

By Senator Bean

4-01147-16

20161514__

1 Senate Memorial

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

8
9 WHEREAS, one of the most fundamental and cherished rights
10 under the Constitution of the United States is the right to
11 vote, and

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

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

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

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

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

31 WHEREAS, in 2004, Arizona voters approved a ballot
32 proposition that required voter registration officials to

4-01147-16

20161514__

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 (IRCA),
55 Pub. L. No. 99-603, required the Federal Government to establish
56 a system that would allow for immediate verification of the
57 immigration status of noncitizen applicants for, and recipients
58 of, certain types of federally funded benefits and to make the
59 system available to federal, state, and local governmental
60 entities that issue such benefits, which resulted in the
61 creation of the Systematic Alien Verification for Entitlements

4-01147-16

20161514__

62 (SAVE) program database, and

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

4-01147-16

20161514__

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 illegal immigrants from registering to
98 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 copies of this memorial be
117 dispatched to the President of the United States, to the
118 President of the United States Senate, to the Speaker of the
119 United States House of Representatives, to each member of the

4-01147-16

20161514__

120 Florida delegation to the United States Congress, and to the
121 presiding officer of each house of the Legislature of each
122 state.