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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED
Committee Substitute for
Senate Bill No. 617

(SENATORS KESSLER, EDGELL, MINARD,
HUNTER AND FOSTER, *original sponsors*)

[Passed March 6, 2007; in effect ninety days from passage.]

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AN ACT to amend and reenact §3-2-4a, §3-2-5, §3-2-6, §3-2-11, §3-2-13 and §3-2-30 of the Code of West Virginia, 1931, as amended, all relating to voter registration; providing for the voting history of a voter on the statewide registration system; providing that agencies may not withhold information for statewide voter registration system without a court order; allowing for Division of Motor Vehicles' identification card in lieu of

driver's license for voter registration purposes; providing that the voter has four business days to correct errors on voter registration card; requiring the Department of Revenue to provide a check box for voter registration interest; requiring voting coordinators to receive training; removing provisions requiring manual voter registration lists by county clerks in lieu of electronic files; requiring county clerk to provide a copy of voter registration list availability policy to the Secretary of State's office; and modifying the cost of purchasing the voter registration list.

Be it enacted by the Legislature of West Virginia:

That §3-2-4a, §3-2-5, §3-2-6, §3-2-11, §3-2-13 and §3-2-30 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-4a. Statewide voter registration list.

1 (a) The Secretary of State shall implement and
2 maintain a single, official, statewide, centralized,
3 interactive computerized voter registration list of every
4 legally registered voter in the state, which shall include
5 the following:

6 (1) The computerized list shall serve as the single
7 system for storing and managing the official list of
8 registered voters throughout the state.

9 (2) The computerized list shall contain the name,
10 registration information and voter history of every
11 legally registered voter in the state.

12 (3) Under the computerized list, the Secretary of State
13 shall assign a unique identifier to each legally registered
14 voter in the state.

15 (4) The computerized list shall be coordinated with
16 other agency databases within the state.

17 (5) The Secretary of State and any clerk of the county
18 commission may obtain immediate electronic access to
19 the information contained in the computerized list.

20 (6) The clerk of the county commission shall
21 electronically enter voter registration information into
22 the computerized list on an expedited basis at the time
23 the information is provided to the clerk.

24 (7) The Secretary of State shall provide necessary
25 support to enable every clerk of the county commission
26 in the state to enter information as described in
27 subdivision (6) of this subsection.

28 (8) The computerized list shall serve as the official
29 voter registration list for conducting all elections in the
30 state.

31 (b) The Secretary of State or any clerk of a county
32 commission shall perform maintenance with respect to
33 the computerized list on a regular basis as follows:

34 (1) If an individual is to be removed from the
35 computerized list, he or she shall be removed in
36 accordance with the provisions of 42 U. S. C. §1973gg,
37 *et seq.*, the National Voter Registration Act of 1993.

38 (2) The Secretary of State shall coordinate the
39 computerized list with state agency records and remove

40 the names of individuals who are not qualified to vote
41 because of felony status or death: *Provided*, That no
42 state agency may withhold information regarding a
43 voter's status as deceased or as a felon unless ordered by
44 a court of law.

45 (c) The list maintenance performed under subsection
46 (b) of this section shall be conducted in a manner that
47 ensures that:

48 (1) The name of each registered voter appears in the
49 computerized list;

50 (2) Only voters who are not registered or who are not
51 eligible to vote are removed from the computerized list;
52 and

53 (3) Duplicate names are eliminated from the
54 computerized list.

55 (d) The Secretary of State and the clerks of all county
56 commissions shall provide adequate technological
57 security measures to prevent the unauthorized access to
58 the computerized list established under this section.

59 (e) The Secretary of State shall ensure that voter
60 registration records in the state are accurate and
61 updated regularly, including the following:

62 (1) A system of file maintenance that makes a
63 reasonable effort to remove registrants who are
64 ineligible to vote from the official list of eligible voters.
65 Under the system, consistent with 42 U. S. C. §1973gg,
66 *et seq.*, registrants who have not responded to a notice
67 sent pursuant to section twenty-four, article three of
68 this chapter and who have not voted in two consecutive

69 general elections for federal office shall be removed
70 from the official list of eligible voters, except that no
71 registrant may be removed solely by reason of a failure
72 to vote; and

73 (2) Safeguards to ensure that eligible voters are not
74 removed in error from the official list of eligible voters.

