No. 25-1017

IN THE

Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,

Petitioner,

v.

MI FAMILIA VOTA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF *AMICUS CURIAE* DĒMOS IN SUPPORT OF RESPONDENTS

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QUESTION ADDRESSED IN THIS BRIEF

Whether Arizona's state-designed voter registration form, which requires documentary proof of citizenship, is "equivalent" to a federal voter registration form that does not require such documentary proof, as required by Section 7 of the National Voter Registration Act of 1993.

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INTEREST OF *AMICUS CURIAE*[1]

Dēmos is a nonprofit, nonpartisan public policy organization dedicated to building a more inclusive democracy and economy. For over twenty-five years, Dēmos has worked at the intersection of democracy reform, economic justice, and racial justice, drawing on research, policy development, legal advocacy, grassroots partnerships, and coalition-building.

Dēmos has long supported the National Voter Registration Act of 1993 ("NVRA") and has conducted extensive research, advocacy, and monitoring regarding NVRA compliance. As part of that work, Dēmos has researched the impact of Section 7 of the NVRA on voter registration. *See, e.g.*, Food Rsch. & Action Ctr. & Dēmos, *How an Important Federal Law Can Help Millions of Low-Income People Register to Vote Through State Public Assistance Agencies* (2019); Laura Williamson, Pamela Cataldo & Brenda Wright, Dēmos, *Toward a More Representative Electorate: The Progress and Potential of Voter Registration through Public Assistance Agencies* (2018); J. Mijin Cha, Dēmos, *Registering Millions: The Success and Potential of the National Voter Registration Act at 20* (2013); Lisa J. Danetz & Scott Novakowski, Dēmos, *Expanding Voter Registration for Low-Income Citizens: How*

[1] Pursuant to Rule 37.6 of this Court, no counsel for a party authored this brief in whole or in part, and no person or entity other than *amicus*, its supporting organizations, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

North Carolina is Realizing the Promise of the National Voter Registration Act (2008).

Dēmos has also served as counsel in actions to enforce state and local compliance with Section 7 in several covered states. *See, e.g.*, *Valdez v. Squier*, 676 F.3d 935 (10th Cir. 2012) (New Mexico); *Harkless v. Brunner*, 545 F.3d 445 (6th Cir. 2008) (Ohio); *Action NC v. Strach*, 216 F. Supp. 3d 597 (M.D.N.C. 2016) (North Carolina); *Delgado v. Galvin*, 2014 WL 1004108 (D. Mass. Mar. 14, 2014) (Massachusetts); *Ass'n of Cmty. Orgs. for Reform Now v. Scott*, 2008 WL 2787931 (W.D. Mo. July 15, 2008) (Missouri). Dēmos's longstanding work in NVRA compliance demonstrates its expertise in the field and underscores the critical role that the NVRA, and specifically Section 7, has played in expanding voting access across the country, particularly in communities of color and among low-income voters.

SUMMARY OF ARGUMENT

Section 7 of the NVRA requires state offices offering public assistance to distribute mail voter registration forms "with each application for … assistance." 52 U.S.C. § 20506(a)(6)(A). The office may distribute the "form described in [Section 9(a)(2)]" of the NVRA (the "federal form"), *id.*, which is designed by the Election Assistance Commission using the criteria set forth in NVRA Section 9(b). Or the office may distribute "the office's own form if it is equivalent to the form described in [Section 9(a)(2)]." *Id.* The record in this case suggests, and the parties appear to assume, that

public assistance offices in Arizona provide only a state-designed voter registration form.

Arizona's state form requires documentary proof of citizenship ("DPOC"). The federal form does not. This brief addresses whether Arizona's state form is "equivalent" to the federal one within the meaning of Section 7.

Two things are equivalent when they are equal in the relevant way. This standard does not require perfect identity but rather equality according to a specific metric. Petitioner proposes that the proper standard is similarity, not equality, but dictionaries in print at the NVRA's passage, *infra* § I.A, and Congress's practice when enacting other statutes, *infra* § I.B, refute that contention. The NVRA's structure and preamble round out the analysis. They prove that the relevant measure of equivalence is administrative burden on the applicant, so that substituting a state form for the federal form does not become a vehicle for introducing additional obstacles to voter registration. *Infra* § I.C.

