

# BALLOT ACCESS NEWS

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## BAD KANSAS BILL STALLED

The March 22, 1989 issue of *Ballot Access News* asked readers to oppose HB 2428, the bill which triples the number of signatures needed for a statewide independent. The bill is stalled in a legislative conference committee, and hasn't reached the Governor's desk. However, when the legislature returns on April 25 for a two-week session, HB 2428 could still pass. It could also pass next year, since Kansas now has two-year legislative sessions.

## HR 1582 INTRODUCED

On March 23, Congressman John Conyers re-introduced HR 1582, the bill to protect ballot access for third party and independent candidates in federal elections. The bill now has a preamble which explains the dismal condition of state ballot access laws. The text is contained on page 6 and 7. Readers of *Ballot Access News* are strongly encouraged to write their members of Congress, asking the member to (1) co-sponsor the bill; or (2) if the member won't co-sponsor it, ask the member to tell the Chairman of the Elections Subcommittee, Al Swift, that he or she believes the bill should receive a hearing in the House Elections Subcommittee. Subscribers to *Ballot Access News* who send me a copy of any 1989 letter from a member of Congress, expressing an opinion on HR 1582, receive a free 3-month extension of their subscription. Other letters from a member of Congress don't count.

Write your member of Congress at House Office Buildings, Washington, D.C. 20515. If you don't know the name of your member of Congress, ask your library

If you've written your member of Congress in the past about previous Conyers' ballot access bills (HR 2320 in 1985-6, or HR 1582 in 1987-8), and you desire new ammunition, cite statistics from the chart on page 5. It shows the gross discrimination in the number of signatures needed to run for the U.S. House. For example, in 1988 in Florida, Democrats and Republicans didn't need *any* signatures to get on the ballot, but the candidate of any other party (who wishes to have a party label on the ballot) needed 168,936 signatures! This is a higher number than the number of votes most Congressmen ever receive. Only one third party candidate for Congress has been on the Florida ballot in the last 60 years!

## GEORGIA BILL TO BE VETOED?

The March 22, 1989 issue of *Ballot Access News* stated that HB 351 had passed the Georgia legislature, and that it apparently requires that each petition signature must be notarized. On April 12, Rep. Bob Holmes, author of the bill, requested that the Governor veto Holmes' own bill! There is a tradition in Georgia that the Governor will veto any bill if the bill's author requests it, so activists who worked hard to persuade Holmes to issue his request, are optimistic. The Governor must act by April 24.

## OREGON GOOD BILL ADVANCES

On April 7, the Oregon House Elections Committee unanimously approved HB 3230, sponsored by Rep. Al Young, which would (1) lower the number of signatures needed for a new party from 5% of the last vote cast, to 2.5% of the number of registered voters; (2) lower the vote requirement for a party to remain qualified, from 5% to 1%; (3) provide that a party which is qualified statewide is deemed to be qualified for all districts within the state. On April 12, the bill passed the House of Representatives unanimously. The bill now goes to the Senate Government Operations Committee, which will hear the bill in late April or May.

This is the first bill improving ballot access in Oregon to have enjoyed any success in decades. Previous bills introduced during the 1980's have died in committee. The leading newspaper in Salem editorialized in favor of the bill on the morning of April 7, and the *Portland Oregonian* will also editorialize for the bill in the next few days. The bill's sponsor argued for his bill by pointing out that the system needs some candidates who campaign on the basis of their political beliefs, even when those beliefs are unpopular. He stated that nowadays, Democrats and Republicans tailor their stands on issues too much to public opinion polls.

## ONE PERSON, ONE VOTE

During the 1960's, the Earl Warren-led Supreme Court declared that it violates the 14th amendment for a state or local government to give some voters more power than other voters. Consequently, states and local governments were required to create congressional, legislative, and other districts of approximately equal population. There was a spill-over effect on ballot access law also; no longer could states require a statewide petition to contain a particular number of signatures from any certain number of counties, since counties are not equally populous.

