

Approved: January 26, 1994
Date

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

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on January 12, 1994 in Room 529-S of the Capitol.

All members were present

Committee staff present: Dennis Hodgins, Legislative Research Department
~~Mary Galligan, Legislative Research Department~~
~~Raney Gilliland, Legislative Research Department~~
Arden Ensley, Revisor of Statutes
Pat Brunton, Committee Secretary

Others attending: See attached list

Conferees appearing before the committee: Ron Thornburg, Office of the Secretary of State
Carol Williams, Kansas Commission on Governmental
Standards and Conduct

Carol Williams, Kansas Commission on Governmental Standards and Conduct, appeared before the committee with Commission recommendations and requested introduction of bills. The first, she stated, is a simple piece of legislation dealing with out-of-state PACs. The Commission recommends that K.S.A. 25-4172 be amended to require verified statements to be filed at the local level when contributions are made to local candidates by out-of-state organizations.

The second piece of legislation has the support of the Attorney General's Office and the Superintendent of the Highway Patrol. In Opinion No. 93-30, the Commission ruled that a trooper with the Kansas Highway Patrol could in his off-duty time offer his services as a safety consultant to the private sector, which includes some of the same individuals and businesses which he helps to regulate while on duty with the Patrol. A majority of the members believe that this activity, though legal, is inappropriate. Therefore, the Commission recommends that K.S.A. 46-286 (b) be amended to read "No state officer or employee shall accept compensation for consulting with or be employed by any person which the state officer licenses, regulates or inspects." Current subsection (b) of K.S.A. 46-286 would become new subsection (c).

A motion was made by Senator Hardenburger to introduce the first piece of proposed legislation dealing with out-of-state PACs. The motion was seconded by Senator Ranson. Motion carried.

A motion was made by Senator Wisdom to introduce the second piece of proposed legislation dealing with the State conflict of interests provisions. The motion was seconded by Senator Hardenburger. Motion passed.

Senator Wisdom made a conceptual motion to introduce legislation making it possible to vote for precinct committeemen on absentee ballots. Senator Ranson seconded the motion. Motion carried.

Ron Thornburg, Office of the Secretary of State, briefed the committee on the 1993 National Voter Registration Act. Mr. Thornburg stated the purpose of the Act is very simple. It is designed to increase the number of registered voters in the United States and will increase voter turn out. Unlike the Voting Rights Act (which authorizes federal intervention if there are violations), this act attempts to prescribe specific duties to state and local government. A copy of the Overview by John R. Wine, Jr., General Counsel, Kansas Secretary of State dated October 21, 1993 and Flow Charts are attached. (Attachment I).

Discussion followed Mr. Thornburg's briefing.

Senator Lawrence announced the committee will have hearings and possible action on S.B. 472 on Thursday, January 13. There will also be other bill introduction requests.

The committee adjourned at 2:25 p.m.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE
APPORTIONMENT AND GOVERNMENTAL STANDARDS, Room 529-S Statehouse, at 1:30 p.m. on
January 12, 1994.

The next meeting is scheduled for January 13, 1994.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE: 1/12/94

[illegible]

Overview:

1993 National Voter Registration Act

John R. Wine, Jr., General Counsel - Kansas Secretary of State

October 21, 1993

Note: This overview and the House, Senate and Conference Committee reports refer to the act by section number. This overview also refers to the chapter number of the Federal Election Commission's NVRA handbook.

§ 1 Title: Please note that it is *not* the "motor-voter" act. Although the act requires motor-voter registration, its mandates on agency based registration, fail-safe voting and registration list maintenance will require an even more extensive overhaul of Kansas election laws and procedures.

§ 2 Findings & Purpose: The stated purpose of the act is to increase the number of registered voters. The method it uses to accomplish its purpose is very different than prior federal law. Unlike the Voting Rights Act (which authorizes federal intervention if there are violations), this act attempts to prescribe specific duties to state and local governments.

§ 3 Definitions: Although the definitions would seem to limit the act's application to federal elections, the limitation is illusory. It would be impossible for a state to administer two different voter registrations systems. Kansas implementing legislation will need to apply to all elections.

§ 4 General/Exempted States: In case you think we can avoid all this by permitting same-day registration or deleting registration requirements altogether - its too late. The act only grandfathers-in the states who had already done so before the act was passed.