Petitioner's contrary view, supported by other aligned parties, is that a state form is equivalent to the federal form as long as it meets the criteria for mail voter registration forms set out in Section 9(b). But Congress used different language in different provisions to address different requirements: the NVRA requires compliance with Section 9(b)—a requirement codified in Section 6 of the statute—and it *additionally* requires equivalence to the federal form when states

provide their form as a replacement for that federal form—a requirement codified in Section 7. *Infra* § I.D.1. Petitioner's reading is also irreconcilable with the NVRA's drafting history. *Infra* § I.D.2.

Applying the proper meaning of Section 7, it is clear that Arizona's form does not satisfy the equivalence standard. People who use public assistance offices generally have lower incomes and educational attainment than the national average. For that population especially, seemingly routine administrative burdens can substantially affect voter registration rates. *Infra* § II.A. The burden of providing DPOC is often substantial, as the district court's findings of fact in this case—rendered after a trial on the merits—confirm. *Infra* § II.B. Because Arizona's form and the federal form do not impose equal administrative burdens, the Ninth Circuit correctly concluded that Arizona's form is not "equivalent" under Section 7.

ARGUMENT

I. The NVRA's equivalence standard requires a substitute state form to impose no greater burden on registering to vote than the federal form.

Section 7 of the NVRA requires any state-created voter registration form distributed by a state public assistance office in lieu of the federal voter registration form to be "equivalent" to the federal form. 52 U.S.C. § 20506(a)(6)(A)(ii). The NVRA's text, purpose, and structure establish that two forms are "equivalent" for

purposes of Section 7 when they impose equal administrative burdens on people registering to vote. Petitioner's reading of Section 7, under which two forms are equivalent as long as they "meet[] [Section 9(b)'s] criteria for the contents of a voter-registration form," Br. for Pet'r 29, is irreconcilable with the NVRA's structure and refuted by its drafting history.

A. The plain meaning of "equivalent" denotes things that are equal in some relevant respect.

The ordinary meaning of "equivalent," in 1993 and today, is "relevantly equal." Equivalence presupposes a specific measure of comparison; two things are equivalent when they are the same in ways that matter. To borrow an example from this Court's own usage, two statutory provisions are "equivalents" when they "resembl[e]" one another in "all relevant respects." *BNSF Ry. Co. v. Loos*, 586 U.S. 310, 317–18 (2019).

Dictionaries contemporaneous with the NVRA's passage support this interpretation. Across a wide range of dictionaries in print in 1993, "equivalent" is defined with reference to equality across some specific measure:

- "1.a. Equal, as in value, force, or meaning. b. Having similar or identical effects." *Equivalent*, American Heritage Dictionary (3d ed. 1992).

- "A. [] Equal in value, power, efficacy, or import." *Equivalent*, Oxford English Dictionary (2d ed. 1989).

- "1. equal in quantity, value, force, meaning, etc." *Equivalent*, Webster's New World Dictionary (3d coll. ed. 1988).

- "1. equal in force, amount, or value." *Equivalent*, Webster's Ninth New Collegiate Dictionary (1988).

- "1. equal in value, measure, force, effect, significance, etc." *Equivalent*, Random House Dictionary of the English Language (2d ed. 1987).

- "Of equal value, weight, force, etc." *Equivalent*, Ballentine's Law Dictionary (3d ed. 1969).

And, as Petitioner and the United States emphasize, Black's Law Dictionary defined "equivalent" as "[e]qual in value, force, measure, volume, power, and effect or having equal or corresponding import, meaning or significance; alike, identical." *Equivalent*, Black's Law Dictionary (6th ed. 1990); *see* Br. for Pet'r 28; Br. for United States 22. While such definitions do not require equivalent things to be the same in all respects, they each require equality along the dimension relevant to the comparison.