On March 22, 1989, the Supreme Court struck down New York city's method of structuring its Board of Estimate. *Board of Estimate v Morris*, no. 87-1022. The decision was unanimous. The Board of Estimate consists of the three officials elected citywide (Mayor, City Comptroller, and President of the City Council) as well as each of the five borough presidents. The five boroughs of New York city (Brooklyn, Queens, Manhattan, Bronx and Staten Island) are far from having equal populations, so the Court ruled that the composition of the Board unconstitutionally discriminates against voters of the bigger boroughs.

The decision, by Justice White, states, "As Daniel Webster once said, 'the right to choose a representative is every man's portion of sovereign power'. Electoral systems should strive to make each citizen's portion equal...The personal right to vote is a value in itself."

**1988 LEGISLATIVE VOTE**

STATE	STATE SENATE		LOWER HOUSE				
	LIBT	NAP	LIBT	COMMUNIST	NAP	POPULIST	SOC
Alabama	---	---	---	---	---	---	---
Alaska	0	0	1,633	0	0	0	0
Arizona	24,856	420	13,311	1,595	1,623	0	0
Arkansas	0	0	0	0	0	0	0
California	66,049	0	133,987	12,705	0	0	0
Colorado	0	0	448	0	0	2,856	0
Connecticut	375	0	139	835	0	0	0
Delaware	140	0	485	0	0	0	0
Florida	0	0	0	0	0	0	0
Georgia	0	0	0	0	0	0	0
Hawaii	0	0	59	0	0	0	0
Idaho	5,136	0	30,472	0	0	0	0
Illinois	0	1,722	*	5,218	3,760	0	0
Indiana	0	0	4,218	0	0	0	0
Iowa	0	0	0	0	0	0	275
Kansas	0	0	*	0	0	0	0
Kentucky	---	---	0	0	0	0	0
Louisiana	---	---	---	---	---	---	---
Maine	0	0	0	0	0	0	0
Maryland	---	---	---	---	---	---	---
Massachusetts	0	0	0	0	0	0	0
Michigan	---	---	9,024	0	0	0	0
Minnesota	---	---	0	0	0	0	0
Mississippi	---	---	---	---	---	---	---
Missouri	5,336	0	5,877	0	0	0	0
Montana	1,250	0	0	0	0	0	0
Nebraska	1,818	2,084	---	---	---	---	---
Nevada	11,537	0	5,858	0	0	0	0
New Hampshire	0	0	1,112	0	0	0	0
New Jersey	---	---	---	---	---	---	---
New Mexico	0	0	344	0	0	0	0
New York	0	0	223	0	269	0	0
North Carolina	0	2,041	0	0	0	0	0
North Dakota	0	0	0	0	0	0	0
Ohio	0	0	7,064	1,172	0	0	0
Oklahoma	0	0	0	0	0	0	0
Oregon	0	0	0	0	0	0	0
Pennsylvania	0	0	124	0	0	588	0
Rhode Island	0	0	0	0	0	124	0
South Carolina	*	0	2,860	0	0	0	0
South Dakota	0	0	0	0	0	0	0
Tennessee	0	0	0	0	0	0	0
Texas	49,287	0	44,251	0	0	0	9
Utah	3,825	0	10,096	0	0	0	0
Vermont	3,663	0	1,083	0	0	0	0
Virginia	---	---	---	---	---	---	---
Washington	957	0	9,007	0	942	0	0
West Virginia	0	0	---	0	0	0	0
Wisconsin	0	0	0	0	0	0	0
Wyoming	0	0	1,662	0	0	0	0
TOTAL	172,229	6,267	283,337	21,525	6,594	3,568	284