§ 5. Motor-Voter: Basically, this section requires that unless a person declines by failing to sign, the application or renewal form for a drivers license or non-driver identification card is simultaneously an application for voter registration. Any change of address submitted to the Division of Vehicles also changes the address for voter registration purposes unless the person indicates otherwise. It permits the inclusion on the form of voter registration eligibility requirements, but does not permit duplicating data. Specified information about penalties and confidentiality must also be printed on the application. In this and other agency-based registrations, the information about declining to register and information identifying the agency where a person registers must be kept confidential. Although computerization is not required by the act, as a practical matter it is the only way that the volume of information can be processed. For more information on motor-voter registration see Chapter 2.

§ 6 Mail Registration: Kansas already has a form of mail registration by permitting people to write (or even telephone) a request that a registration application be delivered which may then be mailed back by the applicant. This section directs the Federal Election Commission to devise a national mail registration form and requires the states to accept it. It permits states to prepare a form tailored to that state's eligibility requirements that otherwise meets the federal criteria. The state forms will be shorter (since the national forms will involve a booklet describing eligibility requirements for all states) so every state will develop one. The state election official must provide the forms, making special efforts to make them available to organized registration programs; thus encouraging the door-to-door registration that is not currently permissible in Kansas. The act permits Kansas to require receipt of a non-forwardable verification prior to adding a person's name to the registration list; other returned mailings only initiate a lengthy confirmation process. For more information on mail registration see Chapter 3.

§ 7 Agency-Based Registration: This section describes what agencies must now become voter registration agencies. These offices must provide registration forms to every applicant for services; offer registration assistance; process applications; and keep records of information and written declinations (where the applicant declines in writing to register). Detailed provisions describe the information that is to be provided to applicants. Some agencies are automatically voter registration agencies. They include (1) those that provide "public assistance" (for example, medicaid, AFDC, WIC, food stamps); (2) those that primarily provide "services to persons with disabilities" (for example, transportation, job training, rehabilitation); and (3) armed forces recruitment offices. The decision about whether or not a particular office of any agency fits one of these definitions must be made by the state. Other agencies are to be designated by the state. The act gives as examples libraries, schools, local government offices, unemployment compensation offices and others. If an agency is designated as a voter registration agency by the state, it is subject to the same requirements as those agencies that are automatically subject to the act. At both the required and designated agencies, mail registration forms and assistance must be provided and forms transmitted to local election officials within five days. (The act says within 10 days if there isn't an upcoming election, but when we make this apply to all elections, not just federal elections, it will be impossible for agencies to know when special elections in various jurisdictions will be held.) For more information on agency-based registration see Chapters 4 & 7.

§ 8 Administrative Requirements: The provisions in section eight include terribly complex and confusing rules for permitting changes and deletions in voter registration records with or without confirmation notices, depending on responses to those notices and depending on what prompted the notice (such as a information from the postal service's national change of address (NCOA) program). Registration applications must be accepted after the registration deadline if postmarked before the deadline. Generally, a state may

not purge a voter's registration for failure to vote, but the state must conduct expensive programs to update the accuracy of the registration records. The FEC anticipates sending confirmation notices when information is received concerning a voter's residence and the maintenance of "inactive" registration lists. The voter's response (or non-response) and voting record determines whether the voter's registration is maintained, corrected, made inactive or removed.

This section contains even more complicated "fail-safe" procedures for permitting voters who have moved to vote at their old polling place, new polling place or central polling place on regular or challenged ballots with either mere affirmations of their address or confirmation by producing evidence of their current address. Provisions differ if the move was within a precinct, outside a precinct but within the county, outside a precinct but within a congressional district, and other permutations. The act is not clear about whether a "fail-safe" voter will be entitled to vote for races in the old or new district.

Discretion is given states regarding removal for death, criminal conviction or mental incapacity. Federal attorneys will be providing states with conviction information and it is anticipated that states will establish procedures for courts and vital statistic officials to notify election officials of determinations affecting eligibility to vote.

All of these provisions will require extensive overhaul of laws relating to registration deadlines, purging, registration books, eligibility to vote after a move, and many other sections.

§ 8 also provides for reduced postal rates for all of these mailings (giving election officials the non-profit postal rate). (Incidentally, this is as close as Congress came to giving state or local governments any money to implement this act, and even these reduced rates are now being questioned by the Postal Service and reviewed by Congress.)