Petitioner notes that two dictionaries say "equivalent" can mean "alike" or "having similar … effects." *See* Br. for Pet'r 28; *see also* Br. for U.S. as Resp't in

Supp. of Pet. in No. 25-1017 and in Opp. to Pets. in Nos. 25-1019 and 25-1022, at 20–21 ("Similar in function or effect[,] rather than identical.") (quoting Pet. App. 179a). From there, Petitioner concludes that Section 7 requires forms to be only "similar" in the relevant way. Br. for Pet'r 28. That cherry-picked interpretation of "equivalent" cannot be reconciled with the statute in which the term is found, as set out in § I.D, *infra*. But even as a pure textual matter, that argument fails: the OED, Webster's New World, Random House, and Ballentine's say nothing about similarity, even in secondary definitions. The far more common meaning—present in every dictionary and absent in none—focuses on *equality*. Equality is not similarity. *Compare Equal*, American Heritage Dictionary (3d ed. 1992) ("1. Having the same quantity, measure, or value as another. … 7. Showing or having no variance in proportion, structure, or appearance."), *with Similar*, *id.* ("1. Related in appearance or nature; alike though not identical.").

B. In other statutes, Congress uses "equivalent" to mean "relevantly equal."

Amicus's understanding of how Congress used the term "equivalent" in the NVRA matches how the term is used in other statutes. Congress ordinarily uses "equivalent" to require equality (not mere similarity) with respect to a benchmark that aligns with the statute's purpose. Although the things being compared

need not be identical in every respect, they must be equal in the way that the statute identifies:

1. The Americans with Disabilities Act of 1990 requires transportation providers to furnish disabled individuals with a level of service "equivalent to the level of service provided to the general public." 42 U.S.C. § 12184(b)(3)–(5).

2. The Internal Revenue Code uses "equivalent" to describe legal relationships that receive the same treatment as a specified baseline. It refers to service "recognized as equivalent to employment," 26 U.S.C. § 3121(b); a foreign government that grants an "equivalent exemption," *id.* § 3121(b)(12)(B); and payments "equivalent to the sum of the taxes" that otherwise would be due, *id.* § 3121(*l*)(1)(A). In each instance, Congress identified a point of comparison and asked whether the substitute was equal with respect to that benchmark.

3. ERISA permits retirement plans to offer lump sum payments in addition to annuities, so long as the lump sum is the "actuarial equivalent" of the annuity. 29 U.S.C. § 1054(c)(3). "Equivalence," in this context, means that the value of the two options must be the same from an actuary's point of view. Thus, "[r]eceiving $1000 45 days from now is not equivalent to receiving $1000 now, because (among other things) that $1000 can earn interest every day one has it." *Stephens v. U.S. Airways Grp.*, 644 F.3d 437, 442 (D.C. Cir. 2011) (Kavanaugh, J., concurring in the judgment).

When Congress wishes to permit similarity instead of equality, it uses different language—usually, by specifying "substantial equivalence," as it did in its first draft of the NVRA, *see infra* § I.D.2:

a. The Dodd-Frank Act, for example, allows the Federal Insurance Office to preempt state law for a foreign insurer that agrees to provide consumer protections "substantially equivalent to the level of protection achieved" by state regulations, 31 U.S.C. § 313(f)(2)(B)—and defines that term to mean "achiev[ing] a similar outcome," *id.* § 313(r)(9). *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 228 (2012) ("[T]he meaning of [a] definition is almost always closely related to the ordinary meaning of the word being defined.").

b. Under the Federal Food, Drug, and Cosmetic Act, a medical device can be deemed "substantially equivalent" to a "legally marketed device" despite having "different technological characteristics" if it has "the same intended use" and "is as safe and effective" as the predicate. 21 U.S.C. § 360c(*i*)(1)(A).

c. The Job Training Partnership Act funded job-training programs so long as no trainee would be hired for a job "when any other individual is on layoff from the same or any substantially equivalent job." 29 U.S.C. § 1553(b)(3) (1994) (repealed 1998); Congress could not have been clearer that it meant "same or similar."

d. And the Holding Foreign Companies Accountable Act requires foreign issuers of securities to make certain disclosures in any form that "is the equivalent of, or substantially similar to," the SEC's Form 10-K or Form 20-F, 15 U.S.C. § 7214a(a)(3)(B)(i), again showing that equivalence and substantial similarity are different concepts.