**1988 LEGISLATIVE PERCENTAGES**

STATE	STATE SENATE		LOWER HOUSE				
	LIBT	NAP	LIBT	COMMUNIST	NAP	POPULIST	SOC
Alabama	---	---	---	---	---	---	---
Alaska	0	0	8.91	0	0	0	0
Arizona	14.99	2.89	14.65	10.99	2.95	0	0
Arkansas	0	0	0	0	0	0	0
California	2.84	0	3.53	6.40	0	0	0
Colorado	0	0	2.45	0	0	15.11	0
Connecticut	.76	0	1.26	10.50	0	0	0
Delaware	.64	0	2.06	0	0	0	0
Florida	0	0	0	0	0	0	0
Georgia	0	0	0	0	0	0	0
Hawaii	0	0	1.19	0	0	0	0
Idaho	4.22	0	17.08	0	0	0	0
Illinois	0	1.04	w-in	15.47	2.59	0	0
Indiana	0	0	11.76	0	0	0	0
Iowa	0	0	0	0	0	0	2.55
Kansas	0	0	w-in	0	0	0	0
Kentucky	---	---	0	0	0	0	0
Louisiana	---	---	---	---	---	---	---
Maine	0	0	0	0	0	0	0
Maryland	---	---	---	---	---	---	---
Massachusetts	0	0	0	0	0	0	0
Michigan	---	0	1.21	0	0	0	0
Minnesota	---	0	0	0	0	0	0
Mississippi	---	---	---	---	---	---	---
Missouri	3.31	0	5.50	0	0	0	0
Montana	7.73	0	0	0	0	0	0
Nebraska	17.73	66.79	---	---	---	---	---
Nevada	6.26	0	4.74	0	0	0	0
New Hampshire	0	0	14.83	0	0	0	0
New Jersey	---	---	---	---	---	---	---
New Mexico	0	0	3.91	0	0	0	0
New York	0	0	.67	0	.58	0	0
North Carolina	0	6.80	0	0	0	0	0
North Dakota	0	0	0	0	0	0	0
Ohio	0	0	18.44	4.88	0	0	0
Oklahoma	0	0	0	0	0	0	0
Oregon	0	0	0	0	0	0	0
Pennsylvania	0	0	.77	0	0	3.40	0
Rhode Island	0	0	0	0	0	4.89	0
South Carolina	w-i	0	4.58	0	0	0	0
South Dakota	0	0	0	0	0	0	0
Tennessee	0	0	0	0	0	0	0
Texas	5.09	0	4.84	0	0	0	w-in
Utah	8.02	0	4.56	0	0	0	0
Vermont	10.51	0	24.39	0	0	0	0
Virginia	---	---	---	---	---	---	---
Washington	2.12	0	4.52	0	2.19	0	0
West Virginia	0	0	0	0	0	0	0
Wisconsin	0	0	0	0	0	0	0
Wyoming	0	0	5.91	0	0	0	0

**CHARTS EXPLAINED**

The charts on pages two and three show the vote received in November 1988 by candidates of third political parties for state legislatures. The charts include all third parties which had candidates for the state legislatures in more than one state. Parties which had candidates for either branch of the legislature in only one state, and their votes, are:

**STATE SENATES**

Conservative, N.Y.	268,719	5.91%
Liberal, N.Y.	68,382	2.73%
Right to Life, N.Y.	60,356	2.25%
Peace & Freedom, Cal.	35,605	2.71%
Workers World, Mass.	6,591	20.82%
Labor-Farm, Wis.	3,121	5.82%
Indp. Party of Connecticut	1,787	.96%
Green, Connecticut	1,335	4.91%
American, Utah	1,163	2.53%
Liberty Union, Vt.	477	2.97%

**LOWER HOUSES**

Conservative, N.Y.	269,084	6.16%
Right to Life, N.Y.	70,359	2.62%
Liberal, N.Y.	70,325	3.03%
Peace & Freedom, Cal.	54,885	3.50%
Alaska Independence, Alaska	3,783	15.17%
Workers Against Concessions, Mich	2,920	.89%
American, Utah	2,006	2.90%
Indp Party of Connecticut	1,947	1.44%
Liberty Union, Vt.	796	11.39%
Tisch Party, Mich.	731	.78%
Workers World, N.Y.	560	1.16%

Party abbreviations for the charts on pages 2 and 3 are: LIB, Libertarian; NAP, New Alliance; SOC, Socialist. A dash means that the particular state held no regularly-scheduled elections for that house of its legislature in 1988. An asterisk on page two, and "w-in" on page three, means that the party had write-in candidates, but that their votes were not tallied. The percentages are the total vote cast for the party's candidates, divided by the number of votes cast for all candidates, in the districts in which the particular party ran candidates. In the case of multi-member districts, if a party ran more than one candidate, the vote for the candidate who got more votes is used.