75 (f) Applications for voter registration may only be
76 accepted when the following information is provided:

77 (1) Except as provided in subdivision (2) of this
78 subsection and notwithstanding any other provision of
79 law to the contrary, an application for voter registration
80 may not be accepted or processed unless the application
81 includes:

82 (A) In the case of an applicant who has been issued a
83 current and valid driver's license, the applicant's
84 driver's license number;

85 (B) In the case of an applicant who has been issued an
86 identification card by the Division of Motor Vehicles,
87 the applicant's identification number; or

88 (C) In the case of any other applicant, the last four
89 digits of the applicant's social security number; and

90 (2) If an applicant for voter registration has not been
91 issued a current and valid driver's license, Division of
92 Motor Vehicles' identification card or a social security
93 number, the Secretary of State shall assign the
94 applicant a number which will serve to identify the
95 applicant for voter registration purposes. To the extent
96 that the state has a computerized list in effect under this

97 section and the list assigns unique identifying numbers
98 to registrants, the number assigned under this section
99 shall be the unique identifying number assigned under
100 the list.

101 (g) The Secretary of State and the Commissioner of
102 the Division of Motor Vehicles shall enter into an
103 agreement to match and transfer applicable information
104 in the database of the statewide voter registration
105 system with information in the database of the Division
106 of Motor Vehicles to the extent required to enable each
107 official to verify the accuracy of the information
108 provided on applications for voter registration.

109 (h) The Commissioner of the Division of Motor
110 Vehicles shall enter into an agreement with the
111 Commissioner of Social Security under 42 U. S. C. §301,
112 *et seq.*, the Social Security Act. All fees associated with
113 this agreement shall be paid for from moneys in the
114 fund created under section twelve, article two of this
115 chapter.

**§3-2-5. Forms for application for registration; information
required and requested; types of application forms;
notices.**

1 (a)(1) All state forms for application for voter
2 registration shall be prescribed by the Secretary of
3 State and shall conform with the requirements of 42 U.
4 S. C. §1973gg, *et seq.*, the National Voter Registration
5 Act of 1993 and the requirements of the provisions of
6 this article. Separate application forms may be
7 prescribed for voter registration conducted by the clerk
8 of the county commission, registration by mail,
9 registration in conjunction with an application for

10 motor vehicle driver's license and registration at
11 designated agencies. These forms may consist of one or
12 more parts, may be combined with other forms for use
13 in registration by designated agencies or in conjunction
14 with driver licensing and may be revised and reissued as
15 required by the Secretary of State to provide for the
16 efficient administration of voter registration.

17 (2) Notwithstanding any provisions of subdivision (1)
18 of this subsection to the contrary, the federal postcard
19 application for voter registration issued pursuant to 42
20 U. S. C. §1973, *et seq.*, the Uniformed and Overseas
21 Citizens Absentee Voting Act of 1986, and the mail
22 voter registration application form prescribed by the
23 Federal Election Commission pursuant to 42 U. S. C.
24 §1973gg, *et seq.*, the National Voter Registration Act of
25 1993, shall be accepted as a valid form of application
26 for registration pursuant to the provisions of this
27 article.

28 (b) Each application form for registration shall
29 include:

30 (1) A statement specifying the eligibility requirements
31 for registration and an attestation that the applicant
32 meets each eligibility requirement;

33 (2) Any specific notice or notices required for a
34 specific type or use of application by 42 U. S. C.
35 §1973gg, *et seq.*, the National Voter Registration Act of
36 1993;

37 (3) A notice that a voter may be permitted to vote the
38 partisan primary election ballot of a political party only
39 if the voter has designated that political party on the

40 application for registration unless the political party
41 has determined otherwise;

42 (4) The applicant's driver's license number or an
43 identification number issued by the Division of Motor
44 Vehicles. If the applicant does not have a driver's
45 license or an identification card issued by the Division
46 of Motor Vehicles, then the last four digits of the
47 applicant's social security number; and

48 (5) Any other instructions or information essential to
49 complete the application process.