Petitioner elides the difference between "equivalence" and "substantial equivalence," but they are not synonyms. The modifier "substantially" usually permits some degree of deviation from the relevant benchmark. *See Substantially*, Black's Law Dictionary (6th ed. 1990) ("Essentially; without material qualification; in the main; in substance; materially; in a substantial manner"); *Substantial*, Webster's Ninth New Collegiate Dictionary (1988) ("being largely but not wholly that which is specified"); *Victor v. Nebraska*, 511 U.S. 1, 19 (1994) (quoting one definition for "substantial" from Webster's Third New International Dictionary (1981) as "that specified to a large degree"). "Equivalent," when used alone and unmodified, demands closer correspondence. *See supra* § I.A.

C. For purposes of the NVRA, the relevant measure of equivalence is the burden a form imposes on voter registration.

The "relevant respect" in which a state's form must be equivalent to the federal form under Section 7 of the NVRA is with respect to the burdens the form imposes on voter registration. The measure of equivalence is

whether differences between the forms impair the opportunity to register to vote that the federal form provides. That is clear both from the NVRA's statutory purpose and from its structure.

First, Section 2 of the NVRA explains that Congress regarded voting as a "fundamental right" that state and federal governments have a "duty … to promote." 52 U.S.C. § 20501(a). Congress's purposes were explicit and four-fold: to "increase the number of eligible citizens who register to vote," *id.* § 20501(b)(1); enable implementation "in a manner that enhances the participation of eligible citizens as voters," *id.* § 20501(b)(2); "protect the integrity of the electoral process," *id.* § 20501(b)(3); and "ensure that accurate and current voter registration rolls are maintained," *id.* § 20501(b)(4). *See also Project Vote/Voting for Am. v. Long*, 682 F.3d 331, 334 (4th Cir. 2012) (Wilkinson, J.). A form that requires more documentation than the federal form necessarily is not equally capable of satisfying the NVRA's statutory purpose of "increas[ing] the number of eligible citizens who register to vote" or "enhanc[ing] the participation of eligible citizens as voters." 52 U.S.C. § 20501(b).

Where, as here, Congress writes a preamble for a statute setting forth its intentions, that preamble informs the statute's meaning. *See Bittner v. United States*, 598 U.S. 85, 98–99 (2023) (considering the Bank Secrecy Act's enacted "statement of purpose" as "evidence" of statutory meaning); *see also County of Maui v. Haw. Wildlife Fund*, 590 U.S. 165, 174 (2020)

(considering the Clean Water Act's enacted declaration of policy to determine the statute's meaning); *Adoptive Couple v. Baby Girl*, 570 U.S. 637, 649 (2013) (relying on legislative findings that "highlight[ed] the primary problem that the statute was intended to solve").[2] Indeed, this Court has relied on the NVRA's preamble in the past to inform its understanding of specific statutory provisions. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 13 (2013) (quoting 42 U.S.C. § 1973gg(b), now codified at 52 U.S.C. § 20501(b)).

Second, the NVRA's structure confirms that the relevant measure of equivalence is administrative burden on the act of voter registration. As this Court held in *Inter Tribal Council*, the NVRA's standards for voter registration forms are safeguards against state-created administrative burdens. 570 U.S. at 11–12. Section 6(a), which governs mail voter registration, requires states to "accept and use" the federal form even when they exercise the option to create a parallel state form. 52 U.S.C. § 20505(a). The availability of the federal form, which must be accepted alongside any state form, serves as insurance for Congress's statutory

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[2] *See also* Scalia & Garner at 218 ("[A] prologue can[] be considered in determining which of various permissible meanings the dispositive text bears."); Samuel L. Bray, *The Mischief Rule*, 109 Geo. L.J. 967, 994 & n.146 (2021) (a statute's "mischief" can be determined "by examination of the statute itself, especially if there are enacted findings."); *id.* at 1002–03 (defending the mischief rule on textualist grounds as a guide to "context and pragmatic enrichment").

purpose of facilitating voter registration. Congress ensured that states would accept the federal form to "guarantee[] that a simple means of registering to vote in federal elections [would] be available" "[n]o matter what procedural hurdles a State's own form imposes." *Inter Tribal Council*, 570 U.S. at 12.