**INITIATIVES**

The legislatures of New Hampshire and Virginia have both defeated bills which would have established an initiative procedure.

The February 1, 1989 *Ballot Access News* stated that Switzerland is the only nation with a national initiative procedure. This was incorrect. Uruguay also has one. However, in Uruguay, the petition must contain the signatures of a number of voters equal to 25% of the last vote cast, which is so difficult that the procedure has never been used.

POSTMASTER: Send address changes to *Ballot Access News* at 3201 Baker St, San Francisco Ca 94123.

**MARYLAND**

The Maryland Libertarian Party has decided to appeal *Ahmad v State Adm. Board of Elections* to the U.S. Supreme Court. The issue is whether a qualified political party which has less than 10% of the state registration, must submit petitions signed by 3% of the number of registered voters, in order to nominate candidates (other than president). The brief is due May 5.

**CONGRESS**

On April 5, the U.S. House of Representatives passed HR 18, the bill to require that all states other than Alaska and Hawaii close their polls simultaneously in presidential elections. This is the third time the House has passed such legislation, but the Senate has never voted on it.

On March 21, the House Elections Subcommittee heard testimony on the voter registration bills, HR 15 by Al Swift, and HR 17 by John Conyers. It is likely that the subcommittee will amend one of the bills and pass it. Such a bill will probably include postcard registration and automatic voter registration for people with drivers licenses, but it probably won't contain any provision for election day registration. Some state elections officials testified in favor of a federal role in voter registration, and others testified against it.

**CHICAGO**

The 1989 special election for Mayor of Chicago was noteworthy in several ways. First, in the Republican primary on February 28, a write-in candidate won, defeating three candidates whose names were on the ballot. Even more surprisingly, the write-in candidate, Edward Vrdolyak had only announced his candidacy a week before the primary.

Second, at the general election on April 4, a third party candidate, Timothy Evans, polled 40%. This was the second Chicago mayoral election in a row in which a third party candidate had outpolled the Republican candidate by a ration of ten to one.

**COFOE**

Readers of *Ballot Access News* are urged to join COFOE, which works to make the public aware of the USA's ballot access problem. Dues of \$10 entitles one to membership with no expiration date; it also includes a one-year subscription to *Ballot Access News* (or a one-year renewal). Political parties which are members of COFOE include the Libertarian, New Alliance, Communist, Socialist and Prohibition Parties. Address: Box 355, Old Chelsea Sta., New York NY 10011.