50 (c) Each application form shall require that the
51 following be provided by the applicant, under oath, and
52 any application which does not contain each of the
53 following shall be considered incomplete:

54 (1) The applicant's legal name, including the first
55 name, middle or maiden name, if any, and last name;

56 (2) The month, day and year of the applicant's birth;

57 (3) The applicant's residence address, including the
58 number and street or route and city and county of
59 residence except:

60 (A) In the case of a person eligible to register under
61 the provisions of 42 U. S. C. §1973ff, *et seq.*, the
62 Uniformed and Overseas Citizens Absentee Voting Act,
63 the address at which he or she last resided before
64 leaving the United States or entering the uniformed
65 services, or if a dependent child of such a person, the
66 address at which his or her parent last resided; and

67 (B) In the case of a homeless person having no fixed
68 residence address who nevertheless resides and remains
69 regularly within the county, the address of a shelter,
70 assistance center or family member with whom he or
71 she has regular contact or other specific location
72 approved by the clerk of the county commission for the
73 purposes of establishing a voting residence; and

74 (4) The applicant's signature, under penalty of perjury
75 as provided in section thirty-six of this article, to the
76 attestation of eligibility to register to vote and to the
77 truth of the information given.

78 (d) The applicant shall be requested to provide the
79 following information, but no application shall be
80 rejected for lack of this information:

81 (1) An indication whether the application is for a new
82 registration, change of address, change of name or
83 change of party affiliation;

84 (2) The applicant's choice of political party affiliation,
85 if any, or an indication of no affiliation: *Provided*, That
86 any applicant who does not enter any choice of political
87 party affiliation shall be listed as having no party
88 affiliation on the voting record;

89 (3) The applicant's residence mailing address if
90 different than the residence street address;

91 (4) The last four digits of the applicant's social
92 security number;

93 (5) The applicant's telephone number;

94 (6) The address at which the applicant was last

95 registered to vote, if any, for the purpose of canceling or
96 transferring the previous registration; and

97 (7) The applicant's gender.

98 (e) The Secretary of State shall prescribe the printing
99 specifications of each type of voter registration
100 application and the voter registration application
101 portion of any form which is part of a combined agency
102 form.

103 (f) Application forms prescribed in this section may
104 refer to various public officials by title or official
105 position, but in no case may the actual name of any
106 officeholder be printed on the voter registration
107 application or on any portion of a combined application
108 form.

109 (g) No later than the first day of July of each
110 odd-numbered year, the Secretary of State shall submit
111 the specifications of the voter registration application
112 by mail for statewide bidding for a contract period
113 beginning the first day of September of each
114 odd-numbered year and continuing for two calendar
115 years. The successful bidder shall produce and supply
116 the required mail voter registration forms at the
117 contract price to all purchasers of the form for the
118 period of the contract.

§3-2-6. Time of registration application before an election.

1 (a) Voter registration before an election shall close on
2 the twenty-first day before the election, or on the first
3 day thereafter which is not a Saturday, Sunday or legal
4 holiday.

5 (b) An application for voter registration, transfer of
6 registration, change of name or change of political party
7 affiliation submitted by an eligible voter by the close of
8 voter registration shall be effective for any subsequent
9 primary, general or special election if the following
10 conditions are met:

11 (1) The application contains the information required
12 by subsection (c), section five of this article: *Provided*,
13 That incomplete applications for registration containing
14 information which are submitted within the required
15 time may be corrected within four business days after
16 the close of registration if the applicant provides the
17 required information; and

18 (2) The application is received by the appropriate
19 clerk of the county commission no later than the hour of
20 the close of registration or is otherwise submitted by the
21 following deadlines:

22 (A) If mailed, the application shall be addressed to the
23 appropriate clerk of the county commission and is
24 postmarked by the postal service no later than the date
25 of the close of registration: *Provided*, That if the
26 postmark is missing or illegible, the application shall be
27 presumed to have been mailed no later than the close of
28 registration if it is received by the appropriate clerk of
29 the county commission no later than the third day
30 following the close of registration;

31 (B) If accepted by a designated agency or motor
32 vehicle licensing office, the application is received by
33 that agency or office no later than the close of
34 registration;

35 (C) If accepted through a registration outreach
36 program, the application is received by the clerk,
37 deputy clerk or registrar no later than the close of
38 registration; and

39 (3) The verification notice by the provisions of section
40 sixteen of this article mailed to the voter at the
41 residence indicated on the application is not returned as
42 undeliverable.