Section 7 also serves this function, setting out additional and separate conditions for a state to provide its own form *in lieu of* the federal form. In Section 7, the NVRA uses an all-important disjunctive—*or*—to show that "the office's own form" may displace the federal form entirely. *See* 52 U.S.C. § 20506(a)(6)(A).

The equivalence requirement of Section 7 replaces the insurance provided by an applicant's access to the federal form. By requiring equivalence, Congress guaranteed that a state's substitute form could not present greater obstacles to voter registration at a public assistance office than the federal form does. Petitioner's reading allows states to use Section 7(a)(6)(A)(ii)'s substitution to end-run the NVRA's "backstop" and make their "procedural hurdles" mandatory. *See Inter Tribal Council*, 570 U.S. at 12.

Acknowledging that Section 7's equivalence requirement creates independent obligations when states choose to supplant the federal form with their own does not interpret the NVRA to "take with one hand what [it] provides in the other." *Contra* Br. for United States 23. The NVRA is not a grant of authority to the states. It is a safeguard of voting rights, a

vindication of federal interests in promoting election participation, and an exercise of Congress's constitutional power to displace state election law. *See Inter Tribal Council*, 570 U.S. at 13–14. In pursuit of those goals, the statute imposes an "equivalence" standard when a state decides to make its own form available as the sole or default means of registering to vote in federal elections, to address a specific risk to voters that arises when a state makes that choice.

Nor is this reading overly formalistic. Not every difference between forms creates an "equivalence" problem; a state need not reproduce the federal form word for word. It might, for example, request the registrant's county of residence, or collect less demographic information than the federal form does. Indeed, Arizona's own form contains several features absent from the federal form, including a QR code, optional demographic questions, and early-voting enrollment options. *See* Ariz. Sec'y of State, *Arizona Voter Registration Form* (rev. Dec. 2025), https://azsos.gov/sites/default/files/docs/AZ-State-Voter-Registration-Form-Dec 2025-fillable.pdf [https://perma.cc/6WLG-F7HL]. These changes would not violate Section 7's equivalence requirement as long as they did not increase the administrative burden on the registrant or create an obstacle to voter registration. But a requirement that could cause an otherwise registrable applicant to be rejected, or that requires an applicant to undertake greater burdens to furnish something that the federal form does not require, is qualitatively different from

an inconsequential variation in, for example, formatting or information collection.[3]

D. Petitioner's reading of "equivalent" is inconsistent with the statute.

Neither Petitioner nor the parties aligned with it consider the NVRA's preamble or these aspects of its broader structure, and that oversight leads their niche constructions of "equivalent" badly astray. Petitioner is correct that "[t]wo forms can be 'equivalent' in different respects," and that the key question for this Court is "in what way" Section 7 requires forms to be equivalent. Br. for Pet'r 28–29. But Petitioner errs by concluding equivalence requires only similarity of effect or function, or some form of substantial equivalence, making Arizona's form "equivalent" to the federal form under the NVRA because Arizona "accepts it" for the purpose of registering voters. Br. for Pet'r 29. Petitioner's reading drains the term "equivalent" of any meaning: Any form is equivalent in that way so long as the state says the purpose and effect of the form are voter registration, no matter what the

[3] The difference the Ninth Circuit identified between Arizona's state form and the federal form did not result, as Petitioner insists, in a ban on all variations. *Contra* Br. for Pet'r 30. As the Ninth Circuit explained, it found the two forms non-equivalent because one form would reject applicants that the other would accept. *See* Pet. App. 51a–52a ("If applicants who do not include DPOC use the state form, they will not be registered as federal-only voters but if they use the federal form, they will be registered.").

form says or what varying effects on registration it may have compared to the federal form.

To avoid that strange result, Petitioner and its allied parties attempt to anchor their understanding of Section 7's equivalence requirement in Section 9(b)'s separate requirements for the contents of federal and state voter registration forms. 52 U.S.C. § 20508(b)(1). *See* Br. for Pet'r 29; Br. for Resp'ts Petersen & Montenegro 15; Br. for United States 22–24. That move does not make sense for at least two reasons.

1. Section 7's equivalence requirement is distinct from Section 9(b)'s content requirements for voter registration forms.