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## U.S. HOUSE OF REPRESENTATIVES PETITION REQUIREMENTS IN 1988

STATE	DEM	REP	NEW PARTY	INDP
Alabama	0	0	1,764	3,401
Alaska	0	0	1,776	1,776
Arizona	909	1,406	1,734	1,734
Arkansas	0	0	20,656	2,500
California	40	40	76,172	8,590
Colorado	0	0	500	500
Connecticut	0	0	1,657	1,657
Delaware	0	0	145	2,840
Florida	0	0	168,936	8,891
Georgia	0	0	12,879	12,879
Hawaii	0	0	4,198	25
Idaho	500	500	8,224	500
Illinois	600	600	6,858	6,858
Indiana	500	500	3,108	3,108
Iowa	1,118	909	3,032	3,032
Kansas	0	0	16,813	2,500
Kentucky	2	2	400	400
Louisiana	0	0	107,344	0
Maine	1,000	1,000	2,000	2,000
Maryland	0	0	17,761	7,761
Massachusetts	0	0	3,062	3,062
Michigan	907	375	16,313	2,661
Minnesota	0	0	1,000	1,000
Mississippi	0	0	0	200
Missouri	0	0	4,685	4,685
Montana	0	0	6,664	6,664
Nebraska	0	0	1,878	1,000
Nevada	0	0	7,717	3,965
New Hampshire	0	0	1,500	1,500
New Jersey	200	200	100	100
New Mexico	618	698	2,633	6,581
New York	1,250	1,250	3,500	3,500
North Carolina	0	0	44,535	14,004
North Dakota	0	0	7,000	1,000
Ohio	150	150	30,667	1,461
Oklahoma	1	1	45,497	1
Oregon	0	0	10,315	7,339
Pennsylvania	1,000	1,000	2,771	2,771
Rhode Island	500	500	500	500
South Carolina	0	0	10,000	10,000
South Dakota	1,419	1,526	2,945	2,945
Tennessee	25	25	30,259	25
Texas	0	0	34,424	500
Utah	0	0	100	100
Vermont	500	500	1,000	1,000
Virginia	1,297	1,297	1,297	1,297
Washington	0	0	25	25
West Virginia	0	0	990	990
Wisconsin	1,000	1,000	1,000	1,000
Wyoming	0	0	8,000	7,990

This chart shows how many signatures are required for someone who wishes to run for the U.S. House, assuming that the candidate is able to pay filing fees and has some support at his or her party's nominating convention. If HR 1582 were law, states could not require more than 1,000 signatures to run for the House.

## POST OFFICE CASE APPEALED

The Feb. 27, 1989 issue of *Ballot Access News* stated that the Fourth Circuit had declared unconstitutional the regulations which prohibit petitioning on post office sidewalks. On March 15, attorneys for the federal government filed a petition for a rehearing *en banc*, which is now pending.

## STATE LEGISLATURES

**California:** Assemblyman Richard Mountjoy has introduced AB 633, which expands the period for circulating an independent presidential candidate's petition, from 60 days, to 105 days. The bill was requested by the Secretary of State, to conform state law to the decision last year in *Fulani v Eu*. Readers of *Ballot Access News* should write Assemblyman Richard Mountjoy, State Capitol, Sacramento Ca 95814, and ask him to amend the bill to also lower the number of signatures needed by a statewide independent candidate. For 1990, 140,005 signatures are required for a statewide independent candidate, far too many. No independent candidate in any state, in the history of the United States, has ever overcome a signature hurdle greater than 101,397 signatures.

**Florida:** SJR 381 has been introduced. It would change the date of the primary from September to May.

**Massachusetts:** On April 3, several Libertarians testified in the House Elections Committee in favor of the bills which improve ballot access. The Committee has not yet voted on any of the bills. They are: (1) House Bill 3209 permits petitioners to submit petitions centrally to the state government, rather than to each town clerk; (2) House Bill 3210, lets voters sign more than one petition for the same office; (3) House Bill 3211 reduces the number of signatures from 2% of the last gubernatorial vote, to 1%; (4) House Bill 3212 changes the definition of political party from one which polled 3% for its candidate for Governor, to one which polled 2% of the vote for any statewide office. If you wish to help these bills, contact either Walter Ziobro, 39 Bridge St., #4, Watertown MA 02172, (617) 926-1082, or Bill Shakalis, Bx 774, Cambridge MA 02139, (617) 661-1143.

**New Jersey:** AB 2885, which improves the deadline for filing petitions for third party and independent candidates from April, to either late July or early August (depending on the calendar), is still on the Governor's desk. He must sign it or veto it by April 17.

**New Mexico:** The Governor signed House Bill 621 on April 7. It requires a vote for a party to remain qualified of one-half of 1% statewide, and a petition signed by one-half of the last vote for President, or Governor, in order to qualify a new party.

**North Dakota:** the legislature adjourned without enacting any bills to change the date of the primary, so North Dakota will continue to have the nation's latest presidential primary (the second Tuesday in June).