§3-2-11. Registration in conjunction with driver licensing.

1 (a) The Division of Motor Vehicles or any other
2 division or department that may be established by law
3 to perform motor vehicle driver licensing services shall
4 provide each qualified registrant, as an integral and
5 simultaneous part of every process of application for the
6 issuance, renewal or change of address of any motor
7 vehicle driver's license or official identification card,
8 pursuant to the provisions of article two, chapter
9 seventeen-b of this code, a voter registration application
10 as prescribed in section five of this article.

11 (b) Any person who fails to sign the voter registration
12 application or who fails to return the voter registration
13 application to a driver licensing facility or to an
14 appropriate voter registration office shall be considered
15 to have declined to register. Information regarding any
16 person's failure to sign the voter registration
17 application is confidential and may not be used for any
18 purpose other than to determine voter registration.

19 (c) Any qualified voter who submits the application
20 for registration pursuant to the provisions of subsection
21 (a) of this section in person at a driver licensing facility

22 at the time of applying for, obtaining, renewing or
23 transferring his or her driver's license or official
24 identification card and who presents identification and
25 proof of age at that time shall not be required to make
26 his or her first vote in person or to again present
27 identification in order to make that registration valid.

28 (d) Any qualified voter who submits by mail or by
29 delivery by a third party an application for registration
30 on the form used in conjunction with driver licensing
31 shall be required to make his or her first vote in person
32 and present identification as required for other mail
33 registration in accordance with the provisions of
34 subsection (g), section ten of this article: *Provided*, That
35 if the applicant has been previously registered in the
36 jurisdiction and the application is for a change of
37 address, change of name, change of political party
38 affiliation or other correction, the presentation of
39 identification and first vote in person is not required.

40 (e) Any application for voter registration submitted
41 pursuant to the provisions of this section shall be
42 considered as updating any previous voter registration
43 by the applicant and shall authorize the cancellation of
44 registration in any other county or state in which the
45 applicant was previously registered.

46 (f) Any change of address from one residence to
47 another within the same county which is submitted for
48 driver licensing purposes in accordance with applicable
49 law shall also serve as a notice of change of address for
50 voter registration purposes unless the individual
51 indicates on the form that the change of address is not
52 for voter registration purposes.

53 (g) Completed applications for voter registration or

54 change of address for voting purposes received by any
55 office providing driver licensing services shall be
56 forwarded to the Secretary of State within five days of
57 receipt, unless other means are available for a more
58 expedited transmission. The Secretary of State shall
59 remove and file any forms which have not been signed
60 by the applicant and shall forward completed, signed
61 applications to the clerk of the appropriate county
62 commission within five days of receipt.

63 (h) Voter registration application forms containing
64 voter information which are returned to a driver
65 licensing office unsigned shall be collected and
66 maintained for two years according to procedural rules
67 promulgated by the Secretary of State.

**§3-2-13. Agencies to provide voter registration services;
designations of responsible employees; forms;
prohibitions; confidentiality.**

1 (a) For the purposes of this article, "agency" means a
2 department, division or office of state or local
3 government, or a program supported by state funds,
4 which is designated under this section to provide voter
5 registration services, but does not include departments,
6 divisions or offices required by other sections of this
7 article to provide voter registration services.

8 (b) The following agencies shall provide voter
9 registration services pursuant to the provisions of this
10 article:

11 (1) Those state agencies which administer or provide
12 services under the food stamp program, the Aid to
13 Families with Dependent Children (AFDC) program, the

14 Women, Infants and Children (WIC) program and the
15 Medicaid program;

16 (2) Those state-funded agencies primarily engaged in
17 providing services to persons with disabilities;

18 (3) County marriage license offices;

19 (4) Armed services recruitment offices, as required by
20 federal law; and

21 (5) The Department of Revenue, if it provides a check
22 box on any form provided to the general public
23 authorizing the Department of Revenue to request a
24 voter registration application by mail from the
25 Secretary of State on behalf of the applicant.