The term "equivalent" in Section 7 requires a comparison with the federal form that is different from the inquiry into whether a state form meets Section 9(b)'s threshold requirements for any state or federal mail voter registration form. Section 9(b), for example, requires that a voter registration form may "only" require information that is "necessary" to assess eligibility or administer elections. 52 U.S.C. § 20508(b)(1). Section 7 addresses a more specific situation where a state opts to *substitute* its "own form" for the federal form in public assistance offices; it may do so only if its form *both* meets the criteria of Section 9(b) *and* is "equivalent to the form described in [Section 9(a)(2)]." *Id.* § 20506(a)(6)(A)(ii).

Section 7 does not refer to Section 9(b) at all; it does not need to, because the requirement to meet the Section 9(b) criteria is already set by Section 6 of the NVRA. Section 6 allows a state to develop and use its own mail voter registration form *alongside* the federal form only if it "*meets all of the criteria* stated in [Section 9(b)]." 52 U.S.C. § 20505(a)(2) (emphasis added).

Petitioner's reading collapses two different statutory provisions into one another, rendering Section 7's equivalence requirement redundant. But Congress used different language in Sections 6 and 7 to prescribe distinct obligations, and this difference in language must be given effect. If Congress wanted to permit states' "own form[s]" to fully displace the federal form based solely on satisfaction of Section 9(b)'s criteria, Congress could have used the same language in Section 7 that it used in Section 6. But it did not. Rather, Section 7 requires a direct comparison between the state's form and the federal form. Where Congress uses different language in two provisions of the same statute, this Court ascribes different meaning to those provisions. *See, e.g.*, *M & K Emp. Sols., LLC v. Trs. of IAM Nat'l Pension Fund*, 608 U.S. 264, 274 (2026); *Gallardo ex rel. Vassallo v. Marstiller*, 596 U.S. 420, 429–30 (2022); *Russello v. United States*, 464 U.S. 16, 23 (1983) ("[Where] Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally."); *see also* Scalia & Garner at 170 ("[W]here the document has used one term in one place, and a materially different term in another,

the presumption is that the different term denotes a different idea."). Yet Petitioner's reading does the opposite.

Arizona's DPOC requirement may violate both provisions. But even if this Court concludes that the requirement satisfies Section 9(b), it must separately determine whether a state form imposing that requirement is equivalent to the federal form under Section 7. The better reading of Section 7 gives effect to Congress's deliberate choice to require the use of the federal form or its "equivalent" to ensure accessible registration for some of the nation's most vulnerable voters.

2. Petitioner's reading is inconsistent with Section 7's drafting history.

Petitioner and its allied parties seek to read "equivalent" to mean roughly or substantially equivalent, affording Arizona flexibility to impose requirements that make registering to vote more burdensome than it would be using the federal form. Br. for Pet'r 28. Section 7's drafting history confirms they are wrong. *See* Caleb Nelson, *Statutory Interpretation* 364 (1st ed. 2011) (noting that some find drafting history to be a "more powerful form of legislative history … than floor debates and even committee reports.").

Congress considered and rejected a version of Section 7 that would have required mere "substantial equivalence," a standard that resembles Petitioner's preferred similarity requirement. As introduced on the House floor, H.R. 2 (which became the NVRA) required

a public assistance office's form to be "substantially equivalent" to the federal form. H.R. 2, 103d Cong. § 7(a)(6)(A)(ii) (as introduced Jan. 5, 1993). Soon after, in a markup session, Representative Al Swift, who introduced the bill on the House floor, *see* 139 Cong. Rec. 253 (Jan. 5, 1993), moved to strike the word "substantially." The committee adopted that amendment by voice vote, *see* H.R. Rep. No. 103-9, at 2 (1993), *as reprinted in* 1993 U.S.C.C.A.N. 105, 106; H.R. 2, 103d Cong. § 7(a)(6)(A)(ii) (as reported by H. Comm. on H. Admin., Feb. 2, 1993), and the change was adopted by the full House and Senate without further comment.[4] *See* H.R. 2, 103d Cong. § 7(a)(6)(A)(ii) (as received by Senate, Feb. 17, 1993).