Finally, § 8 requires the states to keep records of the activities for two years. This includes the activities of state agencies. For more information on

administrative requirements see Chapters 5,6 &7.

§ 9 Federal Regulation: The Federal Election Commission (FEC) advises states and prepares the national mail registration form. It can't interpret the act and the agency is already telling states that each state attorney general is the one to call with legal questions. FEC is required to report to Congress every two years and it anticipates that local and state agencies will be reporting to FEC. Regulations prescribing the forms and specifying the information that will be provided to FEC are now being drafted and public comments are being sought.

§ 10 Designation of Chief State Election Official: Presumably the Kansas Legislature will designate the Secretary of State as the chief state election official. Some of the many alternatives offered states under the act will be selected by statute and other choices may be delegated to the state election official.

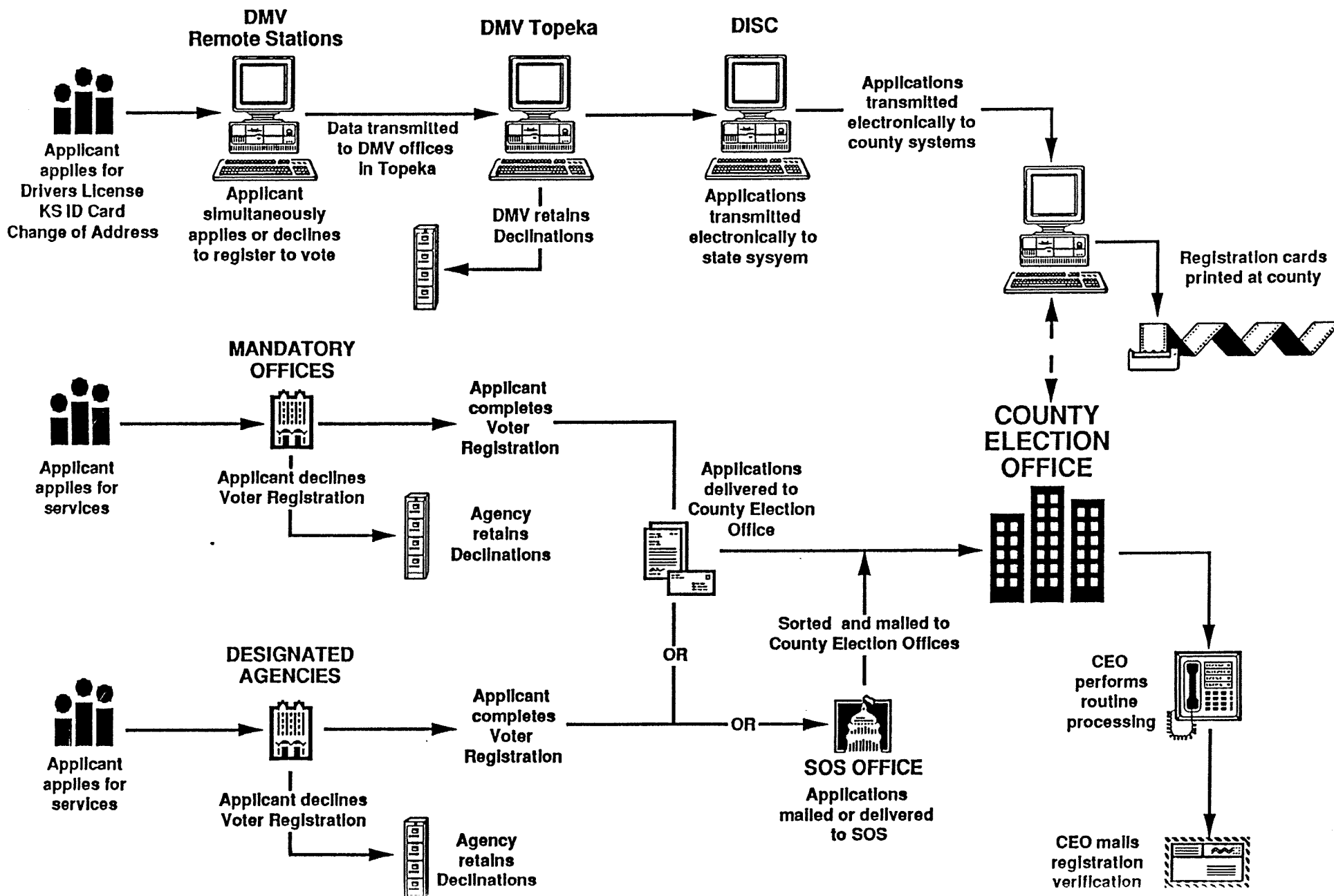
§ 11 Enforcement and Private Right of Action: The Attorney General of the United States can bring actions to enforce the act and so can aggrieved individuals. But, an individual usually must first give the state notice of the problem and 90 days to correct the violation.