North Carolina: Representative Art Pope has said he will introduce a bill reducing the number of signatures needed for new party ballot access, from 2% of the last vote for Governor, to 1%. However, he still hasn't done it.

This year the State Board of Elections failed to introduce any bills of its own on any substantive matters, even though there are three ballot access laws on the books which have been ruled unconstitutional, and which must be changed. They are: (1) the deadline for turning in new party petitions; (2) the law which makes it illegal for a new party to nominate candidates for county office; (3) the 15% petition requirement to qualify an independent candidate for municipal office.

Ohio: In February, State Senator Gary Subadolnik introduced SB 137, to permit candidates nominated by petition to choose a partisan label, which would be printed on the petition and on the November ballot. The bill has four co-sponsors, including the chairman of the Senate Elections Committee. However, no hearing date has been set for the bill. The Secretary of State won't support the bill unless certain technical amendments are made, such as a limit on the number of words in the partisan label (many states have a three-word limit). For some reason, the bill's sponsors haven't yet responded to the Secretary of State's request. If you wish to help work for the bill, contact Milt Norris at (216) 533-1210.

Virginia: On March 6, the Governor signed HB 1608, which requires petitions to carry room for the signer's social security number. However, the law states that no signature shall be considered invalid because the number is missing. The federal privacy law would not permit a state to make the number mandatory for this purpose.

## TEXT OF HR 1582

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Election Act".

### SEC. 2. FINDINGS AND PURPOSES.

(a) Findings. -- The Congress makes the following findings:

- (1) Voting participation in the United States is lower than in any other advanced industrialized democracy.
- (2) The rights of eligible citizens to seek election to office, associate for the purpose of taking part in elections and vote for candidates of their choice are fundamental in a democracy, and it is the duty of the Federal Government to maximize, to the fullest extent possible, the exercise of these rights in elections for Federal office.
- (3) Certain restrictions on access to the ballot impair the ability of citizens to exercise these rights and have a direct and damaging effect on citizens' participation in the electoral process.
- (4) Many States unduly restrict access to the ballot by nonmajor party candidates and nonmajor political parties by means of such devices as excessive petition signature requirements, insufficient petitioning periods, unconstitutionally early petition filing deadlines, petition signature distribution criteria, discriminatory petition

signature filing fees, and limitations on eligibility to circulate and sign petitions.

(5) In 1983 the Supreme Court ruled that a nonmajor party candidate for President may not be required to qualify for the general election ballot earlier than major party candidates. In 1988 26 States still required nonmajor party candidates for President to qualify for the ballot before the second major party national convention. Six of these States required nonmajor party candidates to qualify before the first major party national convention.

(6) A nonmajor party candidate for President had to obtain 674,495 petition signatures to be listed on the ballots of all 50 States and the District of Columbia in 1988 -- 26.5 times more signatures than the 25,500 required of a Democratic Party candidate and 11.25 times more signatures than the 60,000 required of a Republican Party candidate. Twenty-seven of the 37 States that held Presidential primaries required no signatures of major party candidates for President. Only two States required no signatures of nonmajor party candidates for President.

(7) The number of petition signatures required by the States to list on the 1988 ballot a major party candidate for Senate ranged from zero to 20,000, with a national average of 1,243. The number of petition signatures required to list a nonmajor party candidate for Senate ranged from zero to 168,954, with a national average of 17,281. Thirty-one States required no signatures of major party candidates for Senate. Only one State required no signatures of nonmajor party candidates for Senate, provided they were willing to be listed on the ballot without a party label.

(8) The number of petition signatures required by the States to list a major party candidate for Congress on the ballot in 1988 ranged from zero to 2,000, with a national average of 297. The number of petition signatures required to list a nonmajor party candidate for Congress ranged from zero to 14,004, with a national average of 3,332. Thirty-one States required no signatures of major party candidates for Congress. Only one State required no signatures of nonmajor party candidates for Congress, provided they were willing to be listed on the ballot without a party label.