Petitioner's reading would make this amendment pointless. "It is axiomatic that a statute should not be read to implicitly include language specifically rejected." *Dai Glob., LLC v. Adm'r of the U.S. Agency for Int'l Dev.*, 945 F.3d 1196, 1199 (Fed. Cir. 2019); *see Acosta v. Loc. Union 26, UNITE HERE*, 895 F.3d 141, 144 (1st Cir. 2018) (Souter, J., ret.) ("Few principles of statutory construction are more compelling than the proposition that Congress does not intend *sub silentio* to enact statutory language that it has earlier

[4] The NVRA's Senate sponsor, Senator Ford, initially introduced a bill that included "substantially equivalent." *See* S. 2, 103d Cong. § 7(a)(6)(A)(ii) (as introduced in Senate, Jan. 21, 1993). Senator Ford abandoned that bill in favor of one incorporating the House's amendment. *See* S. 460, 103d Cong. § 7(a)(6)(A)(ii) (as reported Feb. 25, 1993). In other words, the Senate, like the House, was made aware of the difference that Petitioner seeks to elide.

discarded in favor of other language.") (quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 442–43 (1987)). "Where Congress includes limiting language in an earlier version of a bill but deletes it prior to enactment, it may be presumed that the limitation was not intended." *Russello*, 464 U.S. at 23–24.

Congress considered and rejected not only Petitioner's preferred statutory standard but also its preferred specific result. During debates on the Senate floor, Senator Simpson introduced an amendment providing that "[n]othing in [the NVRA would] be construed to preclude a state from requiring presentation of documentary evidence of the citizenship of an applicant for voter registration." 139 Cong. Rec. 5098 (Mar. 16, 1993). The Senate adopted the amendment. *Id.* at 5099; *see* H.R. 2, 103d Cong. § 13 (as passed by the Senate, Mar. 17, 1993).

Because H.R. 2, as passed by the Senate, differed from the version passed by the House, the bill went to a conference committee, which rejected the change. *See* Br. for Resp'ts Mi Familia Vota & Voto Latino 29 (discussing Congress's rejection of the amendment); Br. for AZ AANHPI Resp'ts 22–23 (same). An attempt to restore the measure failed on the House floor, *see* 139 Cong. Rec. 9228, 9231 (May 5, 1993), and the conference version became law.

The failure of the Simpson Amendment reflects Congress's collective decision-making while enacting the NVRA. This is "*enactment* history, not the fog of

words generated by legislators," and it is especially probative of statutory meaning. *See S. Austin Coal. Cmty. Council v. SBC Commc'ns Inc.*, 274 F.3d 1168, 1172 (7th Cir. 2001) (Easterbrook, J.) (drawing a similar inference from an accepted amendment that broadened the scope of the relevant statute); *County of Maui*, 590 U.S. at 176 (Congress's "reject[ion of] … [an] amendment that would have extended the [Clean Water Act's] permitting provision to groundwater" "strongly support[ed]" an inference that the permitting provision did not reach groundwater).

The Simpson Amendment's history "consists of actions taken by legislative bodies, not just words penned by staffers or lobbyists." *Gonzalez v. Arizona*, 677 F.3d 383, 441 (9th Cir. 2012) (en banc) (Kozinski, C.J., concurring), *aff'd sub nom. Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1 (2013). This Court "has recognized that such drafting history *can* offer interpretive insight," *id.* at 441 (discussing *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006)), and it is probative (to the extent the Court finds "the statutory language is in equipoise") that "both chambers affirmatively rejected efforts to authorize precisely what Arizona is seeking to do," *id.* at 442.

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Statutory text, structure, and history all point in the same direction. Congress did not use "equivalent" to mean "similar." It did not make compliance with Section 9(b) the sole measure of equivalence under

Section 7. And it did not authorize states to replace the federal form with a substitute that imposes additional burdensome registration requirements such as DPOC.