26 (c) No later than the first day of October, one
27 thousand nine hundred ninety-four, the Secretary of
28 State shall, in conjunction with a designated
29 representative of each of the appropriate state agencies,
30 review those programs and offices established and
31 operating with state funds which administer or provide
32 public assistance or services to persons with disabilities
33 and shall promulgate an emergency rule pursuant to the
34 provisions of chapter twenty-nine-a of this code
35 designating the specific programs and offices required
36 to provide voter registration services in order to comply
37 with the requirements of this section and the
38 requirements of the National Voter Registration Act of
39 1993 (42 U. S. C. §1973gg, *et seq.*). The offices and
40 programs so designated shall begin providing voter
41 registration services on the first day of January, one
42 thousand nine hundred ninety-five.

43 (d) In each even-numbered year,, the Secretary of
44 State shall, in conjunction with the designated
45 representatives of the appropriate state agencies,
46 perform the review as required by the provisions of
47 subsection (c) of this section. The Secretary of State
48 shall periodically review and revise, if necessary, the
49 legislative rule designating the specific agencies
50 required to provide voter registration services.

51 (e) Each state agency required to provide services
52 pursuant to the provisions of this article shall designate
53 a current employee of that agency to serve as a state
54 supervisor to administer voter registration services
55 required in all programs under the agency's jurisdiction.
56 Each state supervisor is responsible for coordination
57 with the Secretary of State, overall operation of the
58 program in conjunction with services within the agency,
59 designation and supervision of local coordinators and
60 for the review of any complaints filed against employees
61 relating to voter registration as provided in this chapter.

62 (f) The state supervisor shall designate a current
63 employee as a local coordinator for voter registration
64 services for each office or program delivery center who
65 shall be responsible for the proper conduct of voter
66 registration services, timely return of completed voter
67 registration applications, proper handling of
68 declinations and reporting requirements. Notice of the
69 designation of these persons shall be made upon request
70 of the Secretary of State and within five days following
71 any change of designation. Each local coordinator shall
72 receive biannual training provided by the Secretary of
73 State.

74 (g) The registration application forms used for agency

75 registration shall be issued pursuant to the provisions of
76 section five of this article.

77 (h) The Secretary of State, in conjunction with those
78 agencies designated to provide voter registration
79 services pursuant to the provisions of this section, shall
80 prescribe the form or portion of the appropriate agency
81 form required by the provisions of 42 U. S. C. §1973gg,
82 *et seq.*, section 7(a)(6)(B) of the National Voter
83 Registration Act of 1993, containing the required
84 notices and providing boxes for the applicant to check
85 to indicate whether the applicant would like to register
86 or decline to register to vote. The form or portion of the
87 form is designated the "declination form".

88 (i) A person who provides voter registration services
89 may not:

90 (1) Seek to influence an applicant's political
91 preference or party registration;

92 (2) Display to any applicant any political preference
93 or party allegiance;

94 (3) Make any statement to an applicant or take any
95 action the purpose or effect of which is to discourage
96 the applicant from registering to vote; or

97 (4) Make any statement to an applicant or take any
98 action the purpose or effect of which is to lead the
99 applicant to believe that a decision to register or not to
100 register has any bearing on the availability of services
101 or benefits.

102 (j) No information relating to the identity of a voter

103 registration agency through which any particular voter
104 is registered or to a declination to register to vote in
105 connection with an application made at any designated
106 agency may be used for any purpose other than voter
107 registration.