(9) Nine States require even more signatures to list a nonmajor party candidate for President on ballot with a party label. Thirteen States require more signatures to list a nonmajor party candidate Senate or Congress on the ballot with a party label. Two of these States required 5,000 signatures and 275 signatures, respectively, to list a nonmajor party candidate for President or Senate on the ballot in 1988, but required 30,667 signatures, respectively, to list the candidate on the ballot with her or his party label.

(10) Seven States require nonmajor party candidates for President or Senate to collect a certain number or percentage of their petition signatures in each congressional district or in a specified number of congressional districts. Only three of these States impose a like requirement on major party candidates for President or Senate.

(11) Some States require nonmajor party candidates to obtain more petition signatures in less time than major party candidates. One of these States required nonmajor party candidates for President or Senate in 1988 to obtain 8,670 signatures in 10 days, but allowed major party candidates for Senate 45 days to obtain approximately half that number of signatures, and required no signatures of

major party candidates for President. Another State required nonmajor party candidates for President or Senate to obtain 128,840 signatures in 60 days, but allowed major party candidates for Senate 105 days to obtain 65 signatures, and required no signatures of major party candidates for President.

(12) Two States require all nonmajor party candidates to pay filing fees of 10 cents and 5 cents per petition signature, respectively, but require no signatures of major party candidates.

(13) Two States restrict the circulation of petitions for nonmajor party candidates to the county where the circulator lives, and 13 States restrict the signing of such petitions to people who indicate intent to support or vote for the candidate of party. Seven of these 13 States require no petitions of major party candidates, and only one of the six remaining States restrict the signing of petitions for major party candidates to people who pledge their support or their vote to the candidate or party.

(14) Restrictions on the ability of citizens to exercise the rights identified in this subsection have disproportionately impaired participation in the electoral process by various groups, including racial minorities.

(15) The establishment of fair and uniform national standards for access to the ballot in elections for Federal office would remove barriers to the participation of citizens in the electoral process and thereby facilitate such participation and maximize the rights identified in this subsection.

(16) The Congress has authority, under the provisions of the Constitution of the United States in sections 4 and 8 of article 1, section 1 of article II, article VI, the thirteenth, fourteenth, and fifteenth amendments, and other provisions of the Constitution of the United States, to protect and promote the exercise of the rights identified in this subsection.

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

(1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to Federal office and political parties, bodies, and groups which desire to take part in elections for Federal office; and

(2) to maximize the participation of eligible citizens in elections for Federal office.

### SEC. 3. BALLOT ACCESS RIGHTS.

A State shall not use any device to abridge or deny the right of an individual to be placed as a candidate on, or to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election.

### SEC. 4. DEFINITION OF DEVICE

For the purpose of this Act, the term "device" means any requirement, condition, or prerequisite to being placed on, or having an individual's political party, body, or group affiliation placed on, a ballot or similar voting materials, other than a requirement, condition, or prerequisite described in section 5.

### SEC. 5. ALLOWED REQUIREMENTS FOR BALLOT ACCESS.

(a) **PETITION.** -- A State may impose any or all of the following requirements, conditions, or prerequisites:

(1) That an individual seeking to exercise rights protected by this Act present a petition stating in substance that the signatories desire such individual's name and political party, body, or group affiliation, if any, to be placed on the ballot or other similar voting materials to be used in the Federal election with respect to which such rights are to be exercised.

(2) That the political party, body, or group affiliation, if any, of such individual be shown on such petition.

(3) That such petition, to be effective, must have not more than the greater of --

(A) 1000 signatures; or

(B) a number of signatures equal to 1 tenth of 1 percent of the number of persons who voted in the most recent previous Federal election, if any, for the office for which such individual is a candidate.

(4) That such petition may be signed only by persons qualified to vote for such office and residing anywhere in the geographic area for which an individual is to be elected to such office.

(5) That such petition may be circulated only during a period --

(A) beginning not later than the 270th day before the date of the election with respect to which such rights are to be exercised; and

(B) ending not earlier than the 60th day before the date of such election.