§ 12 Criminal Penalties: It is a federal crime to intimidate, threaten, coerce or otherwise bully people about registering or to do anything to threaten the fairness of the registration process.

§ 13 Effective Date: The effective date in Kansas and most states is January 1, 1995. So, the upcoming session is the only session we have to adopt the implementing legislation.

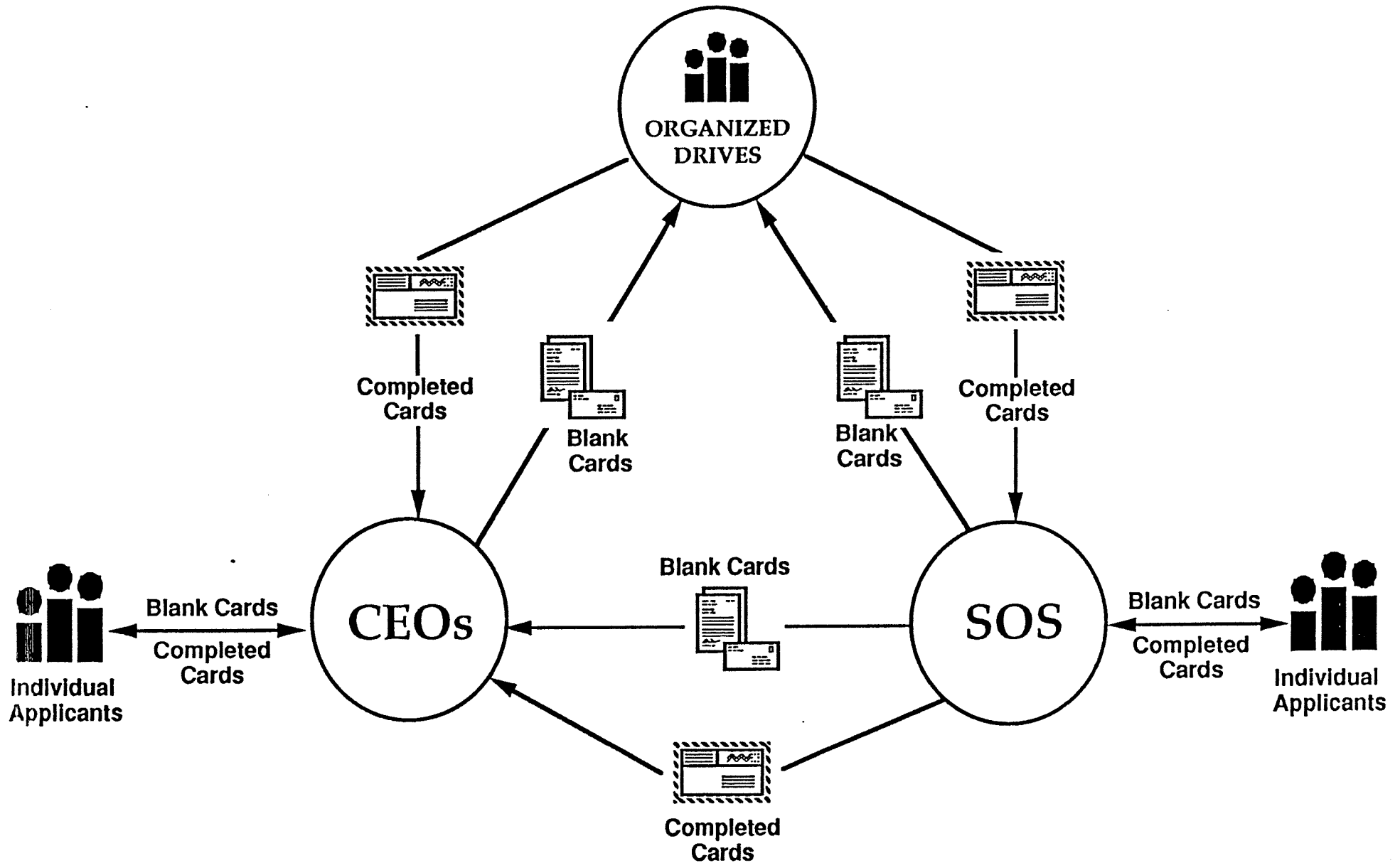
DMV and Agency-Based Applications

Preliminary
Oct. 13, 1991



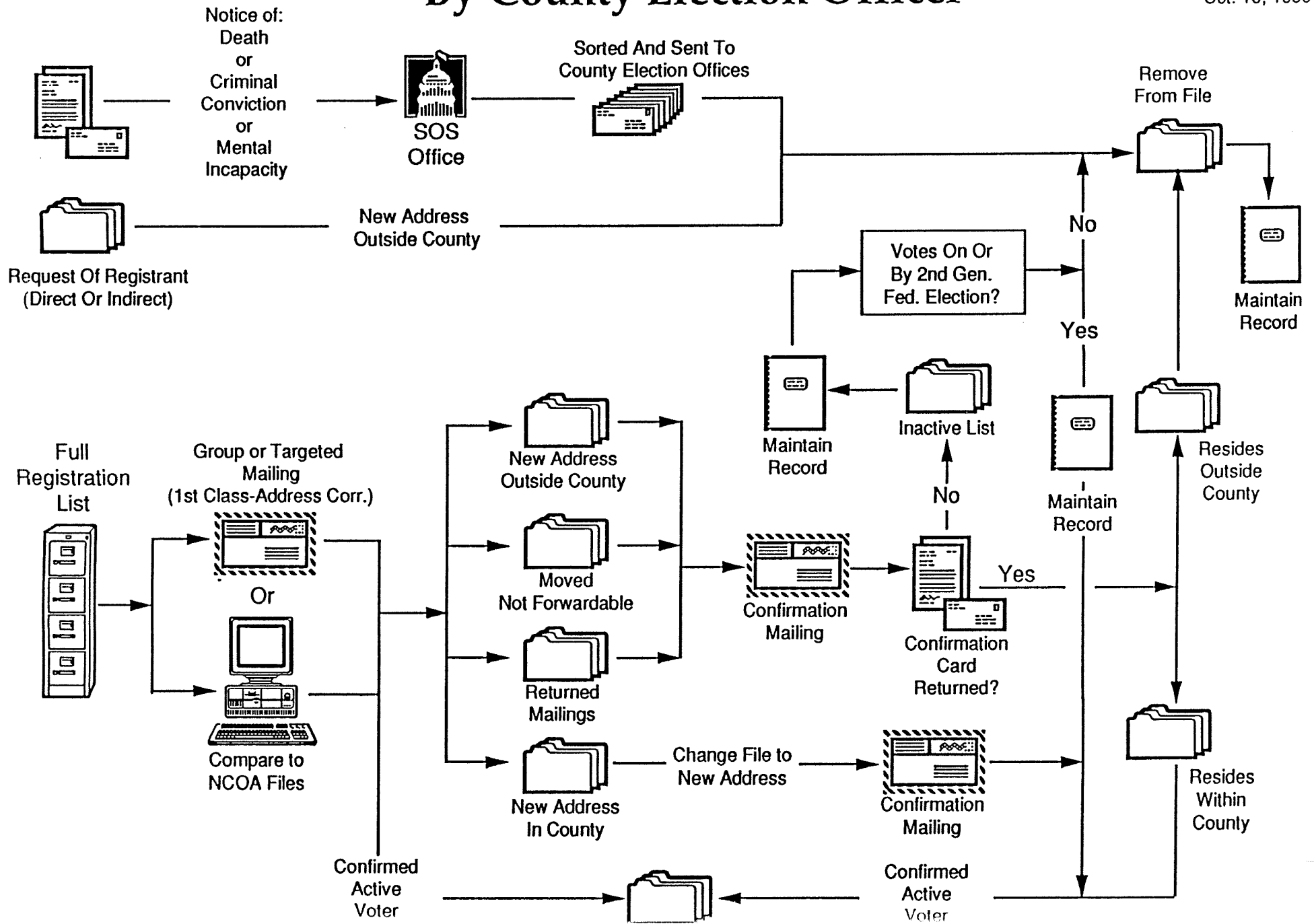
Mail Registration

Preliminary
Oct. 13, 1993



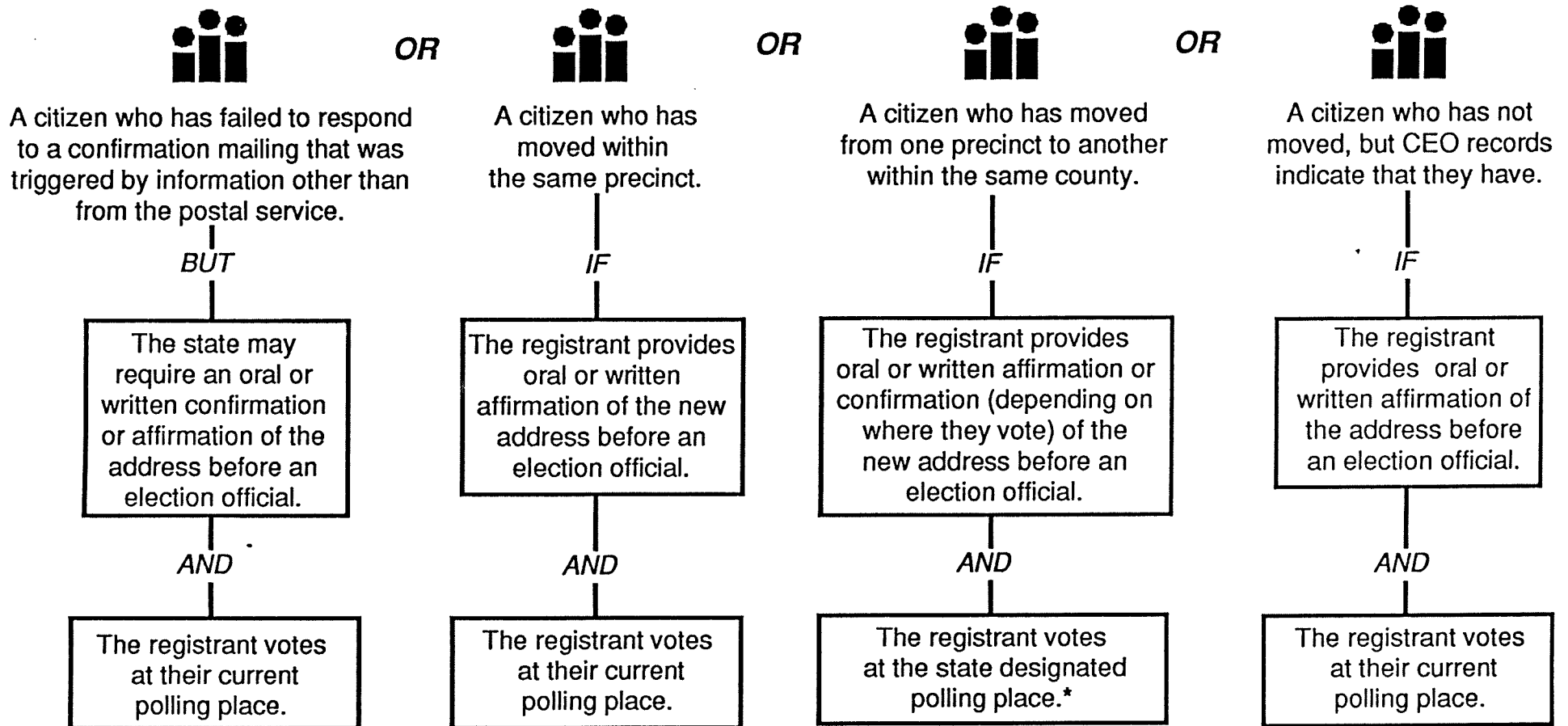
Voter Registration List Maintenance By County Election Officer

Preliminary
Oct. 13, 1993



Fail-Safe Voting Procedures

Who Is Entitled To Vote Under The NVRA Fail-Safe Voting Procedures?



* State may designate the old precinct or new precinct if -- it is within the same congressional district and state requires only oral or written affirmation.

If state does **not** designate the polling place, the applicant has the **choice** of the old precinct, new