**§3-2-30. Public inspection of voter registration records in the
office of the clerk of the county commission;
providing voter lists for noncommercial use;
prohibition against resale of voter lists for
commercial use or profit.**

1 (a) The active, inactive, rejected and canceled voter
2 registration records shall be made available for public
3 inspection during office hours of the clerk of the county
4 commission in accordance with the provisions of
5 chapter twenty-nine-b of this code as follows:

6 (1) When the active and inactive files are maintained
7 on precinct registration books, any person shall be
8 allowed to examine these files under the supervision of
9 the clerk and obtain copies of records except when a
10 precinct book is in temporary use for updating and
11 preparing lists or during the time the books are sealed
12 for use in an election. Other original voter registration
13 records, including canceled voter records, pending
14 applications, rejected applications, records of change
15 requests, reinstatements and other documents, shall be
16 available for inspection upon specific request; and

17 (2) When the active, inactive, rejected and canceled
18 voter files are maintained in data format, any person
19 shall be allowed to examine voter record information in
20 printed form or in a read-only data format on a
21 computer terminal set aside for public use, if available.

22 The data files available shall include all registration
23 and voting information maintained in the file, except
24 that the telephone number and social security number
25 of any voter shall not be available for inspection or
26 copying in any format.

27 (b) Printed lists of registered voters may be purchased
28 for noncommercial use from the clerk of the county
29 commission at a cost of one cent per name.

30 (c) In counties maintaining active and inactive files in
31 digitized data format, the clerk of the county
32 commission shall, upon request, prepare printed copies
33 of the lists of voters for each precinct. No list prepared
34 under this section may include the telephone number or
35 social security number of the registrant. The clerk shall
36 establish a written policy, which shall be posted within
37 public view, listing the options which may be requested
38 for selection and sorting criteria and available data
39 elements, which shall include at least the name,
40 residence address, political party affiliation and status
41 and the format of the lists and the times at which lists
42 will be prepared. A copy of the policy shall be filed
43 with the Secretary of State no later than the first day of
44 January of each even-numbered year.

45 (d) In counties which maintain voter files in a
46 digitized data format, lists of registered voters may be
47 obtained for noncommercial purposes in data format on
48 disk provided and prepared by the clerk of the county
49 commission at a cost of one cent per name plus ten
50 dollars for each disk required. No data file prepared
51 under this subsection may include the telephone
52 number or social security number of the registrant.

53 (e) The fees received by the clerk of the county
54 commission shall be kept in a separate fund under the
55 supervision of the clerk for the purpose of defraying the
56 cost of the preparation of the voter lists. Any
57 unexpended balance in the fund shall be transferred to
58 the general fund of the county commission.

59 (f), The Secretary of State may make voter lists
60 available for sale subject to the limitations as provided
61 in this section for counties. The cost for a partial list
62 shall be one and one-half cents per name plus ten
63 dollars for each disk required; the cost for a complete
64 statewide list shall be one-half cent per name and a flat
65 fee of one thousand dollars. One cent per name for each
66 voter from a particular county on each partial list, and
67 one-half cent per name for each voter from a particular
68 county on each statewide list sold shall be reimbursed
69 to the appropriate county. The disk fee and one-half
70 cent per name associated with a partial list and the flat
71 fee of one thousand dollars associated with a complete
72 statewide list shall be deposited to a special revenue
73 account for purpose of defraying the cost of the
74 preparation of the lists.

75 (g) An update to a previously purchased list may be
76 provided by the Secretary of State or the clerk of the
77 county commission at a prorated cost based on the
78 amount of additional information provided. The
79 additional rates charged by the clerk of the county
80 commission shall be specified in the policy established
81 pursuant to subsection (c) of this section.

82 (h) No voter registration lists or data files containing
83 the names, addresses or other information relating to
84 voters derived from voter data files obtained pursuant

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85 to the provisions of this article may be used for
86 commercial or charitable solicitations or advertising,
87 sold or reproduced for resale.

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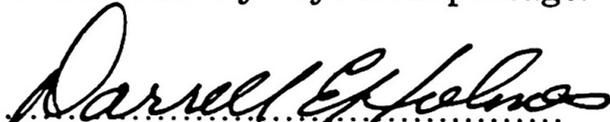
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

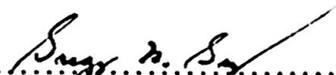

.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is approved* this
the *28th* Day of *March*, 2007.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2007

Time 4:07