state, and federal offices? High visibility contests and low visibility races? Primary, run-off, and general elections? Partisan and nonpartisan? Executive offices, legislative, judicial? Single person to be elected, several to be elected (e.g., 4 at-large members of a city council)? Head-to-head races between two candidates and races involving more than two candidates? Large jurisdictions and small jurisdictions? Densely populated and sparsely populated?