(b) **PARTY VOTE.** -- A State may impose the requirement, condition or prerequisite that, in order to have an individual's name and political party, body, or group affiliation placed on a ballot or similar voting materials to be used in the Federal election with respect to which rights protected by this Act are to be exercised, without having to satisfy any requirement relating to a petition under subsection (a), that or another individual, as a candidate of that political party, body, or group, must have received whichever is the lesser of --

(1) 20,000 votes; or

(2) 1 percent of the votes cast;

in the most recent Federal election of President or Senator in that State.

### SEC. 6. RULEMAKING.

The Attorney General may make rules to carry out this Act.

### SEC. 7. GENERAL DEFINITIONS.

As used in this Act --

(1) the term "Federal election" means a primary, general, special, or runoff election for the office of --

(A) President or Vice President;

(B) Senator; or

(C) Representative in, or Delegate or Resident Commissioner to, the Congress; and

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(end of bill)

### COLORADO LOSS

Can a state require a candidate for Congress to have lived in that state for a year, before running?

On March 8, 1989, federal district judge Jim R. Carrigan answered that question "Yes". *Thournir v Meyer*, no. 82-C- 1716. The plaintiff, Eileen Thournir, was a Socialist Workers Party candidate for Congress from Colorado in 1982. She moved from California to Colorado less than a year before the election. The Colorado Secretary of State kept her off the ballot because of a law which states that any independent candidate must have been registered "independent" for an entire year, in the state, which Thournir obviously could not have done. The decision contradicts a whole series of state and federal court decisions, dating from the 1910's decade, which say that neither Congress, nor a state government, can add to the qualifications for becoming a member of Congress, since those qualifications are set forth in Article I of the U.S. Constitution, and if any addition or change can only come about by amending the Constitution. The Colorado ACLU, which brought the lawsuit, plans to appeal.

Carrigan's decision did not mention Article I of the U.S. Constitution, nor did he mention *Powell v McCormack*, 395 US 486, a 1969 Supreme Court decision which said that Congress could not refuse to seat Congressman Adam Clayton Powell just because he had committed various ethical lapses. The Constitution says a member of Congress must be of a certain age (30 if a Senator, 25 if a member of the House); must be a resident of the state from which elected, at the time of the election; and must be a citizen. Since Powell met all those conditions, the Supreme Court said that Congress had to seat him, although it was free to expel him later, under a different section of the Constitution which permits expulsion for cause.

Carrigan's decision was based on another Supreme Court decision, *Storer v Brown*, a 1974 decision which upheld a California law stating that an independent candidate must not have been registered as a member of a qualified political party during the year before the election. Carrigan failed to acknowledge the crucial distinction between the California law, and the Colorado law. California law is expressed in terms of a negative requirement: the candidate must NOT have been registered into a qualified party. Colorado law, on the other hand, contains a positive commandment, that the candidate

MUST have been registered as an independent for an entire year before running. The Colorado law, by being poorly drafted, results in an unintended one-year residency requirement. Furthermore, in California, any person who meets the Constitutional qualifications to hold congressional office, is free to file as a write-in candidate; but Colorado refuses to permit someone even to file as a write-in candidate, who doesn't meet the one-year test.

### U.S.S.R. ELECTION

In March, the Soviet Union held elections for the Congress of People's Deputies. 1,500 seats were filled by the voting public. 2,895 candidates were on the ballot, or an average of 1.93 candidates per seat. Contrast that with the most recent state legislative elections in these USA states: Alabama, 1.41 candidates per seat; Arkansas, 1.12 candidates per seat; Florida, 1.41 candidates per seat; Georgia, 1.28 candidates per seat; Maryland, 1.59 candidates per seat; Massachusetts, 1.40 candidates per seat; Virginia, 1.46 candidates per seat.

Furthermore, Soviet voters have the power to veto a candidate who is running unopposed. If a majority of the voters choose not to vote for a candidate, he is not elected, even if he or she had no opponent. No American voters have such power. Nevada has "none of the above" on its ballot for statewide office, but if a majority of voters vote for "none of the above" there are no consequences for the election result.

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