

By Senator Bean

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Senate Memorial

A memorial to the Congress of the United States, urging Congress to amend certain federal laws to remove obstacles to states exercising their authority and obligation, under state and federal law, to protect the integrity of elections by ensuring that only United States citizens are registered to vote.

WHEREAS, one of the most fundamental and cherished rights under the Constitution of the United States is the right to vote, and

WHEREAS, the right to vote is rightly conferred only upon citizens of the United States, and

WHEREAS, when noncitizens are able to vote notwithstanding the legal prohibition against it, the votes of lawful citizens are diluted and election outcomes are affected, and

WHEREAS, with an estimated 11 million to 20 million aliens unlawfully present in the United States, state and local voter registration entities must be able to exercise their authority to prevent the registration of noncitizens and remove noncitizens who register to vote, and

WHEREAS, in order to increase voter registration, Congress passed the National Voter Registration Act of 1993 (NVRA), which requires states to "accept and use" a uniform "Federal Form" to register voters for federal elections, and

WHEREAS, the Federal Form developed by the federal Election Assistance Commission requires only that an applicant swear, under penalty of perjury, that he or she is a citizen of the United States of America and does not require any accompanying

4-00889-17

2017944__

30 documentary evidence of citizenship, and

31 WHEREAS, in 2004, Arizona voters approved a ballot
32 proposition that required voter registration officials to
33 "reject any application for registration that is not accompanied
34 by satisfactory evidence of United States citizenship,"
35 including the Federal Form, and

36 WHEREAS, in the case of *Arizona et al. v. Inter Tribal*
37 *Council of Arizona, Inc., et al.*, 133 S. Ct. 2247 (2013), the
38 United States Supreme Court held that Arizona's evidence of
39 citizenship requirement, as applied to Federal Form applicants,
40 is preempted by the NVRA's mandate that states "accept and use"
41 the Federal Form, and

42 WHEREAS, the holding in *Arizona v. Inter Tribal Council of*
43 *Arizona, Inc.*, is grounded upon a statutory interpretation that
44 the NVRA requirement that states "accept and use" the Federal
45 Form does not allow states to require an applicant to submit
46 documentary proof of citizenship supporting a response on the
47 Federal Form that he or she is a citizen of the United States of
48 America, and

49 WHEREAS, the holding in *Arizona v. Inter Tribal Council of*
50 *Arizona, Inc.*, can be superseded by Congress amending the NVRA
51 to clarify that states have the authority to require documentary
52 proof of citizenship for applicants who seek to register to vote
53 using the Federal Form, and

54 WHEREAS, the Immigration Reform and Control Act of 1986
55 (IRCA), Pub. L. No. 99-603, required the Federal Government to
56 establish a system that would allow for immediate verification
57 of the immigration status of noncitizen applicants for, and
58 recipients of, certain types of federally funded benefits and to

4-00889-17

2017944__

59 make the system available to federal, state, and local
60 governmental entities that issue such benefits, which resulted
61 in the creation of the Systematic Alien Verification for
62 Entitlements (SAVE) program database, and

63 WHEREAS, the Illegal Immigration Reform and Immigrant
64 Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208,
65 mandated that the federal agency charged with enforcement of
66 immigration laws "shall respond to an inquiry by a Federal,
67 State, or local government agency, seeking to verify or
68 ascertain the citizenship or immigration status of any
69 individual within the jurisdiction of the agency for any purpose
70 authorized by law, by providing the requested verification or
71 status information," but also limited the number of inquiries
72 state agencies may make, limited the circumstances under which a
73 state agency may inquire, and authorized the federal agency
74 charged with enforcement of immigration laws to limit its
75 responses to inquiring agencies, and

76 WHEREAS, the SAVE program uses an online system that checks
77 the immigration status of an individual against millions of
78 Department of Homeland Security database records, allowing
79 states and local agencies access to the most accurate and up-to-
80 date information regarding immigration status, and, to
81 facilitate the states' efforts to ensure that noncitizens are
82 not registered to vote, Congress should clarify existing federal
83 statutory law and expressly grant states the right of immediate
84 access to the SAVE program database in order to allow the states
85 to confirm immigration status information for purposes of voter
86 registration, and

87 WHEREAS, Congress should amend the NVRA to clarify that the

4-00889-17

2017944__

88 90-day provision codified in 52 U.S.C. s. 20507(c)(2)(A) does
89 not preclude removal of noncitizens from the voter registration
90 rolls within 90 days before an election and that the general
91 removal provision codified in 52 U.S.C. s. 20507(c)(2)(B) allows
92 removal of noncitizens from the voter registration rolls at any
93 time, and

94 WHEREAS, the foregoing statutory changes are necessary in
95 order to ensure the integrity of voter registration rolls in
96 Florida and throughout the United States of America and in
97 particular to prevent aliens unlawfully present in the United
98 States from registering to vote, NOW, THEREFORE,

99

100 Be It Resolved by the Legislature of the State of Florida:

101

102 That the Legislature of the State of Florida requests the
103 United States Congress to amend the NVRA to clarify that states
104 have authority to require documentary proof of citizenship for
105 applicants who seek to register to vote using the Federal Form;
106 amend the IRCA and the IIRIRA to expressly grant the states
107 immediate access to the SAVE program database, allowing states
108 to confirm immigration status information for purposes of voter
109 registration; and amend the NVRA to clarify that the 90-day
110 provision codified in 52 U.S.C. s. 20507(c)(2)(A) does not
111 preclude removal of noncitizens from the voter registration
112 rolls within 90 days before an election and that the general
113 removal provision codified in 52 U.S.C. s. 20507(c)(2)(B) allows
114 removal of noncitizens from the voter registration rolls at any
115 time.

116 BE IT FURTHER RESOLVED that the Secretary of State dispatch

4-00889-17

2017944__

117 copies of this memorial to the President of the United States,
118 to the President of the United States Senate, to the Speaker of
119 the United States House of Representatives, and to each member
120 of the Florida delegation to the United States Congress.