II. Arizona's voter registration form and the federal form are not "equivalent" within the meaning of Section 7.

Arizona's voter registration form requires documentary proof of citizenship, and the federal form does not. *Compare* Ariz. Rev. Stat. § 16-121.01(C), *and* Pet. App. 194a–95a, *with* U.S. Elec. Assistance Comm'n, OMB Control No. 3265-0015, *Register to Vote in Your State by Using this Postcard Form and Guide* 2 (setting forth application instructions for the federal form), https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf [https://perma.cc/LZ88-7B5A]. *Amicus*'s experience shows, and the district court's findings confirm, that this difference imposes an administrative burden that is not equivalent to the burdens created by the federal form, and which is particularly felt by the population Section 7 targets.

A. Even seemingly minor administrative burdens substantially affect voter registration, especially for the applicants Section 7 was designed to reach.

Amicus's experience shows that even routine administrative burdens in the registration process can substantially affect registration rates. For example,

after Massachusetts settled with *amicus*'s clients in *Delgado v. Galvin*, No. 12-cv-10872 (D. Mass.), the state mailed voter-registration applications with prepaid return envelopes to users of public assistance offices to address the obstacle of finding a stamp and an envelope. *See* Rachana Bhatt, Evgenia Dechter & Richard Holden, *Registration Costs and Voter Turnout*, 176 J. Econ. Behav. & Org. 91, 93 & n.6 (2020). That minor intervention produced a statistically significant increase in voter registration. *Id.* at 98.

This example reflects the reality that the citizens Section 7 was designed to reach are more severely affected by administrative burdens than the average American. Section 7 provides registration opportunities to voters who are "less likely to own cars and, therefore, less likely to interact with a motor vehicle office." Scott Novakowski & Youjin B. Kim, Dēmos, *Increasing Access in Hard Times: Women and the National Voter Registration Act* 3 (2010). Voters who register at public assistance agencies have disproportionately low income and levels of educational

attainment.[5] Administrative burdens are particularly consequential for such voters.[6]

B. The district court's factual findings confirm that Arizona's form and the federal form are not "equivalent."

Arizona's DPOC requirement imposes a substantial administrative burden on applicants that the federal form does not, destroying equivalence under Section 7. *Cf. Inter Tribal Council*, 570 U.S. at 20 (explaining that a DPOC requirement obliges an applicant to "submit information beyond that required by the form

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[5] 5.2% of registered voters with family incomes between $15,000 and $20,000 registered through public assistance agencies; only 0.9% of all registered voters did so. U.S. Census Bureau, Voting and Registration in the Election of November 2024, tbl. 12 (Method of Registration), https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-590.html [https://perma.cc/95WY-EHP7]. Similarly, 3.0% of registered voters without a high school diploma reported registering through public assistance agencies, compared with just 0.5% of registered voters with a bachelor's degree or higher. *See id.*

[6] *See* Rebekah Herrick, Joshua M. Jansa, Matthew P. Motta & Abida Sultana, *Race and Registration Roadblocks*, 26 Elec. L.J. (forthcoming 2027) (online edition at 12, 13 tbl. 2) (finding that "[t]hose with more education … and family income … are more likely to register" in states with a high difficulty-of-registration score, but "not observ[ing]" a similar effect for race); Cameron J. Arnzen, *Education and the Unequal Costs of Voting: Administrative Burdens and Democratic Participation*, 54 Pol'y Stud. J. e70106, at 9 (2026) ("[W]hen … registration becomes more difficult, individuals with less education are less likely to register to vote.").

itself"). As the district court found, "the cost of obtaining a copy of an Arizona birth certificate is 35 dollars," and "[t]he fee to replace a naturalization certificate is significantly greater, costing $555." Pet. App. 242a. Replacement naturalization certificates "can take up to eight months" to arrive. *Id.* at n.41. The DPOC requirement "increase[s] compliance costs," especially for those who "lack ready access" to acceptable documents. *Id.* at 240a. These compliance costs "predomina[ntly] impact voters of lower socioeconomic status," *id.* at 244a, who are disproportionately likely to register to vote at a public assistance office. *See supra* n.5. A form like Arizona's that imposes such costs is not equivalent to the federal form.

CONCLUSION

Because Arizona's state form is more burdensome to complete than the federal form, the Ninth Circuit correctly concluded that it is not "equivalent" to the federal form under Section 7(a)(6)(A)(ii) of the NVRA